

# Lorain Police Department

## Policy Manual

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### **CHIEF'S PREFACE**

The Lorain Police Department recognizes the special trust bestowed upon us by the City of Lorain. In order to ensure this trust is continually earned, we will always strive to be a leader in both the way we serve our community, and the way in which we guide our officers in upholding the law.

At the heart of any police department, are the Officers, who selflessly serve the community every day. This manual was created with the guidance of Lexipol, who is a leader in the law enforcement community in developing and maintaining up to date legally defensible police policies. It will provide the guidance and the framework for the delivery of the highest quality of services and conduct from our officers.

This manual represents our Department's total commitment to providing uniform, effective, and efficient police services to our community. Law Enforcement is an ever changing and demanding profession, and our guidelines will be changed to reflect the current laws and the needs of the community.

James P. McCann

Chief of Police

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### **LAW ENFORCEMENT CODE OF ETHICS**

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against abuse or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will 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 both in my personal and official life, I will be exemplary in obeying the law 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, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or abuse and never accepting gratuities.

I recognize the badge of my office 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 police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

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### **MISSION STATEMENT**

The Lorain Police Department recognizes that it derives its authority from and is accountable to the community it serves. The department will continually strive to provide effective and efficient police service to the citizens of Lorain consistent with the community's needs and concerns.

We believe that the basic concerns of the citizens of Lorain include a desire for peace, tranquility, and freedom from crime and disorder. The Lorain Police Department's primary functions are the prevention of crime, the enforcement of laws in a fair and impartial manner and the apprehension of those who violate the laws.

Our actions at all times shall be consistent with the principles of a democratic society through recognition of both the statutory and judicial limitations of police authority and the constitutional rights of all persons.

We further believe that only through a coordinated police-community effort can public order and safety be achieved and sustained; therefore, we will actively encourage community support in a cooperative effort to achieve this mission.

- **CONSTITUTIONAL RIGHTS-** We shall uphold this country's democratic values as embodied in the Constitution and dedicate ourselves to the preservation of life, individual freedoms and justice for everyone.
- **INTEGRITY-** Integrity is the absolute honest and ethical personal behavior and performance of duty that must be the hallmark of every member of the department.
- **PROFESSIONAL EXCELLENCE-** Recognizing the changing and diverse needs of the community, the Lorain Police Department pledges to establish and maintain high performance standards to ensure public confidence and trust. Professional excellence is a direct result of progressive training, a positive attitude and personal commitment.
- **COMMITMENT TO EMPLOYEES-** Department members shall uphold laws in an ethical, impartial, courteous and professional manner while respecting the rights and dignity of all persons. We will be compassionate and provide assistance to victims and those in need.
- **COMMUNITY SENSITIVE POLICING-** Department members shall uphold laws in an ethical, impartial, courteous and professional manner while respecting the rights and dignity of all persons. We will be compassionate and provide assistance to victims and those in need.
- **COMMUNITY PARTNERSHIP-** Recognizing the fact that police agencies were established as a result of society's voluntary limitation of personal freedoms, we encourage and expect the participation of the community in facilitating solutions to problems of mutual concern. We therefore solicit and support contributions from all members of this community.

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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 Lorain Police Department to perform their functions based on established legal authority.

### 100.2 POLICY

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

While this department recognizes the power of peace officers to make arrests and take other enforcement action, officers are encouraged to use sound discretion in the enforcement of the law. This department does not tolerate abuse of law enforcement authority.

### 100.3 PEACE OFFICER AUTHORITY

Sworn members of this department are authorized to exercise peace officer powers pursuant to applicable state law.

#### 100.3.1 ARREST AUTHORITY WITHIN THE JURISDICTION OF THE LORAIN POLICE DEPARTMENT

The arrest authority of a peace officer extends at all times and any place within the jurisdiction of the employing authority (ORC § 2935.03).

#### 100.3.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE LORAIN POLICE DEPARTMENT

The arrest authority of any peace officer extends outside the limits of the employing authority pursuant to mutual aid agreements (see the Mutual Aid and Outside Agency Assistance Policy), an arrest warrant or a felony. Such authority also extends during a fresh pursuit in which the following apply (ORC § 2935.02; ORC § 2935.03(D); ORC § 2935.04):

- (a) The pursuit takes place without unreasonable delay after the offense is committed.
- (b) The pursuit is initiated within the limits of the employing authority.
- (c) The offense involves a felony, a misdemeanor of the first or second degree or a substantially equivalent municipal ordinance, or any traffic offense for which points are chargeable.

### 100.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended within adjoining states:

- (a) As applicable under interstate compacts and memorandums of understanding in compliance with the laws of each state.
- (b) When an officer enters Indiana, Michigan or West Virginia in fresh pursuit of a person who is in the immediate and continuous flight from the commission of a felony, or in the case of Pennsylvania, in fresh pursuit of a person for any crime (I.C. § 35-33-3-1

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(Indiana); MCL 780.101 (Michigan); 42 Pa. C.S. § 8922 (Pennsylvania); W. Va. Code § 62-11-1 (West Virginia)).

Whenever an officer makes an arrest in Indiana, Michigan, Pennsylvania and West Virginia, the officer shall take the offender to a magistrate or judge in the county where the arrest occurred as soon as practicable (I.C. § 35-33-3-2; MCL 780.102; 42 Pa.C.S. § 8923; W. Va. Code § 62-11-2).

#### **100.5 CONSTITUTIONAL REQUIREMENTS**

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

## Chief Executive Officer

### 101.1 PURPOSE AND SCOPE

All law enforcement Chief Executive Officers employed within the State of Ohio are required to meet specific requirements for appointment. This policy provides guidelines for the appointment of the Chief Executive Officer of the Lorain, who is required to exercise the powers and duties of the office as prescribed by state law.

### 101.2 POLICY

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

### 101.3 CHIEF OF POLICE REQUIREMENTS

The Chief Executive Officer of this department, as a condition of appointment, shall meet or exceed the requirements established by the appointing and/or legislative authority. Any Chief Executive Officer who is a sworn peace officer shall, as a condition of continued employment, have completed the course of training prescribed by the Ohio Peace Officer Training Commission (OPOTC), been awarded a certificate by the OPOTC prior to acting as a sworn peace officer and shall comply with any other requirements imposed by the OPOTC (ORC § 109.77(B)(1)). Chiefs of Police shall meet the 40-hour chief of police training course requirement as set forth in ORC § 109.804.

## Oath of Office

### 102.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that oaths, when appropriate, are administered to department members.

### 102.2 POLICY

It is the policy of the Lorain 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.

### 102.3 OATH OF OFFICE

All department members, when appropriate, shall take and subscribe to the oaths or affirmations applicable to their positions.

Upon employment, all sworn employees shall be required to swear to an oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer (Ohio Constitution Article 15 § 7; ORC § 3.22). The form of the oath shall be as follows:

I do solemnly swear to obey the orders of my superior officers, to abide by the law enforcement professional code of ethics, to support and defend the constitution of the United States, the State of Ohio, and the laws of the City of Lorain. 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 decision. I take this oath knowing full well of the responsibility of my office, the great personal peril in which I shall serve, and promise to act at all times with integrity, honesty, vigilance, and honor as a police officer for the City of Lorain, so help me god.

### 102.4 MAINTENANCE OF RECORDS

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

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# Policy Manual

## 103.1 PURPOSE AND SCOPE

The manual of the Lorain 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.

## 103.2 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.

### 103.2.1 DISCLAIMER

The provisions contained in the 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 Lorain 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 members. Violations of any provision of any policy contained within this manual shall only form the basis for department administrative action, training or discipline. The Lorain Police Department reserves the right to revise any policy content, in whole or in part.

## 103.3 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 Special Orders, which shall modify those provisions of the manual to which they pertain. Special Orders shall remain in effect until such time as they may be permanently incorporated into the manual.

## 103.4 DEFINITIONS

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

**Adult** - Any person 18 years of age or older.

**BCI** - Bureau of Criminal Investigation.

**BMV** - The Ohio Bureau of Motor Vehicles.

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**Child/Juvenile** - A person under the age of 18 years.

**City** - The City of Lorain.

**Civilian** - Employees and volunteers who are not sworn peace officers.

**Department/LPD** - The Lorain Police Department.

**DPS** - The Ohio Department of Public Safety.

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

**Law enforcement officer** - An employee who is required to be certified by the Ohio Peace Officer Training Commission (OPOTC) pursuant to ORC § 2901.01(11); the term includes sworn full-time, part-time, and reserve peace officers who perform the duties of a peace officer.

**Manual** - The Lorain Police Department Policy Manual.

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

**Member** - Any person employed or appointed by the Lorain Police Department, including:

- Full- and part-time employees
- Sworn peace officers
- Reserve, auxiliary officers
- Civilian employees
- Volunteers

**Officer** - Those employees, regardless of rank, who are sworn employees of the Lorain Police Department.

**OCLEAC** - Ohio Collaborative Law Enforcement Agency Certification

**On-duty** - A member's status during the period when the member is actually engaged in the performance of the member's assigned duties.

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

**OPOTC** - The Ohio Peace Officer Training Commission.

**OSHP** - Ohio State Highway Patrol.

**Peace officer** - Those persons, regardless of rank, who are identified in ORC § 109.71(A); sworn employees of the Lorain Police Department are peace officers.

**Rank** - The title of the classification held by an officer.

**Shall or will** - Indicates a mandatory action.

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

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**Supervisor** - A person in a position of authority that may include responsibility for hiring, transfer, suspension, promotion, discharge, assignment, reward, or discipline of other department members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

The term "supervisor" may also include any person (e.g., officer-in-charge, lead or senior worker) given responsibility for the direction of the work of others without regard to a formal job title, rank, or compensation.

When there is only one department member on-duty, that person may also be the supervisor, except when circumstances reasonably require the notification or involvement of the member's off-duty supervisor or an on-call supervisor.

**USC** - United States Code.

### **103.5 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 Special Orders. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

A hardcopy of the Lorain Police Department Policy Manual will be maintained by the Office of Professional Standards.

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

The Chief of Police or his/her designee will ensure that the Policy Manual is periodically reviewed and updated as necessary.

### **103.7 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 Commander 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 OIC who will consider the recommendations and forward them through the chain of command to their Division Commander.

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#### **103.8 OTHER JOB INFORMATIONAL RESOURCES**

In addition to the information presented in this manual concerning members' rights, responsibilities, job benefits, and the like, the Department provides a number of resources members may consult for specific information. Included, but not limited to, these resources are:

- (a) Labor contract
- (b) Current employment insurance information
- (c) Federal and state laws and rules
- (d) Civil Service Regulations
- (e) City of Lorain Employee Manual

Members are responsible for becoming familiar with the information provided in these resources, and if they have any questions, they are directed to ask their supervisors for clarification.

## **Chapter 2 - Organization and Administration**

## Organizational Structure and Responsibility

### 200.1 PURPOSE AND SCOPE

The organizational structure of the Department is designed to create an efficient means to accomplish the 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 Lorain Police Department. There are three divisions in the Police Department:

- The Operations Division
- The Support Services Division
- The Criminal Investigations Division

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### Organizational Structure and Responsibility



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### *Organizational Structure and Responsibility*

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#### 200.2.1 CHIEF'S OFFICE

The Chief of Police manages, directs, and supervises all operations and administrative units of the Lorain Police Department, maintains operational readiness of all units and provides leadership and discipline to personnel. The Administrative Manager operates under the direction of the Chief's Office and is responsible for grant applications, budgetary issues, and other administrative duties as directed. The Public Information Officer serves as the spokesperson for the department and acts at the direction of the Chief of Police. The Community Outreach Liaison will be responsible for social media community outreach initiatives at the discretion of the Chief of Police.

#### 200.2.2 OPERATIONS DIVISION

The Operations Division is commanded by the assigned Captain, whose primary responsibility is to provide general management direction and control for the Operations Division. Under the Chief's supervision, the Operations Commander plans, coordinates, and directs all activities of the Operations Division, which involve a wide range of administrative functions and programs or general policing. Duties performed to protect life and property, enforce laws and ordinances and preservations or order within the community. The Operations Commander oversees the patrol, SWAT, School Resource Officer, Crisis Negotiations/CIT, Underwater Recovery Unit/Marine Patrol, K9 Unit, and Traffic. The Operations Captain may, at their discretion and with approval of the Chief of Police, appoint First Sergeant(s) to assist in the management of front line supervisors and officers under their command.

[See attachment: First Sergeant.pdf](#)

#### 200.2.3 CRIMINAL INVESTIGATIONS

The Criminal Investigations Division is commanded by the assigned Captain, whose primary responsibility is to provide general management direction and control for the Criminal Investigations Division. Under the Chief's supervision, the Criminal Investigations Commander plans the daily operations of the Criminal Investigation Division, Narcotics Division, Crime Analysis, Evidence Room and Forensic Services to include case assignment, case management, strategic planning of the bureau, training assignments, time tracking/payroll, on-call assignments, evidence management, equipment issuance, and the daily supervision of subordinate supervisors and investigators assigned to the CID.

#### 200.2.4 OFFICE OF PROFESSIONAL STANDARDS

Under the Chief's supervision, the Executive Officer plans, coordinates and directs all activities of the Office of Professional Standards, to include oversight of the internal administrative investigations, policy and procedure development and review, document entry and distribution using the Document Management System (DMS), data entry for; use of force, disciplinary and merit documentation and Department involved vehicles crash documents and departmental training. Support Services shall fall under the direction of the Executive Officer. Support Services is responsible for administrative and supervisory functions of the Lorain City Jail, Records Bureau, Communications Center, Fleet management, facilities management, and equipment management.

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### *Organizational Structure and Responsibility*

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#### **200.3 COMMAND PROTOCOL / CHAIN OF COMMAND**

##### **200.3.1 SUCCESSION OF COMMAND**

The Chief of Police exercises command over all personnel in the Department.

In the absence of the Chief of Police, the Captain / Deputy Chief of Police is authorized to act on behalf of and in place of the Chief of Police, and shall have the full authority of the office of the Chief of Police in order to conduct normal daily operations. The Captain / Deputy Chief of Police may receive further directions verbally, via email, or written memorandum containing additional orders, instructions, or duties to be carried out during the absence.

The order of command authority in the absence or unavailability of the Chief of Police, and Captain / Deputy Chief of Police is as follows unless modified by signed personnel order by the Chief of Police:

- (a) Operations Division Commander
- (b) Criminal Investigations Division Commander
- (c) Office of Professional standards Commander
- (d) Watch Commander

Only one person shall be in command of and responsible for any specific incident or operation in which the Department may become involved.

- (a) In general, command of any specific incident, operation, or exercise involving Department personnel from two or more divisions, etc., shall rest with the on-scene senior ranking person from the division or section bearing primary responsibility for the event. In the absence of a supervisor, the senior officer present shall be in charge and responsible for the handling of the incident.
- (b) Criminal Investigations Division (CID) assumes command when present at any crime scene, surveillance, execution of warrants, or any special operations originating from within the CID.
- (c) The Patrol Division assumes command at disturbances, special events, and crowd control situations, etc., in which personnel from other sections are utilized.
- (d) Command protocol in single operations involving personnel of different sections or units normally will be determined by rank, but a command officer's appearance on the scene does not automatically place him in charge of that scene unless he assumes control and announces he is taking control.
- (e) According to the command structure of the Department, an officer of superior rank may relieve any other officer of duties being performed, or of command of a situation, when it becomes evident to the superior officer, that the relief of the subordinate officer will be in the best interest of the Department and the City. If it becomes necessary to relieve an officer of command, the superior officer assuming command will forward a memorandum to the Chief of Police explaining the reasons for relieving the subordinate officer.

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## Policy Manual

### *Organizational Structure and Responsibility*

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- (f) Officers assuming command shall exercise the authority of their positions under all conditions which require that they use such authority in the best interests of the department and in accordance with the departmental mission statement and core values. Command officers shall not unnecessarily countermand orders of officers below their rank or needlessly interfere with the specific duties of lower-ranking members. The supervisor or senior officer shall remain at the scene until such time as the incident is under control, or is being properly handled.
- (g) Employees will be held accountable for the successful execution of their duties.
- (h) Supervisory personnel will be held accountable for the activities of their employees under their immediate control.

#### FIRST-LINE SUPERVISORS

First-line supervisors are member's first line of authority. Supervisors are responsible for providing proper guidance regarding work assignments. They teach and encourage members to achieve their best, recognize member's work as well as help members with work problems.

Should a member need help or have questions, complaints, problems or suggestions the member should contact her/his First-line supervisor for assistance.

In the event this is not feasible due to extenuating circumstances (e.g., the supervisor is not reasonably available, strong personality conflicts exist, harassment is reasonably feared), the member should report them to any supervisor of the member's choosing. All such matters will be treated as confidentially as practicable, subject to law.

#### 200.3.2 UNITY OF COMMAND

The principles of unity of command ensure efficient supervision and control within the Department. Generally, each employee shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment (e.g., Canine, 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.

Any member who willfully disobeys or disregards a lawful and reasonable order from a supervisor is guilty of insubordination and subject to severe disciplinary action up to and including termination.

#### 200.3.4 UNLAWFUL AND CONFLICTING ORDERS

No member is required to obey any order that outwardly appears to be in direct conflict with any federal law, 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.

# Lorain Police Department

## Policy Manual

### *Organizational Structure and Responsibility*

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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.

#### **200.3.5 SUPERVISOR RESPONSIBILITY**

Supervisors are accountable for issuing only lawful orders to their subordinates. A lawful order is one that a reasonable officer in the same or similar position can be expected to competently perform. Any supervisor who knowingly issues an unlawful order is guilty of abuse of authority and subject to severe disciplinary action up to and including termination.

#### **200.4 DEPARTMENT GOALS AND OBJECTIVES**

The Chief of Police or the authorized designee should establish goals and objectives for the Department. The plan should specify a time period and should include but is not limited to:

- (a) Planning functions.
- (b) Formulation of written goals and objectives.
- (c) Provisions for implementation, progress assessment, and revision as needed.

Goals and objectives should be reviewed annually by the Chief of Police or the authorized designee, updated as required, and distributed to all members.

## Special Orders

### 201.1 PURPOSE AND SCOPE

Special Orders establish interoffice communications that may be used by the Chief of Police to make temporary or immediate changes to policy and procedure, in accordance with the current memorandum of understanding or other employment agreement. Special Orders will immediately modify or change and supersede sections of this manual to which they pertain.

#### 201.1.1 SPECIAL ORDERS

Special Orders will be incorporated into the manual, as required, upon approval by the Chief of Police.

All Special Orders shall be numbered consecutively starting with the last two digits of the year, followed by the number "01." For example, 11-01 signifies the first Special Order for the year 2011. Each Special Order should include the authored date, effective date and the acknowledgement/compliance date for the specific Special Order.

#### 201.1.2 SPECIAL ORDERS PROTOCOL

Special Orders establish a temporary policy or procedure on a given subject for a specific length of time, which will be specified in the order itself. Special Orders are issued to the organization as a whole, to a division, to a unit or to an individual, and may be used to waive requirements of a given policy for a special circumstance. Special Orders become inoperative with the passing of the incident or situation that caused the order to be issued.

### 201.2 RESPONSIBILITIES

#### 201.2.1 STAFF

The Chief of Police or designee shall review, approve, and rescind revisions of the Policy Manual and will incorporate changes originally made by Special Orders.

#### 201.2.2 CHIEF OF POLICE

The Chief of Police or designee shall issue all Special Orders.

### 201.3 ACCEPTANCE OF SPECIAL ORDERS

All employees are required to read and obtain any necessary clarification of all Special Orders. All employees are required to acknowledge in writing the receipt and review of any new Special Order. Signed acknowledgment forms and/or e-mail receipts showing an employee's acknowledgment will be maintained in the department's Document Management System by the Office of Professional Standards.

### 201.4 PERSONNEL ORDERS

Personnel Orders are directives announcing the change in the status of personnel such as transfers, promotions and or changes of assignments. Personnel Orders will be numbered consecutively in the same manner as Special Orders.

# Lorain Police Department

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### *Special Orders*

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#### 201.4.1 CHIEF OF POLICE

The Chief of Police or his assigned designee will be responsible for the issuance of Personnel Orders.

#### 201.4.2 DISTRIBUTION OF PERSONNEL ORDERS

Personnel Orders will be maintained in the department's Document Management System by the Office of Professional Standards. The Chief of Police or the appropriate Division Commander will be responsible for notifying the affected employees of personnel changes.

# Emergency Management Plan

## 202.1 PURPOSE AND SCOPE

The City has prepared, in compliance with State of Ohio requirements, an Emergency Management Plan (ORC § 5502.26, ORC § 5502.27 and ORC § 5502.271). This plan is for the guidance and use by all employees in the event of a major disaster, civil disturbance, mass arrest or other emergency event. The plan provides for a strategic response by all employees and assigns specific responsibilities in the event the plan is activated.

## 202.2 ACTIVATING THE EMERGENCY MANAGEMENT PLAN

The Emergency Management Plan can be activated in a number of ways. Within the Police Department, the Chief of Police, the highest ranking official on-duty or an on-scene responder may activate the Emergency Management Plan in response to a major emergency.

### 202.2.1 RECALL OF PERSONNEL

In the event that the Emergency Management Plan is activated, all employees of the Lorain 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.

#### Off-Duty Reporting

Immediately upon learning of a natural disaster, or other high profile emergency, members who are off duty and within a responsible distance of their home areas shall report in (via radio, telephone, or in-person) to learn if they are needed.

Members are given notice to make themselves available for a call out, or extended work assignment, are responsible for making themselves available and shall not fail to answer a call or respond to a call.

## 202.3 LOCATION OF MANUALS

The Emergency Management Plan manual for employees is available in the Communications Center. All supervisors should familiarize themselves with the Emergency Management Plan and what roles personnel will play when the plan is implemented.

[See attachment: Procedure 200 Critical Incident Plan](#)

## 202.4 PLAN REVIEW

The Chief of Police or designee shall review the Emergency Management Plan manual at least once every two years to ensure that the manual conforms to any revisions made by the National Incident Management System (NIMS) and appropriately address any revisions.

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### *Emergency Management Plan*

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#### **202.5 PLAN TRAINING**

The Department shall provide training in the Emergency Management Plan for all supervisors and other appropriate personnel. All supervisors should familiarize themselves with the Emergency Management Plan and the roles police personnel will play when the plan is implemented.

#### **202.6 CITY HALL EMERGENCY ACTION PLAN**

The City of Lorain maintains an Emergency Action Plan specifically for city employees and covers emergency guidelines for the city hall building. This plan is required to be made available to all city employees. The Lorain Police Department maintains a copy of this emergency plan both on the department's online Document Management System and Communications Center and is made available to all employees of the Police Department.

[See attachment: 2020 City Hall Emergency Plan](#)

## Training Policy

### 203.1 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.

### 203.2 POLICY

The Department shall administer a training program that will meet the standards of federal, state, local, and the Ohio Peace Officer Training Academy training requirements. It is a priority of this department to provide continuing education and training for the professional growth and development of its members.

### 203.3 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) Assist in compliance with statutory requirements.

### 203.4 TRAINING COORDINATOR

- (a) The Training Coordinator of the Department shall be assigned by the Chief of Police. The Training Coordinator shall ensure that all police employees maintain all current certifications and receive all applicable in-service training mandated by the Ohio Law Enforcement Training Board.
- (b) The Training Coordinator shall make recommendations and suggestions concerning Department training on a monthly basis to the Chief of Police, or designee.
- (c) The Training Coordinator shall be responsible for coordinating, implementing, establishing criteria, arranging guest instructors (if needed), for all training sessions approved.
- (d) The Training Coordinator shall be responsible for the application/registration/enrollment, provide information for issuance of purchase order(s), arrange travel/transportation, maintain copies of arrangements and confirmations, and return of approved request to the employee.
- (e) When training requires travel expenditures, the Training Coordinator shall refer the attendee to the office of the Chief of Police. The employee may be issued Department credit cards for expenditures, or may be reimbursed through the Clerk-Treasurer office under the following guidelines:
  - 1. Meals per diem at the current per day rate, not to include non-food items (i.e. alcohol, tip, tobacco) and may be modified for high cost areas.
  - 2. Any fees, books, or materials needed and approved shall be reimbursed.

# Lorain Police Department

## Policy Manual

### *Training Policy*

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3. It shall be the employee's responsibility to maintain and produce receipts for any cost incurred, or it will not be paid.
  4. Training Coordinator shall return all disapproved requests for training to the employee's Division Commander, stating the reason training was denied.
- (f) Training Coordinator has the responsibility for the maintenance and security of agency training records. The Training Coordinator may release information from training records only to the employee, or as required for State of Ohio certifications, training certifications, training enrollments, or Ohio Law Enforcement Training Board, or Court Order. The Chief of Police, or designee shall be the only person authorized to release records outside the agency.

#### **203.5 TRAINING PLAN**

It is the responsibility of the Training Coordinator to develop, review, update and maintain a training plan and to ensure that mandated basic, in-service and Department required training is completed by all employees. The plan shall include a systematic and detailed method for recording and logging of all training for all personnel. While updates and revisions may be made to any portion of the training plan at any time it is deemed necessary, the Training Coordinator shall review the entire training plan on an annual basis. The plan will include information on curriculum, training material, training facilities, course and student scheduling. The plan will address the state-required minimum mandated training of sworn officers or hiring of civilian employees.

Training listed may be provided in basic training programs. The Training Coordinator is responsible for ensuring members of the Department have been trained as required.

##### **203.5.1 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 (NIMS) training
- (b) State-mandated training:
  1. Peace officer basic training program pursuant to OAC § 109:2-1-13 and OAC § 109:2-1-16, including training in:
    - (a) Handling of missing children, missing persons, and child abuse and neglect cases (ORC § 109.741).
    - (b) Crisis intervention (ORC § 109.742).
    - (c) Domestic violence-related cases and incidents (ORC § 109.744).
  2. Continuing professional training, as directed by the Ohio Peace Officer Training Commission (ORC § 109.803).
  3. Annual firearms requalification (ORC § 109.801).

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4. Members who serve as school resource officers shall receive training for school resource officers as required by OAC § 3301-35-15 and in collaboration with the appropriate school district (OAC § 3301-35-15).
  - (a) Training shall include professional development for the implementation of positive behavior intervention, and crisis management and de-escalation techniques (OAC § 3301-35-15).

#### **203.6 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 utilizing the assigned training absence request form, and submitting to the member's supervisor.
  2. Make arrangements through the member's supervisor or the Training Coordinator to attend the required training on an alternate date.

#### **203.7 OVERNIGHT TRAVEL**

In the event a training class requires the student to leave the City of Lorain a travel packet must be completed / approved and the following rules shall apply;

- (a) One day classes to OPOTA London Campus or closer will not be afforded overnight accommodations, students will be compensated via training comp time for any hours beyond scheduled duty hours.
- (b) Should drive time to and from the first day of a multi-day class, plus the class itself, equal 12.5 hours or less overnight accommodations will be provided for the night after class.
- (c) Should drive time to a one day class, and the class itself equal 12.5 hours or more, overnight accommodations will be made for the evening prior to class.
- (d) Should the student be sent to a class that spans multiple weeks accommodations and Per Diem will be provided for the weekend, should the student elect to drive home, or elsewhere during the weekend the student will bear all costs during this timeframe (fuel, tolls, parking, etc...).
- (e) All accommodations will be booked as double occupancy (except K9 officer w/ K9) and at the government rate whenever possible.

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- (f) In the event a class is hosted at a hotel venue every effort will be made to book accommodations in the same venue unless cost prohibitive.
- (g) Per Diem will be paid at the recommended government rate at the time the travel packet is approved.
- (h) Should the hotel or class provide meals, these will be deducted from the student's Per Diem at the government recommended rate.
- (i) Should the student pay out of pocket for reimbursable expenses, they shall submit the original receipts to the payroll secretary no later than the day after the student's return from class so they can be processed for reimbursement.
- (j) If the student elects to forgo booked accommodations for the first or last day, the student must inform the payroll secretary and training coordinator a minimum of two business days prior so that the room can be canceled. Should the student fail to do so, and the city be charged for the unused accommodation & the student(s) will bear the expense. Last minute emergency situations shall be exempt from reimbursement at the student's division commander's discretion.
- (k) Requests for classes requiring overnight accommodations shall be made by the student's Division Commander no later that 60 days before class to ensure travel arraignments, and processing can be completed.
- (l) Requests to deviate from the above shall be forwarded by the student's Division Commander no later than 45 days prior to class, and will be addressed on a case by case basis.

#### **203.8 IN-SERVICE**

- (a) In-service training is provided to all sworn personnel annually and includes refresher or advanced training, in the following areas.
  - 1. Firearms
  - 2. Baton
  - 3. Taser
  - 4. OC
  - 5. Defensive Tactics
  - 6. Use of Force Policy
  - 7. Vehicular Pursuit Policy
  - 8. Department Vehicle Operations Policy
  - 9. Legal Updates
  - 10. Extraordinary Deployment
- (b) The purpose of the in-service training is to keep personnel up to date with new laws, technological improvements and revision in policy, procedures, rules and regulations.

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#### 203.8.1 IN-SERVICE FOR CIVILIANS

Courses designed specifically for civilians will be conducted as needed. The courses will be designed to review and update current duties and skills as well as train and inform new responsibilities.

Specific technical training is available upon request or if deficiencies are noted.

#### **203.9 REMEDIAL TRAINING**

- (a) Remedial training is individualized instruction used for specific deficiencies in performance. Generally, the need for remedial training is recognized by an instructor during training, evaluation during routine job performance, or during inspections.
- (b) Training and proficiency that are mandated by State Law or Department directives will require remedial training if failed. Any aspect of law enforcement that incurs liability because of a lack of proper training will require remedial training if failed by the employee.
- (c) Remedial training will be made available by the Office Of Professional Standards as the need arises. Completion of the training will be accomplished as soon as possible after the deficiency is observed. Sworn Officers who are absent from patrol duty for a period exceeding one year, will complete a remedial training program before resuming full patrol duty.

#### **203.10 TRAINING UPON PROMOTION**

As personnel are promoted, the skills necessary to perform at a given level may change to require supervisory, management, and administrative skills. The Department will provide outside training for newly promoted personnel at the earliest possible date following the promotion. Newly promoted personnel will complete the Supervisor Field Training Program. This instruction is on a tutorial basis during normal tours of duty, performing the normal activities required by the supervisory position.

##### 203.10.1 POLICE OFFICER TO SERGEANT TRANSITION

If there is an anticipated sergeant vacancy, the police officer who will be promoted to sergeant will be re-assigned to the Uniform Road Patrol if that officer has not been actively assigned to a Uniform Road Patrol Team within one year.

- (a) If the police officer has been off of uniform road patrol for up to twenty four months, four months of road familiarization is recommended. In an attempt to make sure the police officer has a variety of calls for service to handle, the police officer should work at least one month on dayshift and one month on nightshift.
- (b) Any police officer with over two years plus off of road patrol is recommended to have six months to familiarize themselves with road patrol. In an attempt to make sure the police officer has a variety of calls for service to handle, the police officer should work at least two months on dayshift and two months on nightshift.

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These transition training timeframes can be amended based on the police officer's ability to adapt, grasp and learn the road patrol function. Meetings should be held with the Operations Commander, Watch Commander, police officer, and FTO if needed to determine the police officer's progress.

[Work group memo for officer to sergeant transition](#)

#### **203.11 BASIC TRAINING BY OUTSIDE ACADEMIES**

- (a) Basic police training in the State of Ohio has been standardized by the formulation of the Ohio Peace Officer's Training Council (OPOTC), as authorized by Section 109.79 of the Ohio Revised Code (ORC).
- (b) The Department Training Coordinator will be familiar with the academy's training regimen, as well as its rules and regulations.
- (c) The Department is obligated to pay tuition and provide uniforms and equipment as required.
- (d) The Lorain Police Department is liable for any medical, or life insurance for its employees enrolled in the academy.

#### **BASIC PEACE OFFICER TRAINING**

- (a) All newly sworn probationary officers (PO) will successfully complete basic Peace Officer training in accordance with the O.R.C. and the rules and regulations of OPOTC.
- (b) This will be accomplished prior to any routine assignment in any capacity in which the officer is allowed to carry a firearm or is in a position to make an arrest, except as part of a formal field training program.
- (c) The Department Training Coordinator will maintain a liaison with academy personnel concerning the progress of the PO(s).

#### **203.12 QUALIFIED INSTRUCTORS**

All training conducted by Department personnel will be done by officers who hold a certification (or have received structured training or is thoroughly knowledgeable, and possess the ability to instruct) in the course content or material being taught or disseminated.

#### **203.13 DAILY TRAINING BULLETINS**

The Lexipol Daily Training Bulletins (DTBs) are a web-accessed system that provides training on the Lorain 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 Policy Supervisor.

Members assigned to participate in DTBs shall only use the login credentials assigned to them by the Policy Supervisor. 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 the Department.

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Members who are assigned to participate in the DTB program should complete each DTB at the beginning of their shifts 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-enabled computer, members shall only take DTBs as part of their on-duty assignments, 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.

#### **203.14 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.

#### **203.15 TRAINING COORDINATOR**

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.

#### **203.16 TRAINING COMMITTEE**

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

The Training Committee should be comprised 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 the Training Coordinator's 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 an 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 to determine 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.

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 the

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available resources. Training recommendations as determined by the Training Coordinator shall be submitted to the command staff for review.

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## Electronic Mail

### 204.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the electronic mail (e-mail) system provided by the Department. E-mail is a communication tool available to employees to enhance efficiency in the performance of job duties. It is to be used in accordance with generally accepted business practices and current law (e.g., Ohio Open Records Law). Messages transmitted over the e-mail system must only be those that involve official business activities or that contain information essential to employees for the accomplishment of business-related tasks and/or communications directly related to the business, administration or practices of the Department.

### 204.2 E-MAIL RIGHT OF PRIVACY

All e-mail messages, including attachments, transmitted over the Department networks or through a web browser accessing the Department system are considered Department records and therefore are the property of the Department. The Department reserves the right to access, audit and disclose for any lawful reason, all messages, including attachments, transmitted or received through its e-mail system or placed into its storage.

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

### 204.3 PROHIBITED USE OF E-MAIL

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

Department wide e-mail chains and messages that are not clearly required for the member to complete his/her immediate job function, and that are forwarded messages to all members that are not directly part of the member's job function are prohibited.

All e-mail is subject to review and scrutiny with regard to appropriate content or violation of any prohibitions. In the event that a user has questions about sending a particular e-mail communication, the user should seek prior approval from the Watch Commander or ranking shift supervisor.

Any non-supervisor wishing to send an e-mail message addressed to the entire department, or a specific department wide address group requires approval from the on duty Watch Commander or unit supervisor. Generally, union business and personal advertisements or announcements are not permitted to be distributed through the department e-mail system, without the expressed consent of the Chief of Police or his/her authorized designee.

It is a violation of this policy to transmit a message under another user's name or e-mail address or to use the password of another to log into the system. Users are required to log off the network or secure the workstation when the computer is unattended. This added security measure would minimize the misuse of an individual's e-mail, name and/or password.

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#### **204.4 MANAGEMENT OF E-MAIL**

Because the end user e-mail system is not designed for, nor does it support, long-term retention and archiving of messages, e-mail that an employee desires to save or that requires retention because it has significant administrative, fiscal, legal or historical value should be printed and/or stored in another database designed for long-term storage and retrieval.

Users of e-mail are solely responsible for the management of their mailboxes, to include checking department e-mail on each working duty day.

Electronic communications shall be retained in accordance with the retention requirements of the current Records Retention Schedule. Storage and e-mail server maintenance will be conducted by the City of Lorain IT Department.

## **Administrative Communications**

### **205.1 PURPOSE AND SCOPE**

Administrative communications of this department are governed by the following policies.

### **205.2 PERSONNEL ORDERS**

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

### **205.3 CORRESPONDENCE**

To ensure that the letterhead and name of the Department are not misused, all official external correspondence shall be on Department letterhead. All Department letterhead shall bear the signature element of the Chief of Police. Official correspondence and use of letterhead requires approval of the Chief of Police. Department letterhead may not be used for personal use or purposes.

Internal correspondence should use appropriate memorandum forms.

### **205.4 SURVEYS**

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

### **205.5 OTHER COMMUNICATIONS**

Special Orders and other communications necessary to ensure the effective operation of the Department shall be issued by the Chief of Police or designee or Division Commanders.

## Supervision Staffing Levels

### **206.1 PURPOSE AND SCOPE**

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

### **206.2 MINIMUM STAFFING LEVELS**

Minimum staffing levels should result in scheduling at least two regular supervisors on-duty whenever possible. Watch Commanders will ensure that at least one field sergeant is deployed during each shift.

#### **206.2.1 SUPERVISION DEPLOYMENTS**

In order to accommodate training and other unforeseen circumstances or absences, a Lieutenant or Division Captain may be used as a field supervisor in place of a field sergeant, until a sergeant is able to report for duty.

## Retiree Concealed Firearms

### 207.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension or revocation of Lorain Police Department identification cards under the Law Enforcement Officers' Safety Act (LEOSA) and Ohio law (18 USC § 926C; ORC § 2923.126).

### 207.2 POLICY

It is the policy of the Lorain Police Department to provide identification cards to qualified former or retired officers to facilitate the lawful carrying of concealed weapons by those individuals.

### 207.3 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 an officer for an aggregate of 10 years or more or, if employed as an 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.

#### 207.3.1 LEOSA 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 Lorain 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.

#### 207.3.2 AUTHORIZATION

Any qualified former peace officer, including a former officer of this department, may carry a concealed firearm under 18 USC § 926C when he/she is:

- (a) In possession of photographic identification that identifies him/her as having been employed as a peace 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 peace 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 Ohio law or by a private person or entity on his/her property if such prohibition is permitted by Ohio law.

#### **207.4 OHIO IDENTIFICATION CARD ISSUANCE**

The Chief of Police shall issue an identification card to any qualified former officer of this department who (ORC § 2923.126(F)):

- (a) Before retiring, worked for an aggregate of 15 years or more as an officer or retired for a service-connected disability as an officer after completing probation.
- (b) Retired in good standing and not for reasons of mental instability.
- (c) Meets all other standards established by the Chief of Police for issuance of an identification card.

##### **207.4.1 OHIO IDENTIFICATION CARD FORMAT**

Identification cards issued to officers due to the above mandate (15 years of service/disability retirement) shall comply with the content requirements of ORC § 2923.126.

##### **207.4.2 AUTHORIZATION**

A retired officer may carry a concealed firearm in this state when he/she is in possession of a valid identification card issued under this policy and one of the following (ORC § 2923.126):

- (a) A certification on the card that the retired officer has, within the past five years, successfully completed a firearms requalification program approved under ORC § 109.801.
- (b) A firearms requalification certification from a program approved under ORC § 109.801 that identifies the retired officer by name, identifies the entity that taught the program, specifies that the retired officer successfully completed the program, specifies the date on which the course was successfully completed and specifies that the requalification is valid for five years from that date of successful completion.

#### **207.5 FORMER OFFICER RESPONSIBILITIES**

A former officer with a card issued under this policy shall immediately notify the Watch Commander or OIC 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.

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#### 207.5.1 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.

[LEOSA WAIVER FORM.pdf](#)

#### 207.5.2 RESPONSIBILITIES UNDER OHIO LAW

A retired officer who possesses an Ohio identification card issued by this department and a valid requalification certification has the same right to carry a concealed handgun as a person issued a concealed handgun license under ORC § 2923.125 and is subject to the same restrictions (ORC § 2923.126).

#### **207.6 DENIAL, SUSPENSION OR REVOCATION-DISCRETIONARY ISSUE**

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

#### **207.7 FIREARM QUALIFICATIONS**

The Firearms Training Supervisor 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 Firearms Training Supervisor will maintain a record of the qualifications and weapons used.

If provided, the firearms qualification should comply with ORC § 109.801. The retired peace officer may be required to pay the cost of the course (ORC § 2923.126).

## Concealed Handgun License

### 208.1 PURPOSE AND SCOPE

A Sheriff is given the statutory authority to issue a license to carry a concealed handgun to residents within the community. This policy will provide a written process for the application, issuance and revocation of such permits (ORC § 2923.125).

### 208.2 CARRYING CONCEALED HANDGUNS IN RESTRICTED AREAS

Concealed handgun licensees are prohibited or limited from carrying concealed handguns at specified locations. Examples of these locations include (ORC § 2923.126(B)):

- (a) Law enforcement and detention facilities.
- (b) Department of Mental Health or the Department of Developmental Disabilities facilities.
- (c) Airports or public agencies with restricted security access.
- (d) A school safety zone (ORC § 2923.122).
- (e) Courthouses (ORC § 2923.123).
- (f) Any premises or open-air arena in which any person is consuming liquor (ORC § 2923.121).
- (g) Colleges, universities or other institution of higher education.
- (h) Places of worship.
- (i) Any state or local government building that is not used primarily as a shelter, restroom, parking facility or a rest facility.
- (j) Any place in which federal law prohibits the carrying of handguns.
- (k) Properly posted lands or premises.

### 208.3 RECOGNITION OF PERMITS FROM OTHER STATES

A person who possesses a license to carry a concealed handgun that was issued by another state, with which the attorney general has entered into a reciprocity agreement, has lawful authority to carry a handgun in Ohio (ORC § 109.69). Additional exceptions may apply in instances where the attorney general has not entered into a reciprocity agreement with the issuing state or when the person is temporarily in the state of Ohio (ORC § 109.69).

The permit issued by the other state does not supersede Ohio laws or regulations. If the permit holder becomes or is prohibited from possession of a handgun under Ohio law, the permit from another state is not valid to carry a handgun in Ohio.

## **Chapter 3 - General Operations**

## Use of Force

### 300.1 PURPOSE AND SCOPE

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

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

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

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

**Feasible** - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

**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.

**Imminent** - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

**Totality of the circumstances** - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

### 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 Lorain Police 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.

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All sworn personnel shall be issued a copy of this policy and procedure, and receive instruction on its contents prior to being authorized to carry departmentally approved weapons. The issuance and instruction will be documented by the Field Training Unit and forward to the Department Training Coordinator.

#### **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.

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 should report these observations to a supervisor.

#### **300.2.2 PERSPECTIVE**

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

#### **300.3 USE OF FORCE**

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

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

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

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

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

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#### 300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

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

#### 300.3.2 USE OF FORCE TO EFFECT AN ARREST

Any officer who has reasonable cause to believe that the person to be arrested has committed a crime or public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. An officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested, nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance.

#### 300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

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

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- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

#### 300.3.4 PAIN COMPLIANCE TECHNIQUES

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

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

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

#### 300.3.5 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.
- (b) Any individual who has had the carotid control hold applied, regardless of whether he/she 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.

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#### 300.3.5 USE OF FORCE, WHEN PROHIBITED

**\*\*The unreasonable use of force shall subject officers to the disciplinary process, possible criminal prosecution, and/or possible civil liability.**

Officers shall not:

- (a) Use force to subdue a subject who is not suspected of any criminal conduct, other than to protect an officer's or other person's safety. Officers are not prohibited from using force that reasonably appears necessary to take into custody subjects who pose a risk of harm to themselves, or subjects taken into custody pursuant to 5122.01 Hospitalization of the mentally ill.
- (b) Use retaliatory force (which includes, but is not limited to, force in excess of what is reasonably necessary to prevent escape, force to punish individuals for fleeing or otherwise resisting arrest, force used to punish an individual for disrespecting officers, and other such circumstances).
- (c) Use force against subject(s) who only verbally confront officers and are not involved in criminal conduct.
- (d) Use force against subject(s) who are handcuffed or otherwise restrained, unless it reasonably appears necessary under the circumstances to stop an assault, escape, or is necessary to fulfill other law enforcement objectives.
- (e) Un-holster and display or un-holster and point a firearm unless the circumstances surrounding the incident create a reasonably necessary belief that the situation may escalate to the point at which deadly force would be authorized.
- (f) Use force to overcome passive resistance, except where it is reasonably necessary to achieve a legitimate law enforcement objective.
- (g) Use force against those who are exercising their First Amendment rights. Physically moving a subject is permitted when it reasonably appears necessary for the safety of that individual or the public. It shall be done with sufficient personnel so as not to endanger the subject or the officers.
- (h) Use the lateral vascular neck restraint/carotid choke, unless the situation is such that it meets the criteria for the use of deadly force.
- (i) Utilize any form of choking technique for the sole purpose of retrieving evidence (drugs or contraband) that the suspect has placed in his/her mouth.
- (j) Use force on a subject in a manner that is likely to cause positional asphyxia. This condition is generally believed to be caused by placing a subject face down while maintaining a significant amount of weight on the subject.
- (k) Tie or cuff a subject's hands to their feet behind their back, the practice known as "Hog Tying", under any circumstances.
- (l) Use head strikes with hard objects, unless the situation is such that it meets the criteria for the use of deadly force.

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#### 300.3.6 RESPIRATORY RESTRAINTS

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

#### 300.3.7 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Lorain Police Department for this specific purpose.

### **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:

- (a) An officer may use deadly force to protect themselves or others from what the officer reasonably believes is 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 individual 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.

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.

#### 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.

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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.

#### 300.4.2 USE OF FIREARMS PROHIBITED

- (a) Warning Shots
- (b) Firing at subjects whose actions are only a threat to themselves (e.g., attempted suicide)
- (c) Firing solely in defense or protection of property.
- (d) Firing into crowds. However, this prohibition does not preclude the use of deadly force directed at a specific person who is near or among other people, if such force is objectively reasonable to prevent death or serious physical harm to the sworn member or to another person and no reasonable alternative exists.
- (e) Firing into buildings, through doors, windows, or other openings when the person lawfully fired at is not clearly visible unless directed at a specific location and such force is reasonably necessary to prevent death or serious physical harm to the officer or to another person e.g., providing cover fire.

#### 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, why he/she believed the use of force was reasonable under the circumstances, and ensure any BWC footage has been downloaded prior to the end of their shift.

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. See the Report Preparation Policy for additional circumstances that may require documentation.

[See attachment: Use of Force form - supervisor checklist.pdf](#)

#### 300.5.1 NOTIFICATIONS TO SUPERVISORS

Supervisory notification shall be made to the sergeant or officer in charge (OIC) as soon as practicable following the application of force, or an alleged application of force. The officer will also document in the incident report which OIC was notified. The OIC listed in the report is responsible for creating and submitting the use of force packet in a timely manner. Situations requiring the notification of the OIC include, but are not limited to the following circumstances:

- (a) The application caused a visible injury.

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

#### **300.6 MEDICAL CONSIDERATIONS**

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

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

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

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

See the Medical Aid and Response Policy for additional guidelines.

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#### **300.7 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. 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) 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.
  - 1. These photographs should be retained until all potential for civil litigation has expired.
- (d) Identify any witnesses not already included in related reports.
- (e) Review and approve all related reports for policy compliance.
- (f) Determine if there is any indication that the individual 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.
- (g) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance 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 WATCH COMMANDER RESPONSIBILITY**

The Watch Commander 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.

#### **300.8 RELIEF FROM DUTY**

- (a) When death or serious physical injury has resulted from any employee's actions or Use of Force in an official capacity, that employee will, as soon as practical, be released from field-duty by a supervisor pending an administrative review into the incident by the police department.
- (b) During the period of time, an investigation into the incident is being conducted, the Chief of Police may, at his/her option, assign the officer involved to desk duty. Such relief from duty will not be considered a disciplinary action, but an administrative course of action. This will allow the time to conduct an objective investigation into the matter.
- (c) The Chief of Police will determine the period of time spent on administrative leave or desk duty.

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- (d) In all cases where any person has died as a result of any departmental action, the involved officer will be required to undergo a debriefing with a department-approved and provided psychologist as soon as possible, but within 48-hours of the incident. The purpose of the debriefing will be to allow the officer to express his/her feelings and to deal with the moral, ethical, and/or psychological after-effects of the incident. The debriefing shall not be related to any department investigation of the incident and nothing discussed in the debriefing will be reported to the department. The debriefing session will remain protected by the privileged physician-patient relationship.

### **300.9 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.

#### **300.9.1 POLICY ACKNOWLEDGEMENT AND TESTING**

Annually, applicable department members will read, sign, and be tested on this policy.

#### **300.9.2 TRAINING REQUIREMENTS**

Required annual training shall include:

- (a) Legal updates.
- (b) De-escalation tactics, including alternatives to force.
- (c) The duty to intervene.
- (d) The duty to request and/or render medical aid.
- (e) Warning shots (see the Firearms Policy).
- (f) All other subjects covered in this policy (e.g., use of force and use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings, use of force and use of deadly force reporting).
- (g) Use of force and use of deadly force reviews/investigations.

### **300.10 USE OF FORCE ANALYSIS**

At least annually, the Patrol Operations Division Commander should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

## Use of Force Review Boards

### 301.1 PURPOSE AND SCOPE

This policy establishes a process for the Lorain 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.

### 301.2 POLICY

The Lorain 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.

### 301.3 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 may at the discretion of the Chief of Police be placed in a temporary administrative assignment pending an administrative review.

### 301.4 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 Use of Force Review Board Chairman will convene the Use of Force Review Board on a monthly basis or as necessary. It will be the responsibility of the Operations Division commander or supervisor of the involved employee to notify the Review Board Chairman 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.

#### 301.4.1 COMPOSITION OF THE BOARD

The Chief of Police should select five Use of Force Review Board members.

The senior ranking command representative will serve as chairperson. The Use of Force Board Chairman may request additional attendees to assist in a review dependent upon the needs of the board.

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### *Use of Force Review Boards*

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#### 301.4.2 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.

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

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## Policy Manual

### *Use of Force Review Boards*

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#### **301.5 COMMUNITY USE OF FORCE ADVISORY TO THE CHIEF**

The Lorain Police Department is committed to establishing close ties with the community by being receptive and responsive to the community's needs. The Chief of Police has adopted a Community Use of Force Advisory, which will be convened to review all use of force incidents.

##### **301.5.1 COMPOSITION OF COMMUNITY USE OF FORCE ADVISORY**

The Community Liaison Unit Supervisor will be responsible for the selection of the members of the Community Use of Force Advisory, with the approval of the Chief of Police. Members will be Community Leaders who have expressed a willingness to better relations between the Lorain Police Department and the community. Additionally, the board will represent the diverse demographic in the City of Lorain. Although members will be provided with training in police procedures, and their opinions are valued, the Lorain Police Department recognizes that members are not legal experts and their determination on an incident is made in direct correlation to their training.

##### **301.5.2 RESPONSIBILITIES OF THE BOARD**

The Community Use of Force Advisory is empowered to conduct an administrative review of all Use of Force encounters. Recommendations for additional training by the Advisory may be made to the Chief of Police.

#### **301.6 ARBITRARY REVIEW COMMITTEE**

Incidents coming before the Advisory that are deemed out of policy, and contradict the endorsement of the Lorain Police Use of Force Review Board, will be reviewed by a special Arbitrary Review Committee consisting of all three Division Captains, the Chief of Police, the Chairperson of the Lorain Police Use of Force Review Board, and the supervisor of the Community Liaison Unit. The decision of the Arbitrary Review Committee will be the basis for any future departmental action.

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## Handcuffing and Restraints

### 302.1 PURPOSE AND SCOPE

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

### 302.2 POLICY

The Lorain 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.

### 302.3 USE OF RESTRAINTS

Only members who have successfully completed Lorain 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.

#### 302.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual 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 assure 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.

#### 302.3.2 RESTRAINT OF PREGNANT PERSONS PRIOR TO BOOKING

Any time prior to the completion of booking, persons (including minors) 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.

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### *Handcuffing and Restraints*

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No person who is in labor, delivery, or recovery after delivery should 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.

#### **302.3.3 RESTRAINT OF JUVENILES**

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

#### **302.3.4 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 subject (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail.

#### **302.3.5 RESTRAINT OF PREGNANT PERSONS AFTER BOOKING**

No person who is a charged or convicted criminal offender (or minor who is charged or adjudicated delinquent) and known to be pregnant, or who is in labor, delivery, or in any period of postpartum recovery (which can be up to six weeks after delivery), should be restrained at any time following completion of the booking process except in extraordinary circumstances and only after a supervisor does all of the following (ORC § 2152.75; ORC § 2901.10):

- (a) Makes an individualized determination that the person either:
  1. Presents a risk of physical harm to self, to others, or to property
  2. Presents a security risk or a substantial flight risk
- (b) Confirms that the Department has not been provided with and is unaware of any notice from a health care professional treating the person that restraint of the person poses a risk of physical harm to the person or the person's unborn child
  1. If any such notice is received after the application of restraints to the person, the restraints should be removed.

In the event that restraints are applied as provided for in this section, the restraints shall be the least restrictive available and the most reasonable under the circumstances.

Waist restraints shall not be used (ORC § 2152.75; ORC § 2901.10).

Officers should confirm the pregnancy with a health care professional if the pregnancy is not obvious (ORC § 2152.75; ORC § 2901.10).

#### **302.4 APPLICATION OF HANDCUFFS OR PLASTIC FLEX CUFFS**

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

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### *Handcuffing and Restraints*

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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 practicable, handcuffs shall 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 individual 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.

#### **302.5 APPLICATION OF SPIT HOODS/MASKS/SOCKS**

Spit hoods/masks/socks 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 hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid comingling individuals 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.

#### **302.6 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.

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#### **302.7 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 suspect from his/her own actions (e.g., hitting his/her head against the interior of the patrol unit, 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 unit).

##### **302.7.1 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.
- (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 when practicable, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) Any person in auxiliary restraints should be monitored as reasonably appears necessary. 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 ambulance/paramedic unit, 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).

#### **302.8 REQUIRED DOCUMENTATION**

If a person is restrained and released without an arrest, the officer shall document the details of the detention in a case, FI, or incident report 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.

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### *Handcuffing and Restraints*

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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.

#### **302.9 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.
- (e) Any training materials provided by the Ohio Attorney General on the proper implementation of the restraint of pregnant persons (ORC § 109.749).

## Control Devices and Techniques

### 303.1 PURPOSE AND SCOPE

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

### 303.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Lorain Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

### 303.3 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.

When using control devices, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

### 303.4 RESPONSIBILITIES

#### 303.4.1 FIREARMS TRAINING SUPERVISOR RESPONSIBILITIES

The Office of Professional Standards Commander or appropriate designee 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 Training coordinator or the designated instructor for a particular control device. The inspection shall be documented.

#### 303.4.2 USER RESPONSIBILITIES

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

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Training Coordinator for disposition. Damage to City property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

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#### **303.5 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.

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.

Members will only carry the approved baton in an approved holder.

A baton will not be altered in any way.

Members must complete our approved baton training program in order to carry and use a baton.

The baton will only be used when necessary to gain control over a resistant or aggressive subject. The baton is generally used against an unarmed aggressive or resistant subject.

Officers will not target the head, neck, spine, sternum or groin, unless justified in the use of deadly force.

#### **303.6 CHEMICAL WEAPONS GUIDELINES**

CS/CN gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Incident Commander may authorize the delivery and use of CS/CN gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

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

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

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

##### **303.7.1 OC SPRAY**

Uniformed personnel carrying OC spray shall carry the device in its holster on their person. 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.

##### **303.7.2 PEPPER PROJECTILE SYSTEMS**

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas launcher delivers the projectiles with enough force to burst the projectiles on

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impact and release the OC powder, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel using a pepper projectile system should not intentionally target those areas, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

Officers encountering a situation that warrants the use of a pepper projectile system shall notify a supervisor as soon as practicable. A supervisor shall respond to all pepper projectile system incidents where the suspect has been hit or exposed to the chemical agent. The supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

Only officers trained in the use of Pepper Projectile Systems shall deploy with and use the system.

#### **303.7.3 TREATMENT FOR OC SPRAY EXPOSURE**

Persons who have been sprayed with or otherwise affected by the use of OC and taken into custody should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel. All decontamination actions are to be documented clearly in the report, to include video archival of the process if available.

#### **303.8 POST-APPLICATION NOTICE**

Whenever CS/CN gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that cleanup will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

#### **303.9 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.

##### **303.9.1 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.

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- (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.
- (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.

#### 303.9.2 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.

#### 303.9.3 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 deployed, 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

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the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

Absent compelling circumstances, officers who must transition from conventional ammunition to kinetic energy projectiles will employ the two-person rule for loading. The two-person rule is a safety measure in which a second officer watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

#### **303.10 SPECIALIZED CONTROL DEVICES "LESS LETHAL "**

- (a) Certain members of the department have access to specialized less-lethal weapons such as CS/CN irritant, distraction devices, 37 mm and 40 mm extended-range impact weapons and smoke canisters.
- (b) 37 mm and 40 mm weapons platforms shall be the Defensive Technologies Single Shot gas gun, or the Defensive Technologies Multi Launcher gas gun, or departmentally issued equivalent.
- (c) SWAT operations riot control launched or hand-thrown munitions, shall be limited to munitions listed in the Lorain Police Department Consumable Inventory Report, submitted to the Chief of Police annually.
- (d) Only authorized, trained members of the department may use this equipment.
- (e) Officers who fail to meet minimum established training and proficiency requirements will not be allowed to carry, use or deploy less-lethal devices and munitions on duty until such time as they demonstrate the required proficiency.
- (f) Such equipment will be utilized under the direction of the SWAT team supervisor or other trained supervisor.

#### **303.11 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 or recertified regularly.

- (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.

#### **303.12 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.

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## Conducted Energy Device (Taser / CEDs)

### 304.1 PURPOSE AND SCOPE

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

### 304.2 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.

### 304.3 ISSUANCE AND CARRYING CEDS

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

The Quartermaster 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 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 are not authorized to modify the CED in any way, with the exception of a slip on rubber grip specifically designed for the issued CED model to enhance grip and retention. (E.G. Hogue Handall Taser grip)
- (c) For single-shot devices, whenever practicable, officers should carry an additional cartridge on their person when carrying the CED.
- (d) Officers shall be responsible for ensuring their issued CED is functioning properly, and report any maintenance issues to the Quartermaster immediately.
- (e) 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.

#### 304.3.1 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.

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### *Conducted Energy Device (Taser / CEDs)*

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CEDs that are damaged or inoperative, or cartridges/magazines that are damaged, shall be returned to the Quartermaster 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.

#### **304.4 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.

#### **304.5 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.

##### **304.5.1 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.

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### *Conducted Energy Device (Taser / CEDs)*

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#### 304.5.2 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.
- (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.

#### 304.5.3 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.

#### 304.5.4 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.

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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.

#### 304.5.5 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. If needed for evidentiary purposes, the expended cartridge, along with any probes and wire, should be submitted into evidence (including confetti tags, when equipped on the device). The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

#### 304.5.6 DANGEROUS ANIMALS

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

#### 304.5.7 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.

### **304.6 DOCUMENTATION**

Officers shall document all CED discharges in the related arrest/crime reports and the Use of Force / CED report forms. Photographs should be taken of any obvious probe impact or drive-stun application sites and attached to the Use of Force / CED report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, 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.

#### 304.6.1 REPORTS

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

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

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- (h) Whether any officers sustained any injuries.

#### **304.7 MEDICAL TREATMENT**

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel 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 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).

#### **304.8 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 supervisor should arrange for photographs of probe sites to be taken and witnesses to be interviewed.

#### **304.9 TRAINING**

Personnel who are authorized to carry the CED shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the CED

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as a part of their assignments for a period of six months or more shall be recertified by a qualified CED instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued CEDs should occur every year. 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.
- (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.

## Officer-Involved Shootings and Deaths

### 305.1 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 or dies as the result of an officer-involved shooting or dies as a result of other action of an officer.

In other incidents not covered by this policy, the Chief of Police may decide that the investigation will follow the process provided in this policy.

### 305.2 POLICY

The policy of the Lorain Police Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

### 305.3 TYPES OF INVESTIGATIONS

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

- A criminal investigation of the suspect's actions.
- A criminal investigation of the involved officer's actions.
- An administrative investigation as to policy compliance by involved officers.
- A civil investigation to determine potential liability.

### 305.4 CONTROL OF INVESTIGATIONS

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer.

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

#### 305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Lorain Police Department would control the investigation if the suspect's crime occurred in Lorain.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.

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#### 305.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the employing agency's protocol. When an officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of this department to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief of Police or the authorized designee for approval.

#### 305.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

### **305.5 INVESTIGATION PROCESS**

The following procedures are guidelines for use in the investigation of an officer-involved shooting or death.

#### 305.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved LPD officer will be the officer-in-charge and will assume the responsibilities of a supervisor until properly relieved. This officer should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Department or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

#### 305.5.2 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved LPD supervisor should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
  - 1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any LPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
  - 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident

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- scene, identity of known or potential witnesses and any other pertinent information.
2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Watch Commander and the Communications Center. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional LPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
1. Each involved LPD officer should be given an administrative order not to discuss the incident with other involved officers or LPD members pending further direction from a supervisor.
  2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

#### 305.5.3 WATCH COMMANDER RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Watch Commander shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief of Police or a Division Commander.

All outside inquiries about the incident shall be directed to the Chief of Police or designee.

#### 305.5.4 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief of Police
- Operations Division Commander
- Criminal Investigations Division Commander
- Officer-Involved Shooting rollout team (MAIT - Multi Agency Investigation Team)
- Outside agency investigators (if appropriate)
- Office of Professional Standards supervisor
- Psychological/peer support personnel
- Chaplain
- Coroner (if necessary)
- Involved officer's agency representative (if requested)
- Public Information Officer

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#### 305.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
  - 1. Involved LPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
  - 2. Requests from involved non-LPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information.
- (d) A licensed psychotherapist shall be provided by the Department to each involved LPD officer. A licensed psychotherapist may also be provided to any other affected LPD members, upon request.
  - 1. Interviews with a licensed psychotherapist will be considered privileged.
  - 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
  - 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Communications between the involved officer and a peer support member or a critical incident stress management team member are addressed in the Wellness Program Policy.

Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.

Each involved LPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Watch Commander to make schedule adjustments to accommodate such leave.

#### **305.6 CRIMINAL INVESTIGATION**

The City Prosecutor's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.

If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the City Prosecutor's Office to avoid duplicating efforts in related criminal investigations.

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Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews.

The following shall be considered for the involved officer:

- (a) LPD supervisors and Office of Professional Standards personnel should not participate directly in any voluntary interview of LPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics 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 involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

#### 305.6.1 REPORTS BY INVOLVED LPD OFFICERS

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

While the involved LPD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all 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 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 LPD 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 or death.

#### 305.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should

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take reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

- (a) Identification of 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, attempts to identify the witness prior to his/her departure should be made whenever feasible.
- (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 a member of the Department.
  - 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 transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

#### **305.6.3 INVESTIGATIVE PERSONNEL**

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Criminal Investigations supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. Department investigators will be assigned to work with investigators from the City Prosecutor's Office and may be assigned to separately handle the investigation of any related crimes not being investigated by the City Prosecutor's Office.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Criminal Investigations supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Division Commander.

#### **305.7 ADMINISTRATIVE INVESTIGATION**

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of involved LPD officers to determine conformance with department policy. This investigation will be conducted under the supervision of the Office of Professional Standards and will be considered a confidential officer personnel file.

Interviews of members shall be subject to department policies and applicable laws.

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from

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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/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, 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 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 the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
  - 5. The Office of Professional Standards shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
  - 6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
  - 7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

#### **305.8 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.

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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.

#### **305.9 AUDIO AND VIDEO RECORDINGS**

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, 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, body-worn video, or other video or audio recordings with the approval of assigned investigators or a supervisor.

Any MAV, body-worn 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 Law Director's Office, as appropriate.

#### **305.10 DEBRIEFING**

Following an officer-involved shooting or death, the Lorain Police Department should conduct both a Critical Incident Stress Debriefing and a tactical debriefing. See the Wellness Program Policy for guidance on Critical Incident Stress Debriefings.

##### **305.10.1 TACTICAL DEBRIEFING**

A tactical debriefing should take place to identify any training or areas of policy that need improvement. The Chief of Police should identify the appropriate participants. This debriefing should not be conducted until all involved members have provided recorded or formal statements to criminal and/or administrative investigators.

#### **305.11 MEDIA RELATIONS**

Any media release shall be prepared with input and concurrence from the supervisor and department representative responsible for each phase of the investigation. Releases will be available to the Watch Commander, Criminal Investigations Division Commander and Public Information Officer in the event of inquiries from the media.

No involved LPD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or a Division Commander.

Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

## Firearms

### 306.1 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.

#### 306.1.1 AUTHORIZATION TO CARRY FIREARMS

Only sworn personnel who have met all state standards and have been authorized by the Chief of Police shall have the peace officer privilege to carry a firearm both on- and off-duty.

### 306.2 POLICY

The Lorain 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.

### 306.3 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 Firearms Training Supervisor. 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 Commander. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

No member will carry or use at any time any weapon of the type commonly referred to as brass knuckles, nunchucks, slappers, blackjacks, saps, sap gloves, or any other device capable of being used as a weapon, not expressly authorized by this policy.

Knives: Knives are identified as emergency cutting tools, and may be carried for that express purpose. Knives shall be carried in a secure manner and are not be used as a weapon unless deadly force is justified. Blade lengths shall not exceed four (4) inches.

#### 306.3.1 HANDGUNS

The authorized Department-issued handgun for road patrol use is the Glock 17 9mm. This is the only handgun authorized to be worn when an officer is working road patrol or secondary employment. Additionally, the department issues a Glock 43/43X 9mm handgun. The Glock 43X

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or Glock 43 with approved extended magazines may be carried in uniform by officers assigned to administrative duties, i.e.; detective, clerical, and plain clothes personnel provided it is carried in the approved holster, and a second magazine is on their person. The Glock 43 is not authorized as a primary duty weapon, and is only to be carried off duty or as a secondary weapon due to its low round capacity.

#### 306.3.2 SHOTGUNS

The authorized department-issued shotgun is the Mossberg 590A 12 gauge and Remington 870 12 gauge.

When not deployed, the shotgun shall be properly secured consistent with department training in a locked weapons rack in the patrol vehicle, if so equipped, or secured in a locked trunk.

#### 306.3.3 PATROL RIFLES

The authorized department-issued patrol rifle is the Colt AR15 .223/5.56 and Colt SMG 9mm.

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 long 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.
- (g) When needed to euthanize an animal.

When not deployed, the patrol rifle shall be properly secured consistent with department training in a locking weapons rack in the patrol vehicle if so equipped, or secured in a locked trunk.

#### 306.3.4 PERSONALLY OWNED PATROL RIFLE

Members desiring to carry an authorized but personally owned patrol rifle must receive written approval from the Firearms Training Supervisor. Personally owned patrol rifles must be 5.56mm/.223 caliber, and of the type commonly known as AR15. Once approved, personally owned patrol rifles are subject to the following restrictions:

- (a) The rifle shall be in good working order with a barrel length of 16" minimum. (no pistol variant)
- (b) The firearm shall be inspected by the Firearms Training Supervisor prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.

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- (c) Prior to carrying the firearm, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the firearm functions properly.
- (d) Officers who wish to carry a patrol rifle that falls under the National Firearms Act with a barrel less than 16" may do so upon providing a copy of the NFA Tax Stamp to the department, which will be placed in the officer's training file.

#### 306.3.5 AUTHORIZED SECONDARY HANDGUN

Members desiring to carry department or personally owned secondary handguns are subject to the following restrictions:

- (a) The handgun shall be in good working order and not less than .380 Caliber.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the Department.
- (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 Firearms Training Supervisor prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (f) Ammunition shall be the same as department issue. If the caliber of the handgun is other than department issue, the Chief of Police or the authorized designee shall approve the ammunition.
- (g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.
- (h) Members shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Firearms Training Supervisor, who will maintain a list of the information.

#### 306.3.6 AUTHORIZED OFF-DUTY FIREARMS

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

- (a) A personally owned firearm shall be used, carried and inspected in accordance with the requirements in this policy.
  - 1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.

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- (c) It will be the responsibility of the member to submit the firearm to the Firearms Training Supervisor for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Firearms Training Supervisor.
- (d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Firearms Training Supervisor that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The member will successfully qualify with the firearm prior to it being carried.
- (f) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Firearms Training Supervisor, who will 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.
- (h) Members shall only carry department-authorized ammunition.
- (i) When armed, officers shall carry their badges and Lorain Police Department identification cards under circumstances requiring possession of such identification.
- (j) Officers may carry a firearm in any school safety zone with proper authorization from the Chief of Police (ORC § 2923.122).
- (k) Off-duty members shall not carry firearms in establishments for which a "D" liquor permit has been issued and alcohol is being consumed by any person, unless authorized by the Chief of Police (ORC § 2923.121).

#### 306.3.8 AMMUNITION

Members 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 firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Firearms Training Supervisor when needed, in accordance with established policy.

Members carrying personally owned authorized firearms of a caliber differing from department-issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense.

#### 306.3.9 AUTHORIZED CARRY IN COURT FACILITIES

Carrying of a firearm by officers into courtrooms or court buildings is subject to local court security rules and shall only be permitted while the officer is acting within the scope of his/her duties (as determined by the Chief of Police) (ORC § 2923.123).

#### 306.3.9 FIREARMS SPECIALIZED PURPOSES

- (a) Upon a successful completion of the Department training and qualifications Officers shall be issued a 12 ga. Pump Shotgun with department approved buckshot and rifled slugs. Qualified designated Officers may also be issued one or more of the following firearms with department approved ammunition;

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1. Colt AR15.223 caliber semi-automatic rifle
  2. Colt M16.223 caliber semi-automatic rifle
  3. Colt 9mm semi-automatic rifle
  4. Remington 870 modified Less Lethal Impact Projectile shotgun
- (b) SWAT Issued Special Purpose Firearms
1. Colt M4 Commando 5.56 caliber semi/full automatic rifle
  2. H&K MP5 9mm semi/full automatic suppressed rifle
  3. Remington 700, or Accuracy International AEMKIII sniper rifle
- (c) Officers who have been issued any of the above mentioned firearms shall keep them in a ready state in the Officer's Department patrol vehicle. The firearms shall have loaded magazines, but are not to be stowed with a live round in the chamber. These weapons may be loaded and charged at the time of deployment.

#### 306.3.10 FIREARMS CARRYING PROHIBITIONS

- (a) Members are prohibited from carrying or using a Department owned or issued firearms under the following circumstances:
1. in situations prohibited by federal, state, or municipal law, and
  2. while under suspension, administrative leave or during a leave of absence unless otherwise permitted by law, or approved in writing by the Chief of Police.
  3. while consuming alcoholic beverages, unless acting in an officially sanctioned covert operation. It is never permitted to carry or use a firearm while under the influence of alcohol or drugs, or with a blood alcohol level higher than the state's prescribed level for intoxication while operating a motor vehicle.

#### 306.4 EQUIPMENT

Firearms carried on- or off-duty shall be maintained in a clean, serviceable condition. Maintenance and repair of authorized personally owned firearms are the responsibility of the individual member.

##### 306.4.1 REPAIRS OR MODIFICATIONS

Each member shall be responsible for promptly reporting any damage or malfunction of an assigned firearm to a supervisor or the Firearms Training Supervisor.

Firearms that are the property of the Department or personally owned firearms that are approved for department use may be repaired or modified only by a person who is department-approved and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the Firearms Training Supervisor.

Any repairs or modifications to the member's personally owned firearm shall be done at his/her expense and must be approved by the Firearms Training Supervisor.

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#### 306.4.2 HOLSTERS

Only department-approved Safariland ALS based holsters shall be used and worn by members when on duty. Members shall periodically inspect their holsters to make sure they are serviceable and provide the proper security and retention of the handgun. The Safariland QLS may be used by SWAT members for ease of transferring duty holsters to SWAT specific gear. The Safariland QLS may be used by non-SWAT officers upon approval by the Firearms Training Supervisor.

#### OFF DUTY HOLSTERS

Officers are permitted to utilize off duty holsters of both polymer and or conventional material construction (eg: leather, kydex, nylon) provided the holster provides a positive secure method of weapon retention. Thumb break strap and kydex tension based inside the waistband holsters may be used, provided they offer proper concealment. A holster must be used when carrying a firearm off duty. (no tucking of a firearm into a waistband or loose pocket carry etc.)

#### 306.4.3 TACTICAL LIGHTS

Tactical lights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Firearms Training Supervisor. 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.

#### 306.4.4 OPTICS OR LASER SIGHTS

Optics or laser sights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Firearms Training Supervisor. Any approved sight shall only be installed in strict accordance with manufacturer specifications. Once approved sights 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.

Flip mount red dot magnifiers are authorized for road patrol rifle use provided they are 3.5x power or less in magnification, non-adjustable magnification, and from one of the following manufacturers; Trijicon, EOTech, Vortex, Aimpoint, Sig Sauer, Holosun. Officers intending to carry one of the afore listed magnifiers must qualify with the item on the weapon, and pass additional testing deemed appropriate by the firearms supervisor.

Adjustable magnified optics are not authorized for patrol rifle use with the exception of active SWAT snipers. Active SWAT snipers may elect to use a LPVO (Low Power Variable Optic) on their patrol rifle with the SWAT Commander's approval, provided they qualify with the weapon monthly in conjunction with their sniper qualification.

Except in an approved training situation, a member may only sight in on a target when the member would otherwise be justified in pointing a firearm at the target.

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

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

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- (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 Firearms Training Supervisor. Members shall not dry fire or practice quick draws except as instructed by the Firearms Training Supervisor or other firearms training staff.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except in designated areas, or 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 if available.
- (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. Members providing access to the jail section to persons from outside agencies are responsible for ensuring firearms are not brought into the jail section.
- (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 or a Firearms Training Supervisor approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Firearms Training Supervisor 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.

#### 306.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly and upon access or possession by another person. 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.

Personally owned firearms may be safely stored in lockers at the end of the shift. Department-owned, unissued firearms shall be stored in the appropriate equipment storage room. 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 and then stored in the appropriate equipment storage room.

#### 306.5.2 STORAGE AT HOME

Members shall ensure that all 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 them inaccessible to children and others who should not have access. Members shall not permit

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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.

#### 306.5.3 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 adversely affect the member's senses or judgment (ORC § 2923.15).

#### **306.6 FIREARMS TRAINING AND QUALIFICATIONS**

All members will qualify at least annually with their duty firearms on a course approved by the Ohio Peace Officer Training Commission (POTC) (ORC § 109.801). Members will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.

At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

Instructors conducting firearms qualifications are required to have the approval of the POTC director as well as certification issued by the POTC (OAC § 109:2-13-04).

##### 306.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

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 submit a memorandum 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) No range credit will be given for the following:
  1. Unauthorized range make-up
  2. Failure to meet minimum standards or qualify after remedial training

Members who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action. In addition, the member may not carry a firearm until qualification is achieved (ORC § 109.801).

#### **306.7 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. In cases of accidental discharge, the immediate supervisor will as soon as

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practicable notify the member's Division Commander of the incident. 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 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 Commander 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.

#### **306.7.1 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.

#### **306.7.2 INJURED ANIMALS**

With the approval of a supervisor, 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.

#### **306.7.3 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.

#### **306.8 FIREARMS TRAINING SUPERVISOR DUTIES**

The range will be under the exclusive control of the Firearms Training Supervisor. All members attending will follow the directions of the Firearms Training Supervisor. The Firearms Training Supervisor 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 Firearms Training Supervisor 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 Firearms Training Supervisor 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 Firearms Training Supervisor has the authority to deem any department-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to his/her personal firearm; it will not be returned to service until it has been inspected and approved by the Firearms Training Supervisor.

The Firearms Training Supervisor 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 Firearms Training Supervisor 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 Firearms Training Supervisor should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records.

### **306.9 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 Lorain 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 Lorain Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Lorain 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.

#### **306.10 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 the officer's Lorain 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

### 307.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide officers with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to minimize the potential for pursuit-related collisions. Vehicle pursuits require officers to exhibit a high degree of common sense and sound judgment. Officers must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing officers (ORC § 2935.031).

#### 307.1.1 PHILOSOPHY

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

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

### 307.2 DEFINITIONS

Definitions related to this policy include:

**Vehicle Pursuit** - An event involving one or more peace officers attempting to apprehend a suspect who is trying to avoid arrest while operating a motor vehicle by using high speed or other evasive tactics, such as disregarding traffic warning signs, stop signs, red lights, driving off a roadway, turning suddenly or driving in a legal manner but willfully failing to yield to an officer's signal to stop.

**Blocking or Vehicle Intercept** - A slow-speed coordinated maneuver where two or more law enforcement 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 violator'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 intended to terminate the pursuit by causing the violator's vehicle to spin out and come to a stop.

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

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

**Tire Deflation Device, Spikes or Tack Strips** - A device that extends across the roadway and is designed to puncture the tires of the pursued vehicle.

### **307.3 OFFICER RESPONSIBILITIES**

It is the policy of this department that a vehicle pursuit shall be conducted with at least one red or blue flashing, rotating or oscillating light, visible under normal atmospheric conditions from a distance of 500 feet to the front of, and a siren activated on an authorized emergency vehicle (ORC § 4513.21, ORC § 4511.01(D) and ORC § 4511.041).

The following policy is established to provide officers with guidelines for driving with due regard and caution for the safety of all persons using the highway.

#### **307.3.1 WHEN TO INITIATE A PURSUIT**

Officers are authorized to initiate a pursuit when it is reasonable to believe that a suspect is attempting to evade arrest or detention by fleeing in a vehicle that has been given a signal to stop by a peace officer (ORC § 2921.331(B)).

The following factors individually and collectively shall be considered in deciding whether to initiate or continue a pursuit:

- (a) The seriousness of the known or reasonably suspected crime and its relationship to community safety.
- (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 apparent nature of the fleeing suspect (e.g., whether the suspect represents a serious threat to public safety).
- (d) The identity of the suspect has been verified and there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.
- (e) 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.
- (f) The pursuing officer's familiarity with the area of the pursuit, the quality of radio communication between the pursuing units and the dispatcher/supervisor, and the driving capabilities of the pursuing officers under the conditions of the pursuit.
- (g) The weather, traffic and road conditions that unreasonably increase the danger of the pursuit when weighed against the risks resulting from the suspect's escape.

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- (h) The performance capabilities of the vehicles used in the pursuit in relation to the speed and other conditions of the pursuit.
- (i) Vehicle speeds.
- (j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
- (k) The availability of other resources, such as aircraft assistance.
- (l) The police unit is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with a prisoner 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 prisoner in transport. A unit containing more than a single prisoner should not participate in a pursuit.

#### 307.3.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risk of continuing the pursuit reasonably appears to outweigh the risk resulting from the suspect's escape.

Operating an emergency vehicle in a pursuit with emergency lights and siren does not relieve the operator of an authorized emergency vehicle of the duty to drive with due regard for the safety of all persons and does not protect the driver from the consequences of his/her reckless disregard for the safety of others (ORC § 4511.45(B)).

The above factors on when to initiate a pursuit are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, themselves and the public 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.

In addition to the factors listed above, the following factors should be considered when deciding whether to terminate a pursuit:

- (a) The distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.
- (b) The pursued vehicle's location is no longer definitely known.
- (c) The officer's pursuit vehicle sustains damage or a mechanical failure that renders it unsafe to drive.
- (d) The pursuit vehicle suffers an emergency equipment failure that causes the vehicle to no longer qualify for emergency operation use.

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- (e) Extended pursuits of violators for misdemeanors not involving abuse or risk of serious harm (independent of the pursuit) are discouraged.
- (f) The hazards to uninvolved bystanders or motorists.
- (g) When the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risk associated with continuing the pursuit, officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time.
- (h) When directed to terminate the pursuit by a supervisor.

#### **307.3.3 SPEED LIMITS**

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Vehicle speeds shall be taken into consideration to prevent endangering public safety, officer safety and the safety of the occupants of the fleeing vehicle.

Should high vehicle speeds be reached during a pursuit, officers and supervisors shall also consider these factors when determining the reasonableness of the speed of the pursuit (ORC § 4511.24):

- (a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.
- (b) Pursuit speeds have exceeded the driving ability of the officer.
- (c) Pursuit speeds are beyond the capabilities of the pursuit vehicle, thus making its operation unsafe.

#### **307.4 PURSUIT UNITS**

Pursuit units should be limited to three vehicles (two units and a supervisor). However, the number of units involved will vary with the circumstances.

An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely arrest the suspect. 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 termination point at legal speeds, following the appropriate rules of the road.

Distinctively marked patrol vehicles should replace unmarked vehicles involved in a pursuit whenever practicable.

##### **307.4.1 MOTORCYCLE OFFICERS**

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

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#### 307.4.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Vehicles not equipped with a red or blue emergency light and siren are prohibited from initiating or joining in any pursuit. Officers in such vehicles may provide support to pursuing units as long as the vehicle is operated in compliance with all traffic laws (ORC § 4511.041 and ORC § 4513.21).

#### 307.4.3 PRIMARY UNIT RESPONSIBILITIES

The initial pursuing officer will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect without unreasonable danger to him/herself or other persons.

The primary unit should notify the Communications Center, 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 reason for the pursuit.
- (b) The location and direction of travel.
- (c) The speed of the fleeing vehicle.
- (d) The description of the fleeing vehicle and license number, if known.
- (e) The number of occupants.
- (f) The identity or description of the known occupants.
- (g) The weather, road and traffic conditions.
- (h) The identity of other agencies involved in the pursuit.
- (i) Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.

Unless relieved by a supervisor or secondary unit, the officer in the primary unit shall be responsible for broadcasting the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary unit should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit to minimize distractions and allow the primary unit to concentrate foremost on safe pursuit tactics.

#### 307.4.4 SECONDARY UNIT RESPONSIBILITIES

The second officer in the pursuit is responsible for:

- (a) Immediately notifying the dispatcher of his/her entry into the pursuit.
- (b) Remaining at a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit.
- (c) Broadcasting the progress of the pursuit unless the situation indicates otherwise.
- (d) Serving as backup to the primary unit once the subject has been stopped.

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#### 307.4.5 PURSUIT DRIVING TACTICS

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

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Officers may proceed past a red or stop signal or stop sign but only after slowing down as may be necessary for safe operation (ORC § 4511.03).
- (c) Because intersections can present increased risks, the following tactics should be considered:
  - 1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
  - 2. Pursuing units should exercise due caution when proceeding through controlled intersections.
- (d) 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. Requesting assistance from an available air unit.
  - 2. Maintaining visual contact with the pursued vehicle by paralleling on the correct side of the roadway.
  - 3. Requesting other units to observe exits available to the suspect.
- (e) Notify the Ohio State Highway Patrol or other law enforcement agency if it appears the pursuit may enter their jurisdiction.
- (f) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit and a clear understanding of the maneuver process exists between the involved officers.

#### 307.4.6 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

There should be no paralleling of the pursuit route. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Officers should not become involved with the pursuit unless directed otherwise by a supervisor.

Other officers not involved in the pursuit shall endeavor to move in the general direction of the pursuit, operating in Code 2 Emergency Response fashion and within their assigned areas to lend appropriate assistance, clear intersections, and aid in apprehension of suspects.

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#### 307.4.7 PURSUIT TRAILING

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

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

#### **307.5 SUPERVISORY CONTROL AND RESPONSIBILITIES**

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

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

- (a) Upon becoming aware of a pursuit, immediately notifying involved officers and the Communications Center of supervisory presence and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established department guidelines.
- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercising management and control of the pursuit even if not engaged in it.
- (d) Ensuring that no more than the number of required law enforcement units needed are involved in the pursuit under the guidelines set forth in this policy.
- (e) Directing that the pursuit be terminated if, in the supervisor's judgment, it is not justified to continue the pursuit under the guidelines of this policy.
- (f) Ensuring that aircraft assistance is requested, if available.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.
- (i) Controlling and managing LPD units when a pursuit enters another jurisdiction.
- (j) Preparing an after-action review of each pursuit for training purposes.

#### 307.5.1 WATCH COMMANDER RESPONSIBILITIES

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

The Watch Commander shall review all pertinent reports for content and forward them to the Division Commander.

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#### **307.6 COMMUNICATIONS**

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 communications dispatcher.

##### **307.6.1 THE COMMUNICATIONS CENTER RESPONSIBILITIES**

Upon notification that a pursuit has been initiated, the Communications Center will be responsible for:

- (a) Coordinating pursuit communications of the involved units and personnel.
- (b) Notifying and coordinating with other involved or affected agencies as practicable.
- (c) Ensuring that a field supervisor is notified of the pursuit.
- (d) Assigning an incident number and logging all pursuit activities.
- (e) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (f) Notifying the Watch Commander as soon as practicable.

##### **307.6.2 LOSS OF PURSUED VEHICLE**

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

#### **307.7 INTERJURISDICTIONAL CONSIDERATIONS**

When a pursuit enters another agency's jurisdiction, the primary officer or supervisor, taking into consideration distance traveled, unfamiliarity with the area and other pertinent facts, should determine whether to request the other agency to assume the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist.

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

Lorain Police Department officers will discontinue the pursuit when another agency has assumed the pursuit, unless continued assistance of the Lorain Police Department is requested by the agency assuming the pursuit. Upon discontinuing the pursuit, the primary unit may proceed upon request, with or at the direction of a supervisor, to the termination point to assist in the investigation.

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

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

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pursuit leaves another jurisdiction and a request for assistance is made to this department, the other agency should relinquish control.

#### **307.7.2 PURSUITS EXTENDING INTO THIS JURISDICTION**

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from this department should not join a pursuit unless specifically requested to do so by the agency whose peace officers are in pursuit. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a unit from this department may join the pursuit until sufficient units from the initiating agency join the pursuit.

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

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

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

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

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

#### **307.8 PURSUIT INTERVENTION**

Pursuit intervention is an attempt to terminate the ability of a suspect to continue to flee in a motor vehicle through tactical application of technology, tire deflation devices, blocking, boxing, PIT (Pursuit Intervention Technique), ramming or roadblock procedures.

##### **307.8.1 WHEN USE IS AUTHORIZED**

Use of pursuit intervention tactics should be employed only after approval of a supervisor. In deciding whether to use intervention tactics, officers/supervisors should balance the 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.

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It is imperative that officers act within legal bounds using good judgment and accepted practices.

#### 307.8.2 USE OF FIREARMS

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances meet the requirements authorizing the use of deadly force. 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.

#### 307.8.3 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 force, and are subject to department 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 risk involved, this technique should only be employed by officers who have received training in such tactics 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 other members of the public.
  - 2. All other reasonable intervention techniques have failed or reasonably appear ineffective.
  - 3. Employing the blocking maneuver does not unreasonably increase the risk to officer safety.
  - 4. The target vehicle is stopped or traveling at a low speed.
  - 5. At no time should civilian vehicles be used to deploy this technique.
- (b) Only those officers trained in the use of pursuit termination tactics and intervention techniques (e.g., PIT maneuvers, tire deflation devices, roadblocks) will be authorized to use these procedures and only then with approval of a supervisor upon consideration of the circumstances and conditions presented at the time, including the potential for injury to officers, the public, and occupants of the pursued vehicle.
- (c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the officer's disposal have been exhausted. This tactic should be reserved for situations where there does not appear to be another reasonable alternative method. This policy is an administrative guide to direct officers in their decision-making process before ramming another vehicle. When ramming is used as a means to stop a fleeing vehicle, one or more of the following factors should be present:

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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.  
If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized.
- (d) As with all intervention techniques, pursuing officers should obtain supervisor approval before attempting to box a suspect vehicle during a pursuit. The use of such a technique must be carefully coordinated with all involved units, taking into consideration the circumstances and conditions apparent at the time, as well as the potential risk of injury to officers, the public, and occupants of the pursued vehicle.
- (e) Tire deflation devices should be deployed only when it is reasonably apparent that only the pursued vehicle will be affected by their use. Prior to the deployment of spike strips, the officer shall notify pursuing units and the supervisor of the intent and location. Officers should carefully consider the limitations of such devices as well as the potential risks to officers, the public, and occupants of the pursued vehicle. If the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children, officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle. Tire deflation devices will not be used on a motorcycle or three wheeled vehicle unless the use of deadly force is legally justified.
- (f) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor, and only then under extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risk of injury or death to occupants of the pursued vehicle, officers, or other members of the public.

#### **307.8.4 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 under the circumstances to properly perform their lawful duties.

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

#### **307.9 REPORTING AND REVIEW REQUIREMENTS**

All appropriate reports shall be completed to comply with local and state regulations.

- (a) The primary officer shall complete appropriate crime/arrest reports.
- (b) The primary officer or supervisor shall complete the appropriate pursuit report in all pursuits, including a pursuit that is terminated, regardless of the duration of the pursuit.

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- (c) After first obtaining available information, the ranking shift supervisor shall promptly notify the Operations Division Commander via email with a brief summary of the pursuit. This notification should minimally contain the following information:
  - 1. Date and time of pursuit.
  - 2. Length of pursuit in distance and time.
  - 3. Involved units and officers.
  - 4. Initial reason and circumstances surrounding the pursuit.
  - 5. Starting and termination points.
  - 6. Alleged offense, charges filed or disposition: arrest, citation or other release.
  - 7. Arrestee information should be provided if applicable.
  - 8. Injuries and/or property damage.
  - 9. Medical treatment.
  - 10. The outcome of the pursuit.
  - 11. Name of supervisor handling or at the scene.
  - 12. A preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.
- (d) The ranking patrol shift supervisor on duty shall complete the OIC DATA FORM (VEHICLE PURSUITS), attaching to it the following: copy of the original report to include the VEHICLE PURSUIT DATA FORM, filed by the initiating officer, all supplements, audio/video recording of the incident (radio transmissions, telephone conversations, cruiser video). The form with attachments will be forwarded to the Shift Watch Commander for the shift that the pursuit occurred on to be checked for completeness, then forwarded to the Patrol Operations Commander for review.
- (e) After receiving copies of reports, logs and other pertinent information, the Chief of Police or designee shall conduct or assign the completion of a post-pursuit review as appropriate to the circumstances.
- (f) Annually, the Chief of Police should direct a documented review and analysis of Department vehicle pursuits to minimally include policy suitability, policy compliance and training needs.

#### 307.9.1 REGULAR AND PERIODIC PURSUIT TRAINING

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

#### 307.9.2 POLICY ACKNOWLEDGEMENT

Applicable members of this department shall annually and upon any amendments certify in writing that they have received, read, and understand this policy (ORC § 2935.031).

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#### **307.10 REVIEW OF PURSUITS**

- (a) All vehicular pursuits involving this agency and its personnel, either inside or outside the City of Lorain, will be reviewed or examined by the Department's Pursuit Review Board, as promulgated by the Chief of Police.
- (b) The Review Board will decide whether a vehicular pursuit was within policy standards, or was not, and will report their findings to the Chief of Police.
- (c) The Review Board may additionally:
  - 1. Draw conclusions regarding the culpability of any employee involved,
  - 2. Recommend remedial or refresher training for any employee involved,
  - 3. Recommend modifications in, or review of agency policy, procedures, training, or tactics, and,
  - 4. Recommend optometric, stress, or fitness-for-duty evaluations for any employee involved.

#### **ANALYSIS**

- (a) In order to identify patterns or trends that indicate a need for additional training, and/or policy modification, an annual analysis of pursuit reports shall be conducted by the Chair of the Pursuit Review Board each December. The completed report will be forwarded to the office of the Chief of Police no later than January 5th.
- (b) Annually, the Chair of the Pursuit Review Board will conduct a review of the Vehicle Pursuit Policy and reporting procedures. Any recommended changes to training and/or policy will be forwarded to the office of the Chief of Police.

## Officer Response to Calls

### 308.1 PURPOSE AND SCOPE

This policy provides officers with guidelines for the safe and appropriate vehicular response to emergency and non-emergency incidents or requests for assistance, whether these are dispatched or self-initiated.

### 308.2 RESPONSE TO CALLS

Officers responding to an emergency call shall proceed immediately. Officers responding to an emergency call shall continuously operate emergency lighting equipment and shall sound the siren (ORC § 4511.041).

Responding with emergency lights and siren does not relieve the operator of an authorized emergency vehicle of the duty to drive with due regard for the safety of all persons and does not protect the driver from the consequences of the driver's reckless disregard for the safety of others (ORC § 4511.041; ORC § 4511.45; ORC § 4511.452). The use of any other warning equipment without emergency lights and siren does not provide any exemption from the Ohio motor vehicle laws.

Officers should only respond as an emergency call response when so dispatched or when circumstances reasonably indicate an emergency response is required. Officers not responding as an emergency call response shall observe all traffic laws and proceed without the use of emergency lights and siren.

### 308.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe there is an imminent threat to the safety of officers, or assistance is needed to prevent imminent serious harm to a citizen. Where a situation has stabilized and emergency response is not required, the requesting officer shall promptly notify the Communications Center.

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

#### 308.3.1 NUMBER OF UNITS PARTICIPATING

Normally, only those units reasonably necessary should respond to an emergency as an emergency call response. The Watch Commander or the field supervisor should monitor all emergency responses and reduce or enhance the response as warranted.

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#### **308.4 INITIATING EMERGENCY CALL RESPONSE**

If an officer believes an emergency call response to any call is appropriate, the officer shall immediately notify the Communications Center. Emergency responses of more than one unit should include, if circumstances reasonably permit, coordinating the response of the second unit by the Communications Center to avoid any unanticipated intersecting of response routes.

An emergency call response of more than one unit should initiate notification by the Communications Center to the Watch Commander or field supervisor. The Watch Commander or field supervisor will make a determination regarding the appropriateness of the response and reduce or enhance the response as warranted.

#### **308.5 RESPONSIBILITIES OF RESPONDING OFFICER**

Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. During a response to an emergency call officers may (ORC § 4511.041):

- (a) Proceed past a red or stop signal or stop sign but only after slowing down as may be necessary for safe operation (ORC § 4511.03).
- (b) Exceed any speed limits, provided this does not endanger life or property (ORC § 4511.24).
- (c) Disregard regulations governing direction of movement or turning in specified directions (ORC § 4511.37).
- (d) Disregard regulations governing parking or standing when using a warning lamp.

Continuing an emergency call 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 red lights and siren at the legal speed limit. In such an event, the officer should immediately notify the Communications Center. An officer shall also discontinue an emergency call response when directed by a supervisor or as otherwise appropriate.

Upon determining that an emergency call response is appropriate, an officer shall immediately give the location from which he/she is responding.

#### **308.6 COMMUNICATIONS RESPONSIBILITIES**

A dispatcher shall ensure acknowledgment and response of assisting units when an officer requests emergency assistance or when the available information reasonably indicates that the public is threatened with serious injury or death and an immediate law enforcement response is needed. In all other circumstances, the dispatcher shall obtain authorization from the Watch Commander or a field supervisor prior to assigning an emergency response. The dispatcher shall:

- (a) Attempt to assign the closest available unit to the location requiring assistance.
- (b) Immediately notify the Watch Commander.
- (c) Confirm the location from which the unit is responding.

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- (d) Notify and coordinate outside emergency services (e.g., fire and ambulance).
- (e) Continue to obtain and broadcast information as necessary concerning the response, and monitor the situation until it is stabilized or terminated.
- (f) Control all radio communication during the emergency and coordinate assistance under the direction of the Watch Commander or field supervisor.

#### **308.7 SUPERVISORY RESPONSIBILITIES**

Upon being notified that an emergency response has been initiated or requested, the Watch Commander or the field supervisor shall verify that:

- (a) The proper response has been initiated.
- (b) No more than those officers reasonably necessary under the circumstances are involved in the response.
- (c) Affected outside jurisdictions are being notified as practicable.

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

It is the supervisor's responsibility to terminate an emergency response that, in the supervisor's judgment, is inappropriate due to the circumstances.

When making the decision to authorize an emergency call response, the Watch Commander or the field supervisor should consider the following:

- The type of call or crime involved.
- The type and circumstances of the request.
- The necessity of a timely response.
- Weather, traffic, and road conditions.
- The location of the responding officers and the location of the incident.

#### **308.8 EMERGENCY EQUIPMENT**

Vehicles not equipped with emergency lights and siren are prohibited from initiating or joining in an emergency response. [Officers\_Deputies] in such vehicles may provide support to an emergency response as long as the vehicles are operated in compliance with all traffic laws. Those [officers\_deputies] should terminate their involvement in any emergency response immediately upon arrival of a sufficient number of emergency law enforcement vehicles.

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the emergency call response and respond accordingly.

The officer shall notify the Watch Commander, field supervisor or the Communications Center of the equipment failure so that another unit may be assigned to the emergency response.

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#### **308.9 POLICY**

It is the policy of this department to appropriately respond to emergency and non-emergency calls for service or requests for assistance, whether these are dispatched or self-initiated.

## Canines

### 309.1 PURPOSE AND SCOPE

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

#### 309.1.1 DEFINITIONS

Definitions related to this policy include:

**Canine** - A dog that has been trained and may be used to assist one or more law enforcement officers in the performance of their official duties. When used in this Policy Manual, “canine” refers to a police dog (ORC § 955.11; ORC § 2921.321).

### 309.2 POLICY

It is the policy of the Lorain Police Department that teams of handlers and canines meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate law enforcement objectives.

### 309.3 ASSIGNMENT

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

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

#### 309.3.1 LAW ENFORCEMENT CANINE REGISTRATION

All canines utilized by the Department shall be registered with the county auditor pursuant to the requirements of ORC § 955.012. Canine registrations must be signed by the Chief of Police (ORC § 955.012).

### 309.4 CANINE COORDINATOR

The canine coordinator shall be appointed by the Chief of Police and directly responsible to the Patrol Operations Division Commander or the authorized designee.

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

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

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

#### **309.5 REQUESTS FOR CANINE TEAMS**

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

##### **309.5.1 OUTSIDE AGENCY REQUEST**

All requests for canine assistance from outside agencies must be approved by the Watch Commander and are subject to the following:

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.
- (b) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.
- (c) Calling out off-duty canine teams is discouraged.
- (d) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.
- (e) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.

##### **309.5.2 PUBLIC DEMONSTRATION**

All public requests for a canine team shall be reviewed and, if appropriate, approved by the canine coordinator prior to making any resource commitment. The canine coordinator is responsible for obtaining resources and coordinating involvement in the demonstration to include proper safety protocols. Canine handlers shall not demonstrate any apprehension work unless authorized to do so by the canine coordinator.

#### **309.6 APPREHENSION GUIDELINES**

Canine handlers are completely responsible for the control of their canine and must be diligent to ensure the safety of the general public.

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

- (a) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any officer, or the handler.

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- (b) The suspect 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 suspect is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

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

Absent a reasonable belief that a suspect has committed, is committing, or is threatening to commit a serious offense, mere flight from a pursuing officer, without any of the above conditions, shall not serve as the basis for the use of a canine to apprehend a suspect. Force, including a canine, is never to be used against a passive subject or a compliant subject who is submitting to arrest.

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

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

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

#### 309.6.1 PREPARATION FOR DEPLOYMENT

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

- (a) The nature and seriousness of the suspected offense.
- (b) Whether violence or weapons were used or are anticipated.
- (c) The degree of resistance or threatened resistance, if any, the suspect has shown.
- (d) The suspect's known or perceived age.
- (e) The potential for injury to officers or the public caused by the suspect if the canine is not utilized.
- (f) Any potential danger to the public and/or other officers at the scene if the canine is released.
- (g) The potential for the suspect to escape or flee if the canine is not utilized.

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

It is the canine handler's responsibility to evaluate each situation and determine whether the use of a canine is appropriate and reasonable. The canine handler may have the authority to decline the use of the canine whenever he/she deems deployment is unsuitable.

A supervisor may prohibit deploying the canine.

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

#### 309.6.2 WARNINGS AND ANNOUNCEMENTS

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

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

#### 309.6.3 REPORTING DEPLOYMENTS, BITES, AND INJURIES

Handlers should document canine deployments in a canine use report. Whenever a canine deployment results in a bite or causes injury to an intended suspect, a supervisor should be promptly notified and the injuries documented in the canine use report. The injured person shall be promptly treated by Emergency Medical Services personnel and, if appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report.

Any unintended bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the canine coordinator. Unintended bites or injuries caused by a canine should be documented in an administrative report, not in a canine use report.

If an individual alleges an injury, either visible or not visible, a supervisor shall be notified and both the individual's injured and uninjured areas shall be photographed as soon as practicable after first tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current department evidence procedures. The photographs shall be retained until the criminal proceeding is completed and the time for any related civil proceeding has expired.

Law enforcement canines are generally exempt from impoundment and reporting requirements. If the canine begins exhibiting any abnormal behavior, the canine shall be made available, upon request, to the board of health for the district in which the bite occurred (ORC § 955.261).

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#### **309.7 NON-APPREHENSION GUIDELINES**

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

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

##### **309.7.1 ARTICLE DETECTION**

A canine trained to find objects or property related to a person or crime may be used to locate or identify articles. A canine search should be conducted in a manner that minimizes the likelihood of unintended bites or injuries.

##### **309.7.2 NARCOTICS DETECTION**

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

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

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

##### **309.7.3 BOMB/EXPLOSIVE DETECTION**

Because of the high risk of danger to the public and officers when a bomb or other explosive device is suspected, the use of a canine team trained in explosive detection may be considered. When available, an explosive-detection canine team may be used in accordance with current law and under certain circumstances, including:

- (a) Assisting in the search of a building, structure, area, vehicle, or article where an actual or suspected explosive device has been reported or located.

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- (b) Assisting with searches at transportation facilities and vehicles (e.g., buses, airplanes, trains).
- (c) Preventive searches at special events, VIP visits, official buildings, and other restricted areas. Searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.
- (d) Assisting in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.

At no time will an explosive-detection trained canine be used to render a suspected device safe or clear.

#### **309.8 HANDLER SELECTION CRITERIA**

The proper selection of a canine handler is critical to having a successful canine program. Consideration should be given to several criteria including motivation and work ethic.

The minimum criteria include:

- (a) An officer with a minimum of three years of law enforcement experience. Officers shall be volunteers.
- (b) A rank of Patrol Officer Class A.
- (c) No adverse personnel actions within the last three years.
- (d) Must not be the subject of any current internal investigations when applying for the position.
- (e) The officer's residence shall be capable of housing the canine and have adequate space for the construction of a kennel. The officer will be required to house the canine at his/her residence.
- (f) The officer must be in good health and not suffer from serious medical problems and must be strong enough to withstand the canine handling, training, and work conditions.
- (g) Living within 30 minutes travel time from the Lorain City limits.
- (h) Agreeing to be assigned to the position for the working life of the dog.
- (i) The officer must have family in agreement with he/she being assigned to the canine unit and if other pets are in the home that conflict with the department's canine, the officer will remove the pets.
- (j) Cannot function in any other specialized unit, unless approved by the Chief of Police. (Swat, FTO, etc)

##### **309.8.1 PHYSICAL CRITERIA**

The physical requirements will be demonstrated by the canine handler quarterly. The physical assessment requirements for specialized units are outlined in the department's procedural directive: Ongoing Physical Assessment Requirements For Specialized Units.

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#### **309.9 HANDLER RESPONSIBILITIES**

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

The canine handler will be responsible for the following:

- (a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.
- (c) Handlers shall permit the canine coordinator to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.
- (d) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine coordinator as soon as possible.
- (e) When off-duty, the canine shall be in a kennel provided by the City at the home of the handler. When a canine is kenneled at the handler's home, the gate should be secured and supervised. When off-duty, the canine may be let out of the kennel while under the direct control of the handler.
- (f) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.
- (g) Under no circumstances will the canine be lodged at another location unless approved by the canine coordinator or Watch Commander.
- (h) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the canine coordinator.
- (i) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the canine coordinator so that appropriate arrangements can be made.

#### **309.9.1 CANINE IN PUBLIC AREAS**

The canine should be kept on a leash when in areas that allow access to the public. Exceptions to this rule would include specific law enforcement operations for which the canine is trained.

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

#### **309.10 HANDLER COMPENSATION**

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

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

#### **309.11 CANINE INJURY AND MEDICAL CARE**

In the event that a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the canine coordinator or Watch Commander as soon as practicable and appropriately documented.

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment shall be maintained in the handler's personnel file.

##### **309.11.1 DISPOSITION OF SERVICE CANINE**

If a canine becomes injured in the line of duty, becomes disabled and is unfit for duty, or grows too old to be fit for duty, the officer to whom the canine is assigned may purchase the animal (ORC § 9.62).

If the assigned handler chooses not to purchase the animal, the disposition of the canine shall be conducted pursuant to current Department procedures or City policy, ordinance or state law.

#### **309.12 TRAINING**

Before assignment in the field, each canine team shall be trained and certified to meet current Ohio Peace Officer Training Commission (OPOTC)-recognized standards or other recognized and approved certification standards. Cross-trained canine teams or those canine teams trained exclusively for the detection of narcotics and/or explosives also shall be trained and certified to meet OPOTC-recognized standards or other recognized and approved certification standards established for their particular skills (OAC § 109:2-7-01 et seq.).

The canine coordinator shall be responsible for scheduling periodic training for all department members in order to familiarize them with how to conduct themselves in the presence of department canines. Because canines may be exposed to dangerous substances such as opioids, as resources are available, the canine coordinator should also schedule periodic training for the canine handlers about the risks of exposure and treatment for it.

All canine training shall be conducted while on-duty unless otherwise approved by the canine coordinator or Watch Commander.

##### **309.12.1 CONTINUED TRAINING**

Each canine team shall thereafter be re-certified to a current nationally recognized standard or other recognized and approved certification standards on an annual basis (OAC § 109:2-7-05). Additional training considerations are as follows:

- (a) Canine teams should receive training as defined in the current agreement with the Lorain Police Department canine training provider.

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- (b) Canine handlers are encouraged to engage in additional training with approval of the canine coordinator.
- (c) To ensure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that is not reviewed and approved by the Department.

#### 309.12.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

Any canine team failing to graduate or obtain certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved. When reasonably practicable, pending successful certification, the canine handler shall be temporarily reassigned to regular patrol duties.

#### 309.12.3 TRAINING RECORDS

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

#### 309.12.4 TRAINING AIDS

Training aids are required to effectively train and maintain the skills of canines. Officers possessing, using, or transporting controlled substances or explosives for canine training purposes must comply with federal and state requirements. Alternatively, the Lorain Police Department may work with outside trainers with the applicable licenses or permits.

#### 309.12.5 CONTROLLED SUBSTANCE TRAINING AIDS

Officers acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics-detection canine training in compliance with state and federal laws and in compliance with applicable state requirements (21 USC § 823(f); ORC § 3719.14).

The Chief of Police or the authorized designee may authorize a member to seek a court order to allow controlled substances seized by the Lorain Police Department to be possessed by the member or a narcotics-detection canine trainer who is working under the direction of this department for training purposes, provided the controlled substances are no longer needed as criminal evidence.

As an alternative, the Chief of Police or the authorized designee may request narcotics training aids from the Ohio State Highway Patrol (OSP) or Drug Enforcement Administration (DEA).

These procedures are not required if the canine handler uses commercially available synthetic substances that are not controlled narcotics.

#### 309.12.6 CONTROLLED SUBSTANCE PROCEDURES

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

- (a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.
- (b) The weight and test results shall be recorded and maintained by this department.

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- (c) Any person possessing controlled substance training samples pursuant to court order or OSP or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.
- (d) All controlled substance training samples will be stored in locked, airtight, and watertight cases at all times, except during training. The locked cases shall be secured in the trunk of the canine handler's assigned patrol vehicle during transport for training and stored in an appropriate locked evidence locker on station when not in use. There are no exceptions to this policy.
- (e) The canine coordinator shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.
- (f) Any unusable controlled substance training samples shall be returned to the Evidence Room or to the dispensing agency.
- (g) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.

#### 309.12.7 EXPLOSIVE TRAINING AIDS

Officers may possess, transport, store, or use explosives or destructive devices in compliance with state and federal laws (18 USC § 842; 27 CFR 555.41; ORC § 2923.17).

Explosive training aids designed specifically for canine teams should be used whenever feasible. Due to the safety concerns in the handling and transportation of explosives, inert or non-hazardous training aids should be employed whenever feasible. The use of explosives or destructive devices for training aids by canine teams is subject to the following:

- (a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials.
- (b) An inventory ledger shall be maintained to document the type and quantity of explosive training aids that are stored.
- (c) The canine coordinator shall be responsible for verifying the explosive training aids on hand against the inventory ledger once each quarter.
- (d) Only members of the canine team shall have access to the explosive training aids storage facility.
- (e) A primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the handler will be designated as the primary custodian while the trainer or authorized second person on-scene will be designated as the secondary custodian.
- (f) Any lost or damaged explosive training aids shall be promptly reported to the canine coordinator, who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

## Domestic Violence

### 310.1 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.

#### 310.1.1 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.

### 310.2 POLICY

The Lorain 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.

### 310.3 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.

### 310.4 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 Criminal Investigations in the event that the injuries later become visible.
- (f) 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.
- (g) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
- (h) 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.
- (i) 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.

#### 310.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

- (a) Advise the victim that the suspect will not have a bond until after he or she is seen by a judge, and at that time, bond considerations are made by the Judge.

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- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

#### **310.4.2 IF NO ARREST IS MADE**

If no arrest is made, the officer should:

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

#### **310.5 VICTIM ASSISTANCE**

Victims may be traumatized or confused. Officers should:

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

#### **310.6 DISPATCH ASSISTANCE**

All calls of domestic violence, including incomplete 9-1-1 calls, should be dispatched as soon as practicable.

Dispatchers are not required to verify the validity of a court order before responding to a request for assistance. Officers should request that dispatchers check whether any of the involved persons are subject to the terms of a court order.

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#### **310.7 FOREIGN COURT ORDERS**

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

#### **310.8 VERIFICATION OF COURT ORDERS**

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

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

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

#### **310.9 LEGAL MANDATES AND RELEVANT LAWS**

Ohio law provides for the following:

##### **310.9.1 STANDARDS FOR ARRESTS**

Officers investigating a domestic violence report should consider the following:

- (a) An officer who has reasonable grounds to believe that a person has committed the offense of domestic violence or a violation of a protection order should arrest and detain the person (ORC § 2935.03(B)(1); ORC § 2935.032). Any decision to not arrest when there is reasonable cause to do so requires supervisor approval.
- (b) If the domestic violence event constitutes a felony assault, officers shall make an arrest (ORC §2935.032).
- (c) In the event two persons may be arrested for an act of domestic violence against each other or for violating a protection order against each other, the officer should only arrest and detain the primary physical aggressor. In determining which adult is the primary

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physical aggressor, an officer, in addition to any other relevant circumstances, should consider (ORC § 2935.03 (B)(3)):

1. Any history of domestic violence or of any other violent acts by either person involved in the alleged offense that the officer reasonably can ascertain.
  2. If violence is alleged, whether the alleged violence was caused by a person acting in self-defense.
  3. Each person's fear of physical harm, if any, resulting from the other person's threatened use of force or his/her use or history of the use of force against any person, and the reasonableness of that fear.
  4. The comparative severity of any injuries suffered by the persons involved in the alleged offense.
- (d) In the event two persons may be arrested for an act of domestic violence against each other or for violating a protection order against each other, and the officer cannot determine a primary physical aggressor, the officer should apply sound judgment when deciding whether to make an arrest. The officer should contact a supervisor for guidance as appropriate.
- (e) An officer shall not consider as a factor any possible shortage of cell space in deciding to make an arrest for domestic violence or a violation of a court order (ORC § 2935.03).

#### 310.9.2 REPORTS AND RECORDS

- (a) If a suspect is not present but would otherwise be arrested, a completed report shall be immediately forwarded to the prosecutor's office so an arrest warrant can be obtained (ORC § 2935.03 (B)(3)).
- (b) Officers who investigate an allegation of domestic violence or violation of a court order, but do not make an arrest or seek a warrant, shall clearly articulate in the appropriate report the reasons for not arresting or pursuing a warrant (ORC § 2935.03(B)(3); ORC § 2935.032).
- (c) If the alleged offender has been granted pretrial release from custody on a prior charge of the offense of domestic violence or the offense of violating a protection order, and has violated one or more conditions of that pretrial release, investigating officers shall document the facts and circumstances of the violation in the related reports (ORC § 2935.032 (A)(2)).
- (d) Officers investigating an offense of domestic violence or the offense of violating a protection order shall include in a written report (ORC § 2935.032):
  1. The fact that separate interviews with the victim and the alleged offender were conducted in separate locations, and identify the locations.
  2. Any statements from the victim that indicate the frequency and severity of any prior incidents of physical abuse of the victim by the alleged offender, the number

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of times the victim has called peace officers for assistance, and the disposition of those calls, if known.

3. Observations of the victim and the alleged offender.
  4. Any visible injuries on the victim or the alleged offender.
  5. Any weapons at the scene, and the actions of the alleged offender.
  6. Any statements made by the victim or witnesses.
  7. Any other significant facts or circumstances.
- (e) Criminal Investigations Division Supervisors tasked with reviewing domestic violence reports shall consider referring cases to federal authorities for possible violations of 18 USC § 2261 (Interstate Domestic Violence) and should do so when appropriate (ORC § 2935.032 (G)).
- (f) The Support Services Commander shall ensure domestic violence reporting is made to the Ohio Attorney General in compliance with ORC § 3113.32.

#### 310.9.3 COURT ORDERS INDEX

The Records and Information Center shall maintain an index for protection orders and the approved consent agreements delivered to the Lorain Police Department, pursuant to ORC § 3113.31 (F)(1). The index shall include the date and time that the Department received the order or agreement (ORC § 3113.31(F)(3)).

#### 310.9.4 WEAPONS

Any deadly weapon brandished, used or threatened to be used in an incident of domestic violence shall be processed as contraband subject to forfeiture, pursuant to ORC Chapter 2981 (ORC § 2935.03).

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## Search and Seizure

### 311.1 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 Lorain Police Department personnel to consider when dealing with search and seizure issues.

### 311.2 POLICY

It is the policy of the Lorain 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.

### 311.3 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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#### **311.4 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.
- (f) Strip Searches will only be conducted with proper authorization and in accordance with the Custodial Searches policy.

#### **311.5 DOCUMENTATION**

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

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

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

## Temporary Custody of Juveniles

### 312.1 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 Lorain Police Department (34 USC § 11133).

#### 312.1.1 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 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) or who is in possession of a handgun (28 CFR 31.303).

**Non-secure custody** - When a juvenile is held in the presence of an officer or other custody employee 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. 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 placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- (c) A juvenile being processed in a secure booking area when an unsecure booking area is available.
- (d) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (e) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (f) 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.

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### *Temporary Custody of Juveniles*

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**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.

#### **312.2 POLICY**

As a general rule, temporary custody of juveniles should be avoided and juveniles should be transported to a juvenile holding facility as soon as practical. Juveniles will not be transported to the Lorain Police Department for the sole purpose of fingerprinting and photographing. Fingerprints and photographs will be taken by the Lorain County Crime Lab upon the juvenile's first appearance. Approval from the Watch Commander or Shift OIC is required to transport a juvenile to the Lorain Police Department. The Lorain 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 Lorain Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for any interviews conducted by investigative personnel, for processing, transfer or release.

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

Juveniles who exhibit any of the following conditions should not be held at the Lorain 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.

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. Juveniles believed to be at risk of suicide should be taken to a medical facility for assessment and not held at the Lorain Police Department.

#### **312.4 CUSTODY OF JUVENILES**

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 Lorain Police Department without authorization of the arresting officer's supervisor or the Watch Commander. Contact may be made with the Lorain County Turning Point Shelter or coordination with Lorain County Child Protective Services may be made for custody and care of an at risk juvenile.

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### *Temporary Custody of Juveniles*

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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 three hours, or six if being held for a felony, from the time of his/her entry into the Lorain Police Department (34 USC § 11133; ORC § 2151.311).

#### 312.4.1 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 Lorain 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 (34 USC § 11133).

#### 312.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Officers should use alternatives that preserve public safety and hold the youth accountable with arrest as a last resort. Status offenders should generally be released by referral to an appropriate community social service or mental health agency, issuance of a 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).

The Department should allow officers to exercise discretion in making reasonable age-appropriate modifications of practices, including uses of the least restrictive and coercive approaches possible, when interacting with special youth populations such as those in crisis due to mental illness or substance abuse, or those with developmental or intellectual disabilities.

#### 312.4.3 CUSTODY OF JUVENILE OFFENDERS

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

Generally, juvenile offenders may be taken into custody under the following circumstances (ORC § 2151.31(A)):

- (a) Pursuant to a court order.
- (b) Pursuant to the laws that would subject an adult to arrest.

Additional resources for custody may be available through the Lorain County Juvenile Court Assessment & Resource Center.

An officer shall promptly release the juvenile to his/her parents, guardian or other custodian unless circumstances indicate that detention or shelter care of the juvenile is warranted (ORC § 2151.311(A)).

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### *Temporary Custody of Juveniles*

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#### **312.5 ADVISEMENTS**

If the officer brings the juvenile directly to court or delivers the juvenile to a place of detention or shelter care, he/she shall promptly notify the juvenile's parent, guardian or other custodian of the juvenile's location and reason for the detention (ORC § 2151.311(A)).

#### **312.6 JUVENILE CUSTODY LOGS**

Any time a juvenile is held in custody at the Lorain Police Department, the detention 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 Lorain Police Department.
- (c) Watch Commander or OIC 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 Watch Commander or Shift OIC will be notified when the juvenile is removed from station, and the Corrections Staff or Officer will document the notification in the jail log.

#### **312.7 NO-CONTACT REQUIREMENTS**

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (34 USC § 11133; ORC § 2151.311). 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 Lorain 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.

#### **312.8 TEMPORARY CUSTODY REQUIREMENTS**

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

- (a) The Watch Commander should be notified if it is anticipated that a juvenile may need to remain at the Lorain Police Department more than four hours for a felony offense, or two hours if being held for any other reason (ORC § 2151.311). This will enable the Watch Commander to ensure no juvenile is held at the Lorain Police Department longer than permitted.

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### *Temporary Custody of Juveniles*

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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.
- (p) Juveniles shall not be handcuffed or secured to a fixed object during temporary custody at the Lorain Police Department (ORC § 2151.311).

#### **312.9 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 Lorain 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 Watch Commander. 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 individuals in custody and monitored to protect them from abuse.

#### 312.9.1 PREGNANT JUVENILES

Juveniles who are known to be pregnant or in any period of postpartum recovery (which can be up to six weeks after delivery) may only be restrained in accordance with the Handcuffing and Restraints Policy (ORC § 2152.75).

#### 312.10 PERSONAL PROPERTY

The officer taking custody of a juvenile offender or status offender at the Lorain 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 Lorain Police Department.

#### 312.11 SECURE CUSTODY

Only juvenile offenders 14 years or older may be placed in secure custody. Watch Commander 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.

##### 312.11.1 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 detention.
- (b) Juveniles shall have constant auditory access to department members.
- (c) Initial placement into and removal from a locked enclosure shall be logged.
- (d) Random personal visual checks of the juvenile by staff member shall occur no less than every 15 minutes.
  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.

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- (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.

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

The Watch Commander will ensure procedures are in place to address the suicide attempt, death, or serious injury of any juvenile held at the Lorain Police Department. The procedures will address:

- (a) Immediate notification of the on-duty supervisor, Chief of Police, and Criminal Investigations 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 Law Director.
- (e) Evidence preservation.

#### **312.13 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.

#### **312.14 RESTRICTION ON FINGERPRINTING AND PHOTOGRAPHING**

An officer may fingerprint and photograph a juvenile offender taken into custody for committing a felony offense or any other offense that is not a minor misdemeanor or traffic offense and shall inform the juvenile court as required in accordance with the Contacts and Temporary Detentions Policy (ORC § 2151.313).

The fingerprints and photographs shall be maintained in accordance with ORC § 2151.313.

#### **312.15 SCHOOL RESOURCE OFFICER GUIDELINES**

Officers of the Lorain Police Department who are assigned to, or primarily engage in, law enforcement duties at a school campus shall comply with the requirements of OAC § 3301-35-15, as applicable, including the following:

- (a) Physical restraint shall only be used as a last resort and only in accordance with the requirements of OAC 3301-35-15.
- (b) Juveniles shall not be restrained in a prone position.

Juveniles shall not be placed in a locked room or left alone while they are restrained in any way.

Officers who are required to restrain a juvenile shall immediately report such restraint to the appropriate school administrator and the juvenile's parent.

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#### **312.16 JUVENILE RIGHTS**

Juveniles shall be afforded their constitutional and statutory rights in a developmentally appropriate, trauma-informed, and equitable manner. This includes when questioning, searching, detaining, arresting, interrogating, or interviewing a youth.

#### **312.17 DOCUMENTED ANNUAL ADMINISTRATIVE PRACTICES REVIEW AND DATA COLLECTION**

The Department shall conduct a documented annual administrative review of the practices and of the data collected on youth arrests by charge, age, race, and use of force.

#### **312.18 TRAINING**

The Department shall provide training for officers to include focusing on youth development, age-appropriate and trauma-informed communication strategies, de-escalation practices, and special needs of certain youth populations.

## Adult or Vulnerable Person Abuse

### 313.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain persons who may be more vulnerable than others. This policy also addresses mandatory notification for Lorain Police Department members as required by law.

#### 313.1.1 DEFINITIONS

Definitions related to this policy include:

**Adult abuse** - Any offense or attempted offense involving violence or neglect of an adult victim when committed by a person responsible for the adult's care, or any other act that would mandate reporting or notification to a social service agency or law enforcement.

**Vulnerable person** – A person of any age with a developmental disability.

### 313.2 POLICY

The Lorain Police Department will investigate all reported incidents of alleged adult or vulnerable person abuse and ensure proper reporting and notification as required by law.

### 313.3 MANDATORY NOTIFICATION

Members of the Lorain Police Department shall notify the county department of job and family services (CDJFS) when there is reasonable cause to believe that an adult age 60 years or older is being abused, neglected or exploited, or is in a condition that is the result of abuse, neglect or exploitation (ORC § 5101.61). Regardless of the person's age, if the member reasonably believes that the person has a developmental disability and has suffered, or faces a substantial risk of suffering, abuse or neglect, the county board of developmental disabilities shall also be notified (ORC § 5123.61).

#### 313.3.1 NOTIFICATION PROCEDURE

Notification may be made verbally or in writing and shall contain the basis for the member's belief that the person has been abused, along with the following information, if known (ORC § 5101.61; ORC § 5123.61):

- (a) The name, address, and telephone numbers of the following individuals:
  1. Victim
  2. The victim's caregiver
  3. If known, the alleged perpetrator (if different than the caregiver)
  4. Any other known household members or collateral sources
- (b) The approximate age of the victim, along with the nature and extent of the alleged abuse, neglect, or exploitation
- (c) The date and time the allegation of abuse was received by this department

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#### **313.4 QUALIFIED INVESTIGATORS**

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

- (a) Conduct interviews in appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to adult or vulnerable person abuse investigations.
- (c) Present all cases of alleged adult or vulnerable person 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.

#### **313.5 INVESTIGATIONS AND REPORTING**

All reported or suspected cases of adult or vulnerable person abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of adult or vulnerable person 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 or vulnerable person 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.

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Any unexplained death of an adult or vulnerable person who was in the care of a guardian or caretaker should be considered as potential adult or vulnerable person abuse and investigated similarly.

#### **313.6 PROTECTIVE CUSTODY**

Before taking a victim into protective custody when facts indicate the adult or vulnerable person may not be able to care for him/herself, the officer should make reasonable attempts to contact CDJFS or the county board of developmental disabilities, as appropriate under the circumstances. Generally, removal of a 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.

Generally, members of this department should remove a 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 a victim into protective custody, the officer should take reasonable steps to deliver the adult or vulnerable person 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 person is delivered to CDJFS or the county board of developmental disabilities, as appropriate under the circumstances.

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

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

#### **313.7 INTERVIEWS**

##### **313.7.1 PRELIMINARY INTERVIEWS**

Absent extenuating circumstances or impracticality, officers should audio record the preliminary interview with a suspected 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.

##### **313.7.2 DETAINING VICTIMS FOR INTERVIEWS**

An officer should not detain a victim 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:

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1. A reasonable belief that medical issues of the victim need to be addressed immediately.
  2. A reasonable belief that the victim 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 victim may be in continued danger.
- (b) A court order or warrant has been issued.

#### **313.8 MEDICAL EXAMINATIONS**

When an adult or vulnerable person 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 victim. The officer should also arrange for the victim'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 victim for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

#### **313.9 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 a victim who has been exposed to the manufacturing, trafficking or use of narcotics.

##### **313.9.1 SUPERVISOR RESPONSIBILITIES**

The Criminal Investigations supervisor should:

- (a) Work with professionals from the appropriate agencies, including CDJFS or the county board of developmental disabilities, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are 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 Criminal Investigations supervisor that he/she has responded to a drug lab or other narcotics crime scene where a victim is present or where evidence indicates that a victim 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 victim.

##### **313.9.2 OFFICER RESPONSIBILITIES**

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

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

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

Ohio requires that all investigations involving abuse of an adult or vulnerable person be conducted jointly between department members and the appropriate social service agency.

##### **313.10.1 RECORDS AND INFORMATION CENTER RESPONSIBILITIES**

The Records and Information Center is responsible for:

- (a) Providing a copy of the adult or vulnerable person abuse report to CDJFS or the county board of developmental disabilities as required by law.
- (b) Retaining the original adult or vulnerable person abuse report with the initial case file.

##### **313.10.2 RELEASE OF REPORTS**

Information related to incidents of adult or vulnerable person abuse or suspected adult or vulnerable person abuse shall be confidential and are not considered a public record (ORC § 5101.61; ORC § 5123.61).

#### **313.11 TRAINING**

The Department should provide training on best practices in adult or vulnerable person 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 or vulnerable persons and their families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to adult or vulnerable person abuse investigations.
- (f) Availability of victim advocates or other support.

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## Discriminatory Harassment

### 314.1 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.

### 314.2 POLICY

The Lorain 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 members 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 it is designed to protect.

The non-discrimination 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.

### 314.3 DEFINITIONS

Definitions related to this policy include:

#### 314.3.1 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.

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 policy and to a work environment that is free of discrimination.

#### 314.3.2 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,

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participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated.

#### 314.3.3 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 a term or condition of employment, position, or compensation.
- (b) Submission to or rejection of such conduct is used as the basis for employment decisions affecting the member.
- (c) Such conduct that has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

#### 314.3.4 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 the Equal Employment Opportunity Commission (EEOC) and the Ohio Civil Rights Commission.
- (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 communications between supervisor and member.

### **314.4 RESPONSIBILITIES**

This policy applies to all department personnel. All members 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 (ORC § 4112.02).

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 their immediate supervisor may bypass the chain of command and make the report to a higher-ranking supervisor. Complaints may also be filed with the Chief of Police, the Human Resources Director, or the Safety Director.

Any member who believes, in good faith, that the member has been discriminated against, harassed, subjected to retaliation, or who has observed harassment or discrimination, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

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

#### **314.4.1 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors 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.
- (c) Ensuring 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 in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

#### **314.4.2 SUPERVISOR'S ROLE**

Supervisors shall be aware of the following:

- (a) Behavior of supervisors 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 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.

#### **314.4.3 QUESTIONS OR CLARIFICATION**

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

#### **314.5 INVESTIGATION OF COMPLAINTS**

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved members 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.

# Lorain Police Department

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### *Discriminatory Harassment*

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#### 314.5.1 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 who is a rank higher than the alleged transgressor.

#### 314.5.2 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.

Formal investigation of the complaint will be confidential to the extent possible and will include but not be 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 Safety Director.

#### 314.5.3 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.

Equal Employment Opportunity Commission (EEOC):

Cleveland Field Office

Anthony J. Celebrezze Federal Building

1240 E. 9th Street Suite 3001

Cleveland Ohio 44199

1-800-669-4000

info@eeoc.gov

<https://publicportal.eeoc.gov/>

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### *Discriminatory Harassment*

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#### **314.6 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:

- (a) Approved by the Chief of Police or designee, the County Manager, or the Director of Human Services, depending on the ranks of the involved parties.
- (b) Maintained in accordance with the established records retention schedule.

##### **314.6.1 NOTIFICATION OF DISPOSITION**

The complainant and/or victim will be notified in writing of the disposition of the investigation and the action taken to remedy or address the circumstances giving rise to the complaint.

#### **314.7 TRAINING**

All new members shall be provided with access to this policy as part of their orientation. The policy shall be reviewed with each new member. The member shall certify by selecting the "acknowledgment" button within the policy in KMS, 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 of employment.

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.

## Child Abuse

### 315.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Lorain Police Department members are required to notify the Lorain County Children Services (LCCS) of suspected child abuse.

#### 315.1.1 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 (ORC § 2151.421).

### 315.2 POLICY

The Lorain Police Department will investigate all reported incidents of alleged criminal child abuse and ensure the Lorain County Children Services (LCCS) is notified as required by law.

### 315.3 MANDATORY NOTIFICATION

Members of the Lorain Police Department shall notify the Lorain County Children Services (LCCS) when they receive a report of possible abuse or neglect of a child, or the possible threat of abuse or neglect of a child. This mandated notification applies to allegations involving a child who is under the age of 18 years or an individual who is under the age of 21 years and is intellectually disabled, developmentally disabled or physically impaired (ORC § 2151.421).

For purposes of notification, abuse and neglect includes sexual offenses, child endangering, physical or mental injury or death, out-of-home care child abuse or neglect, abandonment, illegal adoptions, or withholding or refusing care or treatment necessary for the child's health, morals or well-being, and any other act, as provided in ORC § 2151.03 and ORC § 2151.031.

#### 315.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows (ORC § 2151.421):

- (a) Notification should be made immediately by telephone, electronically, or in person to the PCSA in the county in which the child resides or in which the abuse or neglect is occurring or has occurred.
- (b) Notification, when possible, should include:
  1. The name, address, and age of the child.
  2. The name and address of the child's parents or other person having custody of the child.
  3. The nature and extent of the injury, abuse, or neglect.

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4. Any evidence of a threat of injury, abuse, or neglect, including any evidence of previous injuries, abuse, or neglect.
  5. Any other information that might be helpful.
- (c) The member shall notify the person who provides information regarding the alleged abuse or neglect of the child of their right to request certain basic information regarding the investigation. The member shall document the notification along with the person's name, address, and telephone number in the related report (ORC § 2151.421).
- (d) Any other notifications should be made as set forth in the existing Memorandum of Understanding (MOU) with the PCSA (ORC § 2151.421).

If the child is a delinquent in the custody of a Department of Youth Services controlled or contracted institution, any notification shall be made to the Ohio State Highway Patrol (ORC § 5139.12).

#### **315.4 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 and in accordance with the existing MOU with the PCSA (ORC § 2151.421).
- (g) Be familiar with and confirm that any applicable mortality review committees or boards receive information and documentation as required by state law. See the Death Investigation Policy for additional guidance.

#### **315.5 INVESTIGATIONS AND REPORTING**

In all reported or suspected cases of child abuse, a report will be written. Officers 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.

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- (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 including a Sexual Assault Kit if needed.
- (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.
- (k) The investigatory steps, as set forth in the existing MOU with the LCCS, that should be followed when the terms apply to an allegation of child abuse (ORC § 2151.421).

The investigative records of Child Abuse and Neglect cases have special confidentiality obligations. The statutory requirements are directed towards Children's Services. The Children's Services Investigators and the Department have a legal assumption of these obligations because of the Memorandum of Understanding for the Joint Investigation of Child Abuse and Neglect with Children's Services. The Children's Services Investigators will strictly follow Children's Services policy and state statute regarding these cases.

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).

#### **315.6 PROTECTIVE CUSTODY**

Before taking any child into protective custody, the officer should make reasonable attempts to contact the PCSA. 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 (ORC § 2151.421).

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 the PCSA.

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.

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Children may only be removed from a parent or guardian in the following situations (ORC § 2151.31; ORC § 2151.421):

- (a) When a court has issued an order authorizing the removal of a child.
- (b) Without a court order when:
  - 1. There are reasonable grounds to believe that the child is suffering from illness or injury and is not receiving proper care, and the child's removal is necessary to prevent immediate or threatened physical or emotional harm.
  - 2. There are reasonable grounds to believe that the child is in immediate danger from the child's surroundings and that the child's removal is necessary to prevent immediate or threatened physical or emotional harm.
  - 3. There are reasonable grounds to believe that a parent, guardian, custodian, or other household member has abused or neglected another child in the household, and that the child is in danger of immediate or threatened physical or emotional harm.

Officers shall not remove a child without consultation with the PCSA, unless the report of abuse or neglect was made by a physician and, in the judgment of the officer and the physician, immediate removal is considered essential to protect the child from further abuse or neglect.

#### **315.6.1 SAFE HAVENS FOR NEWBORNS**

A parent may voluntarily surrender a newborn infant who is 30 days old or younger with an officer of the Lorain Police Department. The officer shall perform any act necessary to protect the newborn's health or safety and notify PCSA as soon as practicable (ORC § 2151.3516; ORC § 2151.3517; ORC § 2151.3518).

The surrendering parent should be provided and asked to complete a Department of Jobs and Family Services (JFS) medical history form for the child. The parent is not required to complete the form; however, if the parent refuses to complete the form, the parent should be encouraged to take the form and complete and return it at a later time (ORC § 2151.3518; ORC § 2151.3528).

The surrendering parent should also be offered any brochures prepared by the JFS regarding services available for parents and newborns (ORC § 2151.3518; ORC § 2151.3529).

A parent who voluntarily surrenders a newborn has the right to remain anonymous and shall not be coerced into revealing the parent's identity, completing medical forms, accepting brochures, followed, or pursued (ORC § 2151.3526; ORC § 2151.3529; ORC § 2151.3530).

The Safe Haven provisions do not apply if the child appears to have suffered child abuse or neglect and the officer should investigate the matter as a child abuse incident.

#### **315.7 INTERVIEWS**

##### **315.7.1 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

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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.

#### **315.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW**

An officer should not detain a child involuntarily 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.

#### **315.8 MEDICAL EXAMINATIONS**

If the child has been the victim of abuse that requires a medical examination, the investigating officer may obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent 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.

#### **315.9 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.

##### **315.9.1 SUPERVISOR RESPONSIBILITIES**

The Criminal Investigations Supervisor should:

- (a) Work with professionals from the appropriate agencies, including the LCCS, 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.

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- (b) Activate any available interagency response when an officer notifies the Criminal Investigations 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.

#### **315.9.2 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 Narcotics Supervisor or Criminal Investigations Supervisor so an interagency response can begin.

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

Ohio requires or permits the following:

##### **315.10.1 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 (ORC § 149.43 et seq.; ORC § 2151.421).

##### **315.10.2 MEMORANDUM OF UNDERSTANDING**

The Criminal Investigations supervisor should ensure that:

- (a) A current copy of the MOU with the PCSA regarding abuse and neglect investigations is available to all department members.
- (b) The MOU is reviewed and updated as required by law (ORC § 2151.421; OAC § 5101:2-33-26).

#### **315.11 JUVENILES COURT JURISDICTION IN ADULT CASES**

Juvenile Court has total jurisdiction to hear cases in which adults are charged with contributing to the delinquency of a minor.

In general, the court can have original jurisdiction to hear any case in which an adult commits a misdemeanor involving a juvenile.

#### **315.12 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.

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- (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.

## Missing Persons

### 316.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

#### 316.1.1 DEFINITIONS

Definitions related to this policy include:

**At risk** - Includes persons who (ORC § 2901.41; ORC § 5502.522):

- (a) Are 13 years of age or younger.
- (b) Are 65 years of age or older.
- (c) Are 17 years of age or younger who have run away from or are otherwise missing from the care, custody, and control of the juvenile's parent, guardian, or other person having responsibility for the care of the minor (ORC § 2901.30).
- (d) 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 the person's chronological age and developmental stage.
  2. Physically or mentally disabled, including autism spectrum disorder or another developmental disability.
  3. Behaviorally disabled.
  4. Drug dependent, including prescribed medication and/or illegal substances, and the dependency is potentially life-threatening.
  5. Absent from home for more than 24 hours before being reported to law enforcement as missing.
  6. In a life-threatening situation.
  7. In the company of others who could endanger the person's welfare.
  8. 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.
  9. Involved in a situation that would cause a reasonable person to conclude the person should be considered at risk.
  10. Missing and there is evidence of foul play including but not limited to evidence that the person's home or car is in disarray, evidence of a struggle between the person and another, or any other evidence that the Department determines is foul play (ORC § 2901.42).

**Missing person** - Any person who is reported missing to law enforcement, when that person's location is unknown.

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**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 Ohio Law Enforcement Automated Data System (LEADS), the Ohio Attorney General's Missing Children's Clearing House, and the Department of Public Safety's (DPS) Missing Adult Alert.

#### **316.2 POLICY**

The Lorain 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 reveals otherwise. Priority shall be given to missing person cases over property-related cases. Members will initiate an investigation into all reports of missing persons, regardless of the length of time the person has been missing.

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

The Criminal Investigations 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

#### **316.4 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.

#### **316.5 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).

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- (d) Broadcast a “Be on the Look-Out” (BOLO) bulletin if the person is under 17 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 17 years of age or may be at risk.
- (e) Ensure that entries are made into the appropriate missing person networks:
  - 1. Immediately, when the missing person is at risk or there is evidence of foul play and the person is at least 18 but under the age of 21 (ORC § 2901.30(C); ORC § 2901.42(A)).
  - 2. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report.
- (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 of the missing person, if available.
  - 2. Any documents that may assist in the investigation, such as court orders regarding custody.
  - 3. 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.

### **316.6 REPORT PROCEDURES AND ROUTING**

Members should complete all missing person reports and forms promptly and advise the appropriate supervisor as soon as a missing person report is ready for review.

#### **316.6.1 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 and Information Center.
- (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.

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- (f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.
  - 1. If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

#### **316.6.2 RECORDS AND INFORMATION CENTER RESPONSIBILITIES**

The responsibilities of the Records and Information Center 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 the parents or other responsible person of a missing person age 17 or younger that the person's information has been entered into the appropriate networks (ORC § 2901.30(C)).
- (c) Notifying and forwarding a copy of the report to the agency of jurisdiction where the missing person was last seen.
- (d) Notifying and forwarding a copy of the report to the agency of jurisdiction for the missing person's intended or possible destination, if known.
- (e) Forwarding a copy of the report to the Criminal Investigations.
- (f) Coordinating with the NCIC Terminal Contractor for Ohio to have the missing person record in the NCIC computer networks updated with additional information obtained from missing person investigations (34 USC § 41308).

#### **316.7 CRIMINAL INVESTIGATIONS FOLLOW-UP**

In addition to completing or continuing any actions listed above, the investigator assigned to a missing person investigation may consider the following based on circumstances:

- (a) The investigator involved may notify the public or non public school in which the missing child is or was most recently enrolled. (ORC § 2901.30(D)).
  - 1. The notice shall be in writing.
  - 2. The investigator should meet with school officials as appropriate to stress the importance of including the notice in the child'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) Should consider contacting other agencies involved in the case to determine if any additional information is available.
- (d) Shall verify and update Ohio LEADS, 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).

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- (e) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.
- (f) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploiting 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).
- (g) Should make appropriate inquiry with the Coroner.
- (h) Should obtain and forward medical and dental records, photos, X-rays and biological samples, as applicable.
- (i) 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 the Ohio Attorney General's Missing Children's Clearing House and enter the photograph into applicable missing person networks (34 USC § 41308).
- (j) Should consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).
- (k) Shall obtain, if previously not obtained, written consent for the release of dental records from the person's parent or legal custodian, if the person is a missing child that has not been located within 30 days of the initial missing persons report (ORC § 2901.30(G)).
- (l) Should consider utilizing resources recommended by the Ohio Attorney General and promulgated by the Ohio Peace Officer Training Commission.
- (m) 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).

#### **316.8 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 Support Services Commander shall ensure that, upon receipt of information that a missing person has been located, the following occurs:

- (a) Notification is made to DPS and the Ohio Attorney General's Missing Children's Clearing House, as appropriate.
- (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 DPS and the Ohio Attorney General's Missing Children's Clearing House, as appropriate.
- (e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation.

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#### **316.8.1 UNIDENTIFIED PERSONS**

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

#### **316.9 CASE CLOSURE**

The Criminal Investigations 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 Lorain 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.

#### **316.10 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
  - 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).

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- (d) Verifying the accuracy of all descriptive information.
- (e) Initiating a neighborhood investigation.
- (f) Investigating any relevant recent family dynamics.
- (g) Addressing conflicting information.
- (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.

## Public Alerts

### 317.1 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.

### 317.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), 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.

### 317.3 RESPONSIBILITIES

#### 317.3.1 EMPLOYEE RESPONSIBILITIES

Employees of the Lorain Police Department should notify their supervisor, Watch Commander or Public Information Officer 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.

#### 317.3.2 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 Commander and the Public Information Officer (PIO) 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) Canceling alerts
- (c) Ensuring all appropriate reports are completed
- (d) Preparing an after-action evaluation of the investigation to be forwarded to the Division Commander

### 317.4 AMBER ALERTS™

The AMBER™ Alert Plan was created to assist in the identification and location of abducted children under 18 years of age, whose abduction, as determined by a law enforcement agency, poses a credible threat of immediate danger of serious bodily harm or death to the child (ORC § 5502.52). The AMBER Alert utilizes the EAS to broadcast information to the public about the abducted child.

#### 317.4.1 CRITERIA

An AMBER Alert shall not be activated unless (ORC § 5502.52(B)):

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- (a) The Department determines that an abduction has occurred.
- (b) The abducted child is under 18 years of age.
- (c) The child is in immediate danger of serious bodily harm or death.
- (d) The child is not a runaway and has not been abducted as a result of a child custody dispute, unless the dispute poses a credible threat of immediate danger of serious bodily harm or death to the child.
- (e) The Department has sufficient descriptive information about the child, the person who is suspected of abducting the child, or other pertinent information to warrant immediate broadcast of the information to help locate the child.

Absent extenuating circumstances that indicate the AMBER Alert broadcast would endanger an abducted child, the AMBER Alert should be activated as soon as possible after the abduction is discovered.

A Missing Child Alert may be activated if the circumstances about the missing child do not meet the AMBER Alert criteria, but the child is in danger of serious physical harm or death (see the Missing Persons Policy).

#### 317.4.2 PROCEDURE

Upon receiving and verifying a report of an abducted child that meets the criteria of an AMBER Alert, the appropriate area of coverage for the activation should be determined. Activations may cover a county, region, state, or multiple states.

In addition, the activating official shall:

- (a) As soon as practicable enter AMBER Alert data into the Law Enforcement Automated Data System (LEADS)/National Crime Information Center (NCIC) database. Use the endangered or involuntary missing codes and the AMBER Alert code to request an AMBER Alert. An in-state AMBER Alert message will automatically be generated to the following:
  - 1. Adjacent counties
  - 2. Ohio State Highway Patrol Central Dispatch Communications Center in Columbus
  - 3. Ohio Attorney General's Office
  - 4. FBI Child Abduction Unit
  - 5. National Center for Missing and Exploited Children (NCMEC)
  - 6. Ohio media
- (b) Enter a Caution Ohio Police (COP) record into the LEADS database with the suspect's information. Replace the COP entry with a Wanted Person entry as soon as appropriate.
- (c) Use the National Law Enforcement Telecommunications System (NLETS) AMBER screen in LEADS to send a broadcast message to law enforcement in adjacent states when necessary.

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- (d) If access to the LEADS/NCIC computer system is unavailable, contact the Ohio State Highway Patrol for assistance with activation of an AMBER Alert.
- (e) Obtain, whenever possible, consent from the parents, guardian or person having legal custody of the abducted child for the release of photographs, descriptions, and other information necessary to support the AMBER Alert broadcast and search. The inability to obtain verbal or signed consent because of the inability to locate a person capable of providing consent shall not prohibit the activation of an AMBER Alert.

To aid in this process, it is imperative that the activating official be notified of all relevant updates regarding the case investigation that may require modification or termination of the AMBER Alert system.

#### **317.5 MISSING ADULT ALERTS**

The Missing Adult Alert Program was created to assist in the location and return of those individuals who are elderly, mentally impaired, or who have autism spectrum disorder or another developmental disability who are at risk of immediate danger of serious bodily injury or death (ORC § 5502.522). Activation of a Missing Adult Alert will automatically cause state media outlets and law enforcement agencies to be notified of the individual's disappearance, as well as the following to occur:

- (a) A toll-free telephone line for tips and information will be activated.
- (b) The Missing Adult Alert website will list information about and display a photograph of the missing adult.
- (c) The Missing Children's Clearing House will be provided with information on the missing adult.
- (d) The Ohio Department of Transportation will be notified to post the information on Ohio's highway signs, when appropriate.

##### **317.5.1 CRITERIA**

A Missing Adult Alert shall not be activated unless (ORC § 5502.522(B)):

- (a) The Department confirms that an individual who is 65 years of age or older, who has a mental impairment, or who has autism spectrum disorder or another developmental disability is missing. A mental impairment is a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, or the ability to live independently or provide self-care, as certified by a licensed physician, psychiatrist, or psychologist (ORC § 5502.522(G)(3)).
- (b) The individual is in immediate danger of serious bodily harm or death.
- (c) The Department has sufficient descriptive information about the individual and the circumstances surrounding the individual's disappearance to indicate that activation of the alert will help locate the individual.

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#### 317.5.2 PROCEDURE

Upon receiving and verifying a report of a missing person that meets the criteria of a Missing Adult Alert, the activating agency official will determine the area of coverage for the activation. Activations may cover a county, region, the state or multiple states.

In addition, the activating official shall:

- (a) Immediately enter Missing Adult Alert data into the LEADS/NCIC database with the appropriate code. An in-state alert message will automatically be generated to the following:
  1. Adjacent counties
  2. Ohio State Highway Patrol Central Dispatch Communications Center in Columbus
  3. Ohio Attorney General's Office
  4. Ohio media
- (b) Use the NLETS Missing Adult Alert screen in LEADS to send a broadcast message to law enforcement in adjacent states when necessary.
- (c) If access to the LEADS/NCIC computer system is unavailable, contact the Ohio State Highway Patrol for assistance with activation of a Missing Adult Alert.

To aid in this process, it is imperative that the activating official be notified of all relevant updates regarding the case investigation that may require modification or termination of the Missing Adult Alert system.

#### **317.6 BLUE ALERTS**

The Blue Alert Program is a statewide system to be utilized for the rapid dissemination of information to assist in the apprehension of persons suspected of killing or seriously injuring law enforcement officers and to aid in the location of missing law enforcement officers (ORC § 5502.53).

##### 317.6.1 CRITERIA

A Blue Alert shall be activated if both of the following criteria exist (ORC § 5502.53):

- (a) The Department confirms that an officer has been seriously injured or killed, and a suspect has not been apprehended, or that an officer is missing while on-duty under circumstances warranting concern for the officer's safety.
- (b) There is sufficient descriptive information about the suspect or the circumstances surrounding an officer's injury, death, or disappearance to indicate that activation of a Blue Alert may help locate a suspect or the missing officer.

##### 317.6.2 PROCEDURE

Upon receiving and verifying that the criteria for a Blue Alert have been met, the appropriate area of coverage for the activation should be determined. Activations may cover a county, region, state, or multiple states.

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In addition, the activating official shall:

- (a) Immediately enter Blue Alert data into the LEADS/NCIC database with the appropriate code. An in-state Blue Alert message will automatically be generated to the following:
  - 1. Adjacent counties
  - 2. Ohio State Highway Patrol Central Dispatch Communications Center in Columbus
  - 3. Ohio Attorney General's Office
  - 4. Ohio media
- (b) Use the NLETS Blue Alert screen in LEADS to send a broadcast message to law enforcement in adjacent states when necessary.
- (c) If access to the LEADS/NCIC computer system is unavailable, contact the Ohio State Highway Patrol for assistance with activation of a Blue Alert.

To aid in this process, it is imperative that the activating official be notified of all relevant updates regarding the case investigation that may require modification or termination of the Blue Alert.

### **317.7 MEDIA ALERTS**

Regardless of whether a public alert is activated, the following procedures to alert the media and other local law enforcement agencies should be followed:

- (a) The PIO will prepare an initial press release that includes all available information that might aid in locating a child, suspect, or missing person, such as:
  - 1. The person's identity, age, and description.
  - 2. A photograph, if available.
  - 3. Pertinent vehicle description.
  - 4. Details regarding the location of the incident, last known direction of travel, and potential destinations, if known.
  - 5. The name and contact number of the PIO or other authorized media liaison.
  - 6. A contact number for the public to call with leads or information.
- (b) The press release should be faxed to local television and radio stations.
- (c) The information in the press release should also be forwarded to local law enforcement agencies.
- (d) The activating official or other individual responsible for making notifications shall prepare and fax to the previously described locations, follow-up press releases with updates regarding the search and investigation or immediately upon locating the person identified in the public alert.

## Victim and Witness Assistance

### 318.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims, victim's representatives, 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.

#### 318.1.1 DEFINITIONS

Definitions related to this policy include:

**Victim** – Includes a victim or a victim's representative (e.g., a person designated by the victim, a member of the victim's family, a victim advocate, a person appointed by a court) as provided in ORC § 2930.02.

### 318.2 POLICY

The Lorain Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The employees of the Lorain 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.

### 318.3 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 Lorain 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.

### 318.4 CRIME VICTIMS

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

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.

#### 318.4.1 SPECIFIC REQUIREMENTS REGARDING VICTIMS

The investigating member shall ensure a victim of a criminal offense or delinquent act is provided information as required by state law including but not limited to (ORC § 109.42; ORC § 2930.01; ORC § 2930.04):

- (a) The Ohio Attorney General Office's victim's rights compilation, Victim's Rights Request Form, and information card, as applicable and according to the requirements set forth in ORC § 109.42; ORC § 2743.71, and ORC § 2930.04.
  1. Officers should comply with requirements of preparing and submitting the Victim's Rights Request Form consistent with ORC § 2930.04.

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- (b) Additional information required by ORC § 2930.04, including but not limited to:
  - 1. The availability of crisis intervention services, housing, and emergency and medical services, or contact information for statewide organizations that can direct victims to local resources.
  - 2. Information about public and private victim services programs, including but not limited to the crime victims compensation program and emergency shelter programs, or, if local information is not available, contact information for statewide organizations that can direct a victim to these types of resources.
  - 3. The department report number, if applicable, business telephone number of the Department or other law enforcement agency investigating the victim's case, and the office address and business telephone number of the prosecutor in the victim's case, when available.
- (c) The court date and information on how to obtain additional information about the arraignment or initial court appearance when a suspect is cited and released, if applicable.

#### **318.5 VICTIM INFORMATION**

The Administration Supervisor 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 (ORC § 2743.51 et seq.).
- (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 telephone number that a domestic violence victim can call for information about the case, the telephone number of a domestic violence shelter in the area, and information on any local victim advocate program (ORC § 2935.032 (C)(3)).

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- (k) The Ohio Attorney General Office's victim's rights compilation, Victim's Rights Request Form, and information card (ORC § 109.42; ORC § 2930.04).
- (l) Information regarding the Ohio Secretary of State's address confidentiality program (ORC § 111.42).
- (m) Rights afforded to victims under the Ohio Constitution (Article I, Section 10a, Ohio Constitution).

#### **318.6 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.

#### **318.7 COMMUNICATIONS VICTIM / WITNESS ASSISTANCE**

Referrals of victims to other agencies can be made by the Communications Center personnel using the Picking Up the Pieces Pamphlet, in the Contacts Binder.

## Hate or Prejudice Crimes

### 319.1 PURPOSE AND SCOPE

The Lorain Police 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 will utilize all available resources to see that justice is served under the law. This policy has been developed to meet or exceed the provisions of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, and provides members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

#### 319.1.1 FEDERAL JURISDICTION

The federal government has the power to investigate and prosecute bias-motivated violence by providing the U.S. Department of Justice (USDOJ) with jurisdiction over crimes of violence where the perpetrator has selected the victim because of the person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability (18 USC § 249).

### 319.2 DEFINITIONS

Definitions related to this policy include:

**Prejudice, Bias or Hate Crime** - A crime motivated by prejudice based on actual or perceived race, color, religion, national origin, ethnicity, gender, sexual orientation, gender identity or expression, or disability of the victim.

### 319.3 PREVENTING AND PREPARING FOR LIKELY HATE OR PREJUDICE CRIMES

While it is recognized that not all crime can be prevented, this department is committed to taking a proactive approach to preventing and preparing for likely hate or prejudice crimes by among other things:

- (a) Making an affirmative effort to establish contact with persons and groups within the community who are likely targets of hate crimes to form, and cooperate with, prevention and response networks.
- (b) Providing victim assistance and follow-up as outlined below, including community follow-up.
- (c) Educating community and civic groups about hate crime laws.

### 319.4 PROCEDURE FOR INVESTIGATING HATE OR PREJUDICE CRIMES

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

- (a) Officers will be promptly assigned to contact the victim, witness, or reporting party to investigate the matter further as circumstances may dictate.
- (b) A supervisor should be notified of the circumstances as soon as practicable.

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- (c) Once "in progress" aspects of any such situation have been stabilized (e.g., treatment of victims, apprehension of present suspects), the assigned officers will take all reasonable steps to preserve available evidence that may tend to establish that a hate or prejudice crime was involved.
- (d) The assigned officers will interview available witnesses, victims, and others to determine what circumstances, if any, indicate that the situation may involve a hate or prejudice crime.
- (e) Depending on the situation, the assigned officers or supervisor may request additional assistance from investigators or other resources to further the investigation.
- (f) The assigned officers will include all available evidence indicating the likelihood of a hate or prejudice crime in the relevant reports. All related reports will be clearly marked as "Hate or Prejudice Crimes" and, absent prior approval of a supervisor, will be completed and submitted by the assigned officers before the end of the shift.
- (g) The assigned officers should also make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as required by the Victim and Witness Assistance Policy.
- (h) The assigned officers and supervisor should take reasonable steps to ensure that any such situation does not escalate further and should provide information to the victim regarding legal aid (e.g., a possible Temporary Restraining Order) through the courts.

#### **319.5 CRIMINAL INVESTIGATIONS RESPONSIBILITIES**

If a case is assigned to the Criminal Investigations Division, the assigned investigator will be responsible for following up on the reported hate or prejudice crime by:

- (a) Coordinating further investigation with the City Prosecutor and other appropriate law enforcement agencies.
- (b) Maintaining contact with the victim and other involved individuals, as needed.
- (c) Maintaining statistical data and tracking of suspected hate or prejudice crimes as indicated or required by state law.

#### **319.6 STATE HATE CRIME REPORTING**

This department shall submit hate crime information and offenses in the form and manner and at regular intervals as prescribed by rules adopted by the Office of Criminal Justice Services (OCJS). This shall be conducted by the Support Services Commander or assigned to the Criminal Investigations.

#### **319.7 FEDERAL HATE CRIME REPORTING**

The Support Services Commander should include hate crime data reporting within the National Incident-Based Reporting System (NIBRS), Uniform Crime Report (UCR) and Summary Reporting System (SRS) reports pursuant to Records and Information Center procedures and in compliance with (28 USC § 534 (a)).

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#### **319.8 TRAINING**

All members of this department will receive training on hate and prejudice crime recognition and investigation, and will attend periodic training that incorporates a hate and prejudice crime training component.

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## Standards of Conduct

### 320.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Lorain 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 the member's supervisors.

### 320.2 POLICY

The continued employment or appointment of every member of the Lorain 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.

### 320.3 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.

#### 320.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

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

The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

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#### 320.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (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.

#### **320.4 GENERAL STANDARDS**

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and Ohio constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

Members shall hold their positions during good behavior and efficient service, but may be removed for the following reasons, as listed in the Ohio Revised Code, Section 123.34: "Incompetency, Inefficiency, Dishonesty, Drunkenness, Immoral Conduct, Insubordination, Discourteous Treatment of the Public, Neglect of Duty, Violation of the Civil Service Laws, or the Rules of the Civil Service Commission, or any other failure of good behavior, or any other acts of Misfeasance, Malfeasance, or Nonfeasance in Office.

Additional specific articles for Gross Misconduct, Attendance and Attention to Duty, Harmonious and Respectful Behavior, Know and Obey Laws and Organizational Directives, Competent Performance, Ethics and Professional Behavior, Reporting, and Working Productively are located in Chapter 3 of the Lorain Police Department Procedures Manual.

#### **320.5 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.

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#### 320.5.1 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.

#### 320.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Lorain Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

#### 320.5.3 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.

#### 320.5.4 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.

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- (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.

#### 320.5.5 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.
- (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.

#### 320.5.6 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 non-subpoenaed records.

#### 320.5.7 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.

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- (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 of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

#### 320.5.8 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.
- (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 employment agreement, or the Chief of Police.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by City policy, the employment agreement, or the Chief of Police.

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- (i) Any act on- or off-duty that brings discredit to this department.

#### 320.5.9 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.
- (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 employment 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- 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.

#### 320.5.10 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 license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.

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- (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.

#### 320.5.11 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

## 321.1 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.

### 321.1.1 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 Lorain 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.

## 321.2 POLICY

It is the policy of the Lorain 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.

## 321.3 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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#### **321.4 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 Watch Commanders.

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.

Members are prohibited from transmitting by e-mail, or other non secure electronic means, information or documents containing personal identifying information for any department employee. Transmitting personal identifying information may be permissible for the purposes of training registrations, grant applications, or other reasons that are authorized by the Chief of Police of his/her designee.

##### **321.4.1 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. No offensive personal screensavers or programs of any kind are authorized to be installed or set up on any computer or device. Factory screensaver programs should be set up in a professional manner.

##### **321.4.2 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

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department-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

#### **321.4.3 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 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.

#### **321.4.4 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.

#### **321.5 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.

#### **321.6 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.

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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

### 322.1 PURPOSE AND SCOPE

Report preparation is a major part of each employee's job. The purpose of reports is to document sufficient information to refresh the employee's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formal and on-the-job training.

#### 322.1.1 REPORT PREPARATION

Employees should ensure that their reports are sufficiently detailed for their purpose and reasonably free of 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 delay submission of 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 delayed.

Handwritten reports must be prepared legibly. If the report is not prepared legibly, 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, witnesses, 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.

### 322.2 REQUIRED REPORTING

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

#### 322.2.1 CRIMINAL ACTIVITY

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, that has a classification of Misdemeanor -4 (M-4) that occurred within the city, 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:

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1. Use of Force Policy
2. Domestic Violence Policy
3. Child Abuse Policy
4. Adult or Vulnerable Person Abuse Policy
5. Hate or Prejudice 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., dispatch log). Failing to file a case report for any violent crime incident or a felony incident will be construed as Gross Misconduct.

#### 322.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

- (a) Anytime an officer points a firearm at any person.
- (b) Any use of force by a member of this department (see the Use of Force Policy).
- (c) Any firearm discharge (see the Firearms Policy).
- (d) Anytime a person is reported missing (regardless of jurisdiction) (see the Missing Persons Policy).
- (e) Any found property or found evidence.
- (f) Any traffic collisions above the minimum reporting level (see the Traffic Collision Response and Reporting Policy).
- (g) Suspicious incidents that may indicate a potential for crimes against children, or that a child's safety is in jeopardy.
- (h) All protective custody detentions.
- (i) Suspicious incidents that may place the public or others at risk.
- (j) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor.

#### 322.2.3 DEATH REPORTS

Reports shall be completed by the handling employee. All deaths shall be handled in compliance with the Death Investigation Policy.

#### 322.2.4 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. Reports also shall be taken when there is damage to City property or City equipment.

#### 322.2.5 MISCELLANEOUS INJURIES

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

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- (a) The injury is a result of a drug overdose.
- (b) There is an attempted suicide.
- (c) The injury is major or 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.

#### **322.2.6 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.
  - 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 trespass 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) Private property hit-and-run vehicle collisions with no suspect or suspect vehicle. (check value damage)
- (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).

#### **322.3 GENERAL POLICY OF EXPEDITIOUS REPORTING**

In general, all employees and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

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#### **322.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS**

Some incidents and report forms lend themselves to block print rather than typing. In general, the narrative portion of those reports where an arrest is made or when there is a long narrative should be typed or dictated.

Supervisors may require, with the foregoing general policy in mind, block printing or typing of reports of any nature for department consistency.

#### **322.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS**

County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

#### **322.4 REPORT CORRECTIONS**

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should complete the corrective notes section in the case report, stating the reasons for rejection. The original report and the correction form should be returned to the reporting employee for correction as soon as practicable. It shall be the responsibility of the originating employee to ensure that any report returned for correction is processed in a timely manner. Supervisors are required to notify the CID commander/supervisor on all felony cases that are rejected for correction.

#### **322.5 REPORT CHANGES OR ALTERATIONS**

Reports that have been approved by a supervisor and submitted to the Records and Information Center 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 and Information Center may be corrected or modified by the authoring employee only with the knowledge and authorization of the reviewing supervisor.

#### **322.6 ELECTRONIC SIGNATURES**

The Lorain Police Department has established an electronic signature procedure for use by all employees of the Lorain Police Department. The Patrol Operations Division Commander shall be responsible for maintaining the electronic signature system and ensuring that each employee creates a unique, confidential password for his/her electronic signature.

- Employees may only use their electronic signature for official reports or other official communications.
- Each employee shall be responsible for the security and use of his/her electronic signature and shall promptly notify a supervisor if the electronic signature has or may have been compromised or misused.

## Media Relations

### 323.1 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 allowing the prompt release of records in accordance with the mandates of the Ohio Public Records Law (ORC § 149.43).

### 323.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police. However, in situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Division Commanders, Watch Commanders and the designated Public Information Officer may prepare and release information to the media in accordance with this policy and the applicable law.

Any member, who makes an unauthorized release, or releases protected information, is subject to severe disciplinary action up to and including termination.

Among the information that members will not be permitted to be released without the expressed permission of the Chief of Police, or designee are: interpretations of, or announced changes in policies or personnel of the Department, information regarding strikes or labor disputes, photographs to attorneys, insurance companies, or any person for use or possible use in any civil action, except on receipt of a court order (or subpoena) or a proper public records request. Such person having legitimate interest in the subject matter shall be allowed to view photographs upon request.

#### 323.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated Department media representative, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, employees shall consider the following:

- (a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or the designated Department media representative.
- (b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.
- (c) Under no circumstance should any member of this department make any comments to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police.

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#### **323.3 MEDIA ACCESS**

Authorized and bona fide members of the media should be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities (ORC § 2917.13(B)).

Access by the media is subject to the following conditions:

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
  - 1. Reasonable effort should be made to provide media representatives with access to a media command post, separate from the operations command post, near the location of the incident providing it will not interfere with emergency operations or a criminal investigation.
- (c) No member of this department shall be required to submit 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 unless in compliance with a jail facility policy. Exceptions are only permitted with the approval of the Chief of Police and the express written consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined 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.

##### **323.3.1 MEDIA AT JOINT-OPERATIONS**

Unless this Department has primary jurisdiction in a joint operation with other agencies, members will not release information to the media. However, a member will be assigned to work with the Public Information Officer from the agency with primary jurisdiction.

##### **323.3.2 TEMPORARY FLIGHT RESTRICTIONS**

Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hamper incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Watch Commander. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident. It should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration (FAA) should be contacted (14 CFR § 91.137).

##### **323.3.3 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

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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.

#### **323.4 SCOPE OF 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 Watch Commander. This log will consist of data classified as public and should generally contain:

- (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.

Identifying information concerning deceased individuals should only be released to the media when the decedent's identity has been verified and the release is approved by a supervisor.

Any requests for copies of related reports or additional information not contained in this log shall be referred to the designated media representative, the custodian of records, or if unavailable, to the Watch Commander. Such requests will generally be processed in accordance with the provisions of the Ohio Public Records Act (ORC § 149.43). Questions concerning the mandates of the Ohio Public Records Act should be resolved through legal counsel.

##### **323.4.1 STATE 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 (see the Records Maintenance and Release and the Personnel Records policies). When in doubt, authorized and available legal counsel should be obtained.

## Subpoenas and Court Appearances

### 324.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Lorain Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

### 324.2 POLICY

Lorain Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

### 324.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so.

A criminal subpoena may be served upon a member in accordance with Ohio Crim. R. 17 by personally serving the named member, reading the subpoena aloud to the member or by leaving it at his/her usual place of residence. Civil subpoenas may be served upon a member in the same manner except that service may also be achieved via United States mail, certified with a return receipt requested (Ohio Civ. R. 45).

Subpoenas shall not be accepted without properly posted fees pursuant to applicable law (Ohio Crim. R. 17; Ohio Civ. R. 45).

#### 324.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the Law Director or the prosecutor shall notify his/her immediate supervisor without delay regarding:

- (a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Lorain Police Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Lorain Police Department.

The supervisor will then notify the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police should determine if additional legal support is necessary.

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No member shall be retaliated against for testifying in any matter.

#### **324.3.2 CIVIL SUBPOENA**

The Department will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current memorandum of understanding.

The Department should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

#### **324.3.2 OFF-DUTY RELATED SUBPOENAS**

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

#### **324.4 FAILURE TO APPEAR**

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

#### **324.5 STANDBY**

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

#### **324.6 COURTROOM PROTOCOL**

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in the department uniform or business attire.
- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.
- (d) Present a neat and clean appearance, and avoid any mannerisms which might imply disrespect to the court or bring discredit or embarrassment to the Department.
- (e) Not engage in "horseplay," loud or disruptive conversation in the vicinity of the Court. Your action and conversation could be seen and heard by witnesses and prospective jurors.
- (f) Officers will have their subpoena "Time Stamped" or signed by the Prosecutors Office when then arrive and before they leave.

Carry of a firearm by officers into court rooms or court buildings is subject to local court security rules and shall only be permitted while the officer is acting within the scope of his/her duties as

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determined by the Chief of Police (ORC § 2923.123). When armed, officers shall carry their badge and Department identification.

#### **324.6.1 OPERATIONS DIVISION PROTOCOL**

When appearing in court, officers assigned to the Operations Division will wear the following uniform based on the location of the court appearance.

- (a) Patrol Officers, when appearing in Lorain Municipal Court shall wear the approved Field Uniform, with all required duty gear and body armor.
- (b) Patrol Officers who are on duty on their assigned duty shift, when appearing in Lorain County Common Pleas, or any other jurisdiction court shall wear their uniform of the day.
- (c) Patrol Officers who are off duty at the time of the scheduled court appearance in Lorain County Common Pleas, or any other jurisdiction court shall wear the Semi Formal uniform with all metal attachments.

#### **324.6.2 CRIMINAL INVESTIGATIONS DIVISION PROTOCOL**

When appearing in court, members assigned to the Criminal Investigations Division will wear clothing conforming to standards imposed on plainclothes personnel by the Criminal Investigations Division Commander.

#### **324.6.3 NON-SWORN MEMBERS**

When appearing in court, Detention Officers, Telecommunications Officers, and all other non-sworn members will either wear the uniform of the day, complete with all required items, or business casual attire.

#### **324.6.4 TESTIMONY**

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court.

If evidence is required for court, notify the evidence officer via e-mail at least 24 hours in advance. The e-mail should include the case number and the name of the defendant. This is so the evidence officer can have the evidence (which sometimes is extensive) ready for pickup. Check the evidence to make sure that it is properly marked and tagged. Maintain custody of the evidence until it is presented to the court.

#### **324.7 OVERTIME APPEARANCES**

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current Collective Bargaining Agreement.

## Outside Agency Assistance

### 325.1 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.

### 325.2 POLICY

It is the policy of the Lorain 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.

### 325.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the Watch Commander'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 department, the Watch Commander 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. 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, the assistance will be documented as a call for service with a CAD narrative.

A sheriff may request aid, and this department is required to furnish aid, as is practicable (ORC § 311.07(B)).

#### 325.3.1 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 Lorain Police Department shall notify his/her supervisor or the Watch Commander and the Communications Center as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

#### 325.3.2 PROVIDING LAW ENFORCEMENT SERVICES

The Department may also provide law enforcement services at the direction of the Chief of Police, as authorized by resolution of the City legislative authority (ORC § 505.431; ORC § 511.236; ORC § 737.041).

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#### **325.4 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.

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

#### **325.5 REPORTING REQUIREMENTS**

Incidents of outside assistance or law enforcement activities that are not documented in computer aided dispatch narrative or a general case report if applicable, or as directed by the Watch Commander.

#### **325.6 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 Administration Division Commander 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 the Communications Center and the Watch Commander 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.

## Death Investigation

### 326.1 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.

### 326.2 POLICY

It is the policy of the Lorain 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.

### 326.3 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Emergency Medical Services shall be called in all suspected death cases unless the death is obvious (e.g., decapitated or decomposed). A supervisor shall be notified in all death investigations.

#### 326.3.1 CORONER REQUEST

The Coroner shall be called and notified of all known facts concerning the time, place, manner and circumstances in all sudden or unexpected deaths or deaths due to other than natural causes including, but not limited to (ORC § 313.12(A)):

- (a) Unnatural deaths, including violent deaths arising from homicide, suicide or accident.
- (b) Deaths due to a fire or associated with burns or chemical, electrical or radiation injury.
- (c) Unexplained or unexpected perinatal and postpartum maternal deaths.
- (d) Deaths under suspicious, unusual or unexpected circumstances.
- (e) Deaths of persons whose bodies are to be cremated or otherwise disposed of so that the bodies will later be unavailable for examination.
- (f) Deaths of inmates of public institutions and persons in custody of law enforcement officers who have not been hospitalized primarily for organic disease.
- (g) Deaths that occur during, in association with, or as the result of diagnostic, therapeutic or anesthetic procedures.
- (h) Deaths due to culpable neglect.
- (i) Stillbirths of 20 weeks or longer gestation unattended by a physician.
- (j) Sudden deaths of persons not affected by recognizable disease.

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- (k) Unexpected deaths of persons notwithstanding a history of underlying disease.
- (l) Deaths in which a fracture of a major bone, such as a femur, humerus or tibia, has occurred within the past six months.
- (m) Deaths unattended by a physician occurring outside of a licensed health care facility or licensed residential hospice program.
- (n) Deaths of persons not seen by their physician within 120 days of demise.
- (o) Deaths of persons occurring in an emergency department.
- (p) Stillbirths or deaths of newborn infants in which there has been maternal use of or exposure to unprescribed controlled substances, including street drugs, or in which there is history or evidence of maternal trauma.
- (q) Unexpected deaths of children.
- (r) Solid organ donors.
- (s) Unidentified bodies.
- (t) Skeletonized remains.
- (u) Unexpected deaths occurring within 24 hours of arrival at a health care facility.
- (v) Deaths associated with the decedent's employment.
- (w) Deaths of nonregistered hospice patients or patients in non-licensed hospice programs.
- (x) Deaths attributable to acts of terrorism.
- (y) Death of a developmentally disabled person, regardless of the circumstances.

#### 326.3.2 SPECIAL CIRCUMSTANCE DEATHS

The Coroner, a Deputy Coroner or an appointed Coroner Investigator is required to investigate the site of the death of any child under 2 years of age who dies suddenly when in apparent good health, absent contrary religious beliefs. The investigation is required to incorporate the examinations required by law (OAC § 3701-5-14).

#### 326.3.3 SEARCHING DEAD BODIES

The Coroner or the Coroner's assistants and authorized investigators are generally the only persons permitted to move, handle or search a body known to be dead.

An officer is permitted to make a reasonable search of an individual who it is reasonable to believe is dead, or near death, for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal (ORC § 2108.12(A)(1)). If a donor document is located, the Coroner shall be promptly notified.

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Should exigent circumstances indicate to an officer that any other search of a known dead body is warranted prior to the arrival of the Coroner, the investigating officer should first obtain verbal consent from the Coroner.

Whenever reasonably possible, a witness, preferably a relative of 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 Coroner.

The name and address of this person shall be included in the narrative of the death report.

#### 326.3.4 DEATH NOTIFICATION

Officers investigating a traffic collision and who discover any person who is deceased or is pronounced dead at the scene, or who suffers a serious, life-threatening injury in a motor vehicle accident, is responsible for identifying the person and notifying the person's next of kin (ORC § 4501.80).

Identification of victims and notification should be done without delay although proper and accurate identification of victims is necessary prior to making any notification to the next of kin. Identification resources include the next of kin registration database maintained for law enforcement by the Bureau of Motor Vehicles and the Coroner.

Notification to the next of kin of a deceased person shall be made, in person, by the officer assigned to the incident in compliance with Department training on death notifications. If the next of kin lives in another jurisdiction, a law enforcement official from that jurisdiction may be requested to make the personal notification.

In non-traffic deaths, when notification is not performed by the Coroner, and if a deceased person has been identified as a missing person, this department should attempt to locate family members and inform them of the death and location of the deceased missing person's remains as described above.

In all notifications, the notification shall be documented and the Coroner shall be informed whether the notification has been made.

Should a human death result from a fire, this department may notify the state or City fire marshal as allowed by law.

#### 326.3.5 UNIDENTIFIED BODIES DATA ENTRY

As soon as reasonably possible, but no later than 30 working days after the date a death is reported to the Department, all available identifying features of the unidentified body including dental records, fingerprints, any unusual physical characteristics and a description of clothing or personal belongings found on or with the body shall be forwarded to the Coroner for entry into the Ohio Bureau of Criminal Identification and Investigation database, the Missing Children and Missing Persons Information Clearinghouse and the National Crime Information Center (NCIC) file (ORC § 313.08).

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#### **326.3.6 DEATH INVESTIGATION REPORTING**

All incidents involving a death shall be documented on the appropriate form.

#### **326.3.7 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 Criminal Investigations shall be notified to determine the possible need for an investigator to respond to the scene for further immediate investigation.

If the on-scene supervisor, through consultation with the Watch Commander or Criminal Investigations supervisor, is unable to determine the manner of death, the investigation shall proceed as though it is a homicide.

The assigned investigator investigating a homicide or a death under suspicious circumstances may, with the approval of his/her supervisor, request the Coroner to conduct physical examinations and tests and provide a report.

#### **326.4 PREGNANCY-ASSOCIATED DEATH INVESTIGATIONS**

CID Investigators investigating the death of a woman while pregnant or within one year after pregnancy should make sure that the pregnancy-associated mortality review board receives information and documentation as provided in ORC § 3738.02 and ORC § 3738.05.

#### **326.5 COUNTY FATALITY REVIEW COMMITTEES AND BOARDS**

Officers investigating any of the following should notify the appropriate county review committee or board of the conclusion of the investigation and, upon request from the review committee or board, provide information or documentation as appropriate and as applicable:

- (a) A drug overdose death (ORC § 307.635; ORC § 307.637)
- (b) A suicide (ORC § 307.645; ORC § 307.647)
- (c) A domestic violence fatality (ORC § 307.655; ORC § 307.657)
- (d) A fetal infant mortality (ORC § 3707.71; ORC § 3707.74)
- (e) A child fatality (ORC § 2151.421)

## Private Person's Arrests

### 327.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for handling private person's arrests and detentions made pursuant to state law.

### 327.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

In circumstance where applicable, officers shall advise civilians of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all situations, officers should use sound discretion in determining whether 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. 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.
- (c) individuals shall be informed of the requirement to inform the person to be arrested, prior to making the arrest, of the intention to arrest him/her and the reason for the arrest (ORC § 2935.07).
- (d) Private individuals shall be informed of the requirement to take the arrested person before a judge or to a peace officer without unnecessary delay (ORC § 2935.06).

### 327.3 ARRESTS BY PRIVATE PERSONS

A private person may arrest another under the following circumstances:

- (a) When a felony has been committed and he/she has reasonable cause to believe the person to be arrested committed the felony (ORC § 2935.04).
- (b) When reasonable information exists that the accused stands charged in the courts of any state with a crime punishable by death or imprisonment for a term exceeding one year (ORC § 2963.12).

#### 327.3.1 DETENTIONS BY PRIVATE PERSONS

A private person may detain another for subsequent arrest by a peace officer under the following circumstances:

- (a) Museums, archival institutions, libraries, merchants, and their agents and employees who have probable cause to believe the person to be detained is a shoplifter or has otherwise committed a theft of their property (ORC § 2935.041(A), (B), and (C)).
- (b) Motion picture presentation facilities and their agents and employees who have probable cause to believe a person is or has been recording in violation of ORC § 2913.07 (ORC § 2935.041(D)).

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#### **327.4 OFFICER RESPONSIBILITIES**

Any officer presented with a private person wishing to make an arrest must determine whether there is reasonable cause to believe that such an arrest would be lawful.

- (a) Should any officer determine that there is no reasonable 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, to 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 reasonable 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 reasonable 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 upon a misdemeanor citation or pending formal charges.

#### **327.5 REPORTING REQUIREMENTS**

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign the Ohio Incident Based Reporting System (OIBRS) report and an affidavit. If the person fails or refuses to do so, the arrested subject shall be released unless the officer has an independent reason to take the person into custody.

In addition to the OIBRS report and an affidavit (and any other related documents, such as citations and booking forms), officers shall complete a narrative report regarding the circumstances and disposition of the incident.

## Limited English Proficiency Services

### 328.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

#### 328.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

**Interpret or interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

**Limited English proficient (LEP)** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

**Qualified bilingual member** - A member of the Lorain Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

### 328.2 POLICY

It is the policy of the Lorain Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

### 328.4 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

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- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

#### **328.5 TYPES OF LEP ASSISTANCE AVAILABLE**

Lorain Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

#### **328.6 WRITTEN FORMS AND GUIDELINES**

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The Chief of Police or designee will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

#### **328.7 AUDIO RECORDINGS**

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representatives of the community being served.

#### **328.8 QUALIFIED BILINGUAL MEMBERS**

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

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When a qualified bilingual member from this department is not available, personnel from other City departments, who have been identified by the Department as having the requisite skills and competence, may be requested.

#### **328.9 AUTHORIZED INTERPRETERS**

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the Chief of Police or designee which demonstrates that their skills and abilities include:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

##### **328.9.1 SOURCES OF AUTHORIZED INTERPRETERS**

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures. The Department's main source of over the telephone interpretation will be through Language Line Solutions at 877-245-0386. ([www.language.com](http://www.language.com)).

Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

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#### **328.9.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE**

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

#### **328.10 CONTACT AND REPORTING**

While all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.

#### **328.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

The Lorain Police Department will take reasonable steps and will work with the Human Resources to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

##### **328.11.1 EMERGENCY CALLS TO 9-1-1**

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in the Communications Center, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

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Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

While 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

#### **328.12 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

Officers are encouraged to carry with them the "I Speak: Language Identification Guide" which is available on the [ocjs.ohio.gov](http://ocjs.ohio.gov) website, to aid in identifying the possible language needed if the situation allows.

[See attachment: I Speak language Identification guide](#)

#### **328.13 INVESTIGATIVE FIELD INTERVIEWS**

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

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Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

#### **328.14 CUSTODIAL INTERROGATIONS**

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

#### **328.15 BOOKINGS**

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

#### **328.16 COMPLAINTS**

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

#### **328.17 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

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#### **328.18 TRAINING**

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

The Training Coordinator shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Training Coordinator shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

##### **328.18.1 TRAINING FOR AUTHORIZED INTERPRETERS**

All members on the authorized interpreter list must successfully complete prescribed interpreter training. 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 adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Training Coordinator shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.

## Identity Theft

### 329.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

### 329.2 REPORTING

- (a) In an effort to maintain uniformity in reporting, officers presented with the crime of identity theft (ORC § 2913.49(B)) shall initiate a report for crimes occurring in this jurisdiction.
- (b) For incidents of identity theft occurring outside this jurisdiction officers may either:
  - 1. Complete a courtesy report to be forwarded to the agency where the crime was committed or if the location is unknown, to the victim's residence agency. The victim may also file a complaint with the department's online self-reporting system.
  - 2. If no report is taken, encourage the victim to promptly report the identity theft to the law enforcement agency where he/she resides.
- (c) 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 that 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).
- (d) 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).
- (e) Following supervisory review and Department processing, the initial report should be forwarded to the appropriate investigator for follow-up investigation, coordination with other agencies and prosecution as circumstances dictate.

### 329.3 PREVENTIVE MEASURES

The victim should be advised to place a security freeze on his/her consumer report, as allowed by law. A victim may also access <http://www.ohioattorneygeneral.gov/consumerlaws> for further information.

Employees of this department shall notify the Support Services Commander of any breach of the security of any Department information systems if personal information is reasonably believed to have been accessed and acquired by an unauthorized person that could cause a material risk of identity theft or other fraud to a resident of Ohio (ORC § 1347.12(B)(1) and ORC § 1349.19(C)).

The Support Services Commander shall notify the person whose personal information has been breached using any of the methods allowed pursuant to ORC § 1347.12(E) (ORC § 1347.12(B)(1)).

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The notification may be delayed if it is reasonably believed that the disclosure would impede a criminal investigation or jeopardize homeland or national security (ORC § 1347.12(D)).

#### **329.4 INFORMATION**

The victim should be encouraged to contact the Federal Trade Commission (FTC), which is responsible for receiving and processing complaints under the Identity Theft and Assumption Deterrence Act. The victim can contact the FTC online at <http://www.ftc.gov/bcp/menus/consumer/data/idt.shtm> or by telephone at 877-ID Theft (877-438-4338). Additional information may be found at the U.S. Department of Justice website, <http://www.usdoj.gov>, or the FBI at <http://cincinnati.fbi.gov> and <http://cleveland.fbi.gov>.

# Communications with Persons with Disabilities

## 330.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

### 330.1.1 DEFINITIONS

Definitions related to this policy include:

**Auxiliary aids** - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

**Disability or impairment** - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102).

**Qualified interpreter** - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, transliterators, sign language interpreters and intermediary interpreters.

## 330.2 POLICY

It is the policy of the Lorain Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

## 330.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA Coordinator (28 CFR 35.107). The ADA Coordinator shall be appointed by, and directly responsible, to the Patrol Operations Division Commander or the authorized designee.

The responsibilities of the ADA Coordinator shall include, but not be limited to:

- (a) Working with the City ADA coordinator regarding the Lorain Police Department's efforts to ensure equal access to services, programs and activities.
- (b) Developing reports, new procedures, or recommending modifications to this policy.
- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.

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- (d) Ensuring that a list of qualified interpreter services is maintained and available to each Watch Commander and Communications Supervisor. The list should include information regarding the following:
  - 1. Contact information
  - 2. Availability
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

#### **330.4 FACTORS TO CONSIDER**

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

#### **330.5 INITIAL AND IMMEDIATE CONSIDERATIONS**

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

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In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Lorain Police Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

#### **330.6 TYPES OF ASSISTANCE AVAILABLE**

Lorain Police Department members shall never refuse to assist an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

#### **330.7 AUDIO RECORDINGS AND ENLARGED PRINT**

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

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#### **330.8 QUALIFIED INTERPRETERS**

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or the investigation. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

#### **330.9 TTY AND RELAY SERVICES**

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

#### **330.10 COMMUNITY VOLUNTEERS**

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members

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must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

#### **330.11 FAMILY AND FRIENDS**

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

#### **330.12 REPORTING**

Whenever any member of this department is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

#### **330.13 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning

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or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

#### **330.13.1 FIELD RESOURCES**

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.
- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

#### **330.14 CUSTODIAL INTERROGATIONS**

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

#### **330.15 ARRESTS AND BOOKINGS**

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or

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booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

#### **330.16 COMPLAINTS**

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the department ADA Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

#### **330.17 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

#### **330.18 TRAINING**

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.
- (c) Working with in-person and telephone interpreters and related equipment.

The Training Coordinator shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Training

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Coordinator shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

#### 330.18.1 CALL-TAKER TRAINING

Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, hard of hearing or who have speech impairments. Such training and information should include:

- (a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.
- (b) ASL syntax and accepted abbreviations.
- (c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.
- (d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all the Communications Center members who may have contact with individuals from the public who are deaf, hard of hearing or have impaired speech. Refresher training should occur every six months.

## **Pupil Arrest Reporting**

### **331.1 PURPOSE AND SCOPE**

The purpose of this policy is to describe the procedures to follow when a pupil is arrested on school grounds and during school hours.

### **331.2 PUPIL ARREST REPORTING**

In the event a school pupil is arrested by an officer other than the assigned School Resource Officer, the arresting officer shall include information in the report necessary to ensure that the Communications Center is able to provide information to the chief administrative officer of the school or appropriate designee of the arrest of a pupil. The arresting officer shall also make notification to the SRO via department email, or memo, with the juvenile's name, and the incident report number.

#### **331.2.1 PUPIL ARREST AFTER NOTIFICATION**

Based upon the circumstances of the investigation, it may be appropriate to notify the school prior to the arrest. Prior notification and assistance from the school may reduce disruption to school operations and other students.

#### **331.2.2 PUPIL ARREST BEFORE NOTIFICATION**

Based upon the circumstances of the investigation, it may be appropriate to arrest the pupil before notifying the school. This may be appropriate if the pupil is a flight risk, if prior notification will impede the investigation or if notification creates additional risks to students, faculty, the officer or the public.

Proper notification to the school after the pupil's arrest should then be made when circumstances reasonably allow.

#### **331.2.3 PARENTAL NOTIFICATION**

Upon arrest, it is the arresting officer's responsibility to ensure the parents of the arrested pupil are properly notified. Notification shall be made by the officer, regardless of subsequent notifications by the juvenile detention facility. Notifications should be documented and include the charges against the pupil and information as to where the pupil will be taken.

## Biological Samples

### 332.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction or arrest for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from a person in conjunction with a criminal investigation. Nor does it apply to biological samples collected from those required to register, for example, as sex offenders.

### 332.2 POLICY

The Lorain Police Department will assist in the expeditious collection of required biological samples from arrestees and offenders in accordance with the laws of this state and with as little reliance on force as practicable.

### 332.3 PERSONS SUBJECT TO DNA COLLECTION

Those who must submit a biological sample are persons who have been (ORC § 2901.07):

- (a) Arrested for or convicted of a felony offense.
- (b) Convicted of a misdemeanor violation, an attempt to commit a misdemeanor violation or complicity in committing a misdemeanor violation arising out of the following:
  - 1. Aggravated murder
  - 2. Murder
  - 3. Kidnapping
  - 4. Rape
  - 5. Sexual battery
  - 6. Unlawful sexual conduct with minor
  - 7. Gross sexual imposition
  - 8. Aggravated burglary
  - 9. Felonious sexual penetration
  - 10. Interference with custody
- (c) Convicted of a sexually oriented offense or a child victim-oriented offense that is a misdemeanor if the offender is a Tier III sex offender/child-victim offender, as defined in ORC § 2950.01.

### 332.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall attempt to obtain the sample in accordance with this policy.

#### 332.4.1 COLLECTION

The following steps should be taken to collect a sample:

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- (a) Verify that the individual is required to provide a sample pursuant to ORC § 2901.07 and that his/her identity has been verified as required under OAC § 109:5-5-02.
- (b) Use the designated collection kit approved by the Ohio Bureau of Criminal Investigation (BCI) to perform the collection and take steps to avoid cross contamination.

#### **332.5 USE OF FORCE TO OBTAIN SAMPLES**

If a person refuses to cooperate with the sample collection process, officers should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

- (a) The person's parole or probation officer when applicable.
- (b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.
- (c) The judge at the person's next court appearance.
- (d) The person's attorney.
- (e) A chaplain.
- (f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.
- (g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

#### **332.5.1 VIDEO RECORDING**

A video recording should be made any time force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department's records retention schedule.

#### **332.6 LEGAL MANDATES AND RELEVANT LAWS**

##### **332.6.1 PERSONS AUTHORIZED TO OBTAIN A SAMPLE**

If the biological sample is collected by withdrawing blood or another similarly invasive procedure, a physician, registered nurse, licensed practical nurse, duly licensed clinical laboratory technician or other qualified medical practitioner shall collect the sample in a medically approved manner. This requirement does not apply to a sample that is collected by a buccal swab or similarly non-invasive procedure (ORC § 2901.07(C)).

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#### 332.6.2 AUTHORITY TO OBTAIN SECONDARY SAMPLE

If a query of OHLEG indicates that a sample has been previously collected but is no longer denoted on the individual's criminal history record, another sample shall be obtained from the individual and forwarded to BCI (OAC § 109:5-5-02).

In addition, if BCI notifies the Lorain Police Department of receipt of an unusable sample, a secondary sample shall be obtained and forwarded to BCI for analysis (OAC § 109:5-5-02).

#### 332.6.3 SUBMISSION OF SAMPLE

The Evidence Room Custodian shall ensure that the biological sample is forwarded to the BCI no later than 15 days after the date of the collection (ORC § 2901.07(C)).

#### 332.6.4 CONFIDENTIALITY OF RECORDS

Members of the Lorain Police Department shall not knowingly disclose a biological sample, record or other information contained in the DNA database to an unauthorized entity (ORC § 109.573; ORC § 109.99).

## Chaplains

### 333.1 PURPOSE AND SCOPE

This policy establishes the guidelines for Lorain Police Department chaplains to provide counseling or emotional support to members of the Department, their families and members of the public.

### 333.2 POLICY

The Lorain Police Department shall ensure that department chaplains are properly appointed, trained and supervised to carry out their responsibilities without financial compensation.

### 333.3 ELIGIBILITY

Requirements for participation as a chaplain for the Department may include, but are not limited to:

- (a) Being above reproach, temperate, prudent, respectable, hospitable, able to teach, be free from addiction to alcohol or other drugs, and excessive debt.
- (b) Managing their households, families and personal affairs well.
- (c) Having a good reputation in the community.
- (d) Successful completion of an appropriate-level background investigation.
- (e) A minimum of five years of successful counseling experience.
- (f) Possession of a valid driver license.

The Chief of Police may apply exceptions for eligibility based on organizational needs and the qualifications of the individual.

### 333.4 RECRUITMENT, SELECTION AND APPOINTMENT

The Lorain Police Department shall endeavor to recruit and appoint only those applicants who meet the high ethical, moral and professional standards set forth by this department.

All applicants shall be required to meet and pass the same pre-employment procedures as department personnel before appointment.

#### 333.4.1 RECRUITMENT

Chaplains should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity and nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in and an ability to assist the Department in serving the public. Chaplain candidates are encouraged to participate in ride-alongs with department members before and during the selection process.

#### 333.4.2 SELECTION AND APPOINTMENT

Chaplain candidates shall successfully complete the following process prior to appointment as a chaplain:

- (a) Submit the appropriate written application.

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- (b) Include a recommendation from employers or volunteer programs.
- (c) Interview with the Chief of Police and the chaplain coordinator.
- (d) Successfully complete an appropriate-level background investigation.
- (e) Complete an appropriate probationary period as designated by the Chief of Police.

Chaplains are volunteers and serve at the discretion of the Chief of Police. Chaplains shall have no property interest in continued appointment. However, if a chaplain is removed for alleged misconduct, the chaplain will be afforded an opportunity solely to clear his/her name through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

#### **333.5 IDENTIFICATION AND UNIFORMS**

As representatives of the Department, chaplains are responsible for presenting a professional image to the community. Chaplains shall dress appropriately for the conditions and performance of their duties. Uniforms and necessary safety equipment will be provided for each chaplain. Identification symbols worn by chaplains shall be different and distinct from those worn by officers through the inclusion of "Chaplain" on the uniform and not reflect any religious affiliation.

Chaplains will be issued Lorain Police Department identification cards, which must be carried at all times while on-duty. The identification cards will be the standard Lorain Police Department identification cards, with the exception that "Chaplain" will be indicated on the cards. Chaplains shall be required to return any issued uniforms or department property at the termination of service.

Chaplains shall conform to all uniform regulations and appearance standards of this department.

#### **333.6 CHAPLAIN COORDINATOR**

The Chief of Police shall delegate certain responsibilities to a chaplain coordinator.

The chaplain coordinator shall serve as the liaison between the chaplains and the Chief of Police. The function of the coordinator is to provide a central coordinating point for effective chaplain management within the Department, and to direct and assist efforts to jointly provide more productive chaplain services. Under the general direction of the Chief of Police or the authorized designee, chaplains shall report to the chaplain coordinator and/or Watch Commander.

The chaplain coordinator may appoint a senior chaplain or other designee to assist in the coordination of chaplains and their activities.

The responsibilities of the coordinator or the authorized designee include, but are not limited to:

- (a) Recruiting, selecting and training qualified chaplains.
- (b) Conducting chaplain meetings.
- (c) Establishing and maintaining a chaplain callout roster.
- (d) Maintaining records for each chaplain.
- (e) Tracking and evaluating the contribution of chaplains.

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- (f) Maintaining a record of chaplain schedules and work hours.
- (g) Completing and disseminating, as appropriate, all necessary paperwork and information.
- (h) Planning periodic recognition events.
- (i) Maintaining liaison with other agency chaplain coordinators.

An evaluation of the overall use of chaplains will be conducted on an annual basis by the coordinator.

#### **333.7 DUTIES AND RESPONSIBILITIES**

Chaplains assist the Department, its members and the community, as needed.

All chaplains will be assigned to duties by the chaplain coordinator or the authorized designee.

Chaplains may not proselytize or attempt to recruit members of the Department or the public into a religious affiliation while representing themselves as chaplains with this department. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.

Chaplains may not accept gratuities for any service or any subsequent actions or follow-up contacts that were provided while functioning as a chaplain for the Lorain Police Department.

##### **333.7.1 COMPLIANCE**

Chaplains are volunteer members of this department, and except as otherwise specified within this policy, are required to comply with the Volunteer Program Policy and other applicable policies.

##### **333.7.2 OPERATIONAL GUIDELINES**

- (a) In responding to incidents, a chaplain shall never function as an officer.
- (b) When responding to in-progress calls for service, chaplains may be required to stand-by in a secure area until the situation has been deemed safe.
- (c) Chaplains shall serve only within the jurisdiction of the Lorain Police Department unless otherwise authorized by the Chief of Police or the authorized designee.

##### **333.7.3 ASSISTING DEPARTMENT MEMBERS**

The responsibilities of a chaplain related to department members include, but are not limited to:

- (a) Assisting in making notification to families of members who have been seriously injured or killed and, after notification, responding to the hospital or home of the member.
- (b) Visiting sick or injured members in the hospital or at home.
- (c) Attending and participating, when requested, in funerals of active or retired members.
- (d) Serving as a resource for members when dealing with the public in incidents, such as accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse and other such situations that may arise.

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### *Chaplains*

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- (e) Providing counseling and support for members and their families.
- (f) Being alert to the needs of members and their families.

#### **333.7.4 ASSISTING THE DEPARTMENT**

The responsibilities of a chaplain related to this department include, but are not limited to:

- (a) Assisting members in the diffusion of a conflict or incident, when requested.
- (b) Responding to natural and accidental deaths, suicides and attempted suicides, family disturbances and any other incident that in the judgment of the Watch Commander or supervisor aids in accomplishing the mission of the Department.
- (c) Responding to all major disasters, such as natural disasters, bombings and similar critical incidents.
- (d) Being on-call and, if possible, on-duty during major demonstrations or any public function that requires the presence of a large number of department members.
- (e) Attending department and academy graduations, ceremonies and social events and offering invocations and benedictions, as requested.
- (f) Participating in in-service training classes.
- (g) Willingness to train others to enhance the effectiveness of the Department.

#### **333.7.5 ASSISTING THE COMMUNITY**

The duties of a chaplain related to the community include, but are not limited to:

- (a) Fostering familiarity with the role of law enforcement in the community.
- (b) Providing an additional link between the community, other chaplain coordinators and the Department.
- (c) Providing liaison with various civic, business and religious organizations.
- (d) Promptly facilitating requests for representatives or leaders of various denominations.
- (e) Assisting the community in any other function as needed or requested.
- (f) Making referrals in cases where specialized attention is needed or in cases that are beyond the chaplain's ability to assist.

#### **333.7.6 CHAPLAIN MEETINGS**

All chaplains are required to attend scheduled meetings. Any absences must be satisfactorily explained to the chaplain coordinator.

#### **333.8 PRIVILEGED COMMUNICATIONS**

No person who provides chaplain services to members of the Department may work or volunteer for the Lorain Police Department in any capacity other than that of chaplain.

Department chaplains shall be familiar with state evidentiary laws and rules pertaining to the limits of the clergy-penitent, psychotherapist-patient and other potentially applicable privileges and shall inform members when it appears reasonably likely that the member is discussing matters that are

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### *Chaplains*

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not subject to privileged communications. In such cases, the chaplain should consider referring the member to a non-department counseling resource.

No chaplain shall provide counsel to or receive confidential communications from any Lorain Police Department member concerning an incident personally witnessed by the chaplain or concerning an incident involving the chaplain.

#### **333.9 TRAINING**

The Department will establish a minimum number of training hours and standards for department chaplains. The training, as approved by the Training Coordinator, may include:

- Stress management
- Death notifications
- Symptoms of post-traumatic stress
- Burnout for members of law enforcement and chaplains
- Legal liability and confidentiality
- Ethics
- Responding to crisis situations
- The law enforcement family
- Substance abuse
- Suicide
- Officer injury or death
- Sensitivity and diversity

## Public Safety Video Surveillance System

### 334.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of department public safety video surveillance, as well as the storage and release of the captured images.

This policy only applies to overt, marked public safety video surveillance systems operated by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department.

### 334.2 POLICY

The Lorain Police Department operates a public safety video surveillance system to complement its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist City officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

### 334.3 OPERATIONAL GUIDELINES

Only department-approved video surveillance equipment shall be utilized. Members authorized to monitor video surveillance equipment should only monitor public areas and public activities where no reasonable expectation of privacy exists. The Chief of Police or the authorized designee shall approve all proposed locations for the use of video surveillance technology and should consult with and be guided by legal counsel as necessary in making such determinations.

#### 334.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City divisions and designated community groups when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high-value or high-threat areas. The public safety video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To target identified areas of gang and narcotics complaints or activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.

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### *Public Safety Video Surveillance System*

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- (e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- (f) To augment resources in a cost-effective manner.
- (g) To monitor pedestrian and vehicle traffic activity.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera. Images should be transmitted to monitors installed in the Communications Center. When activity warranting further investigation is reported or detected at any camera location, the available information should be provided to responding officers in a timely manner. Communications Center personnel are authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

The Chief of Police may authorize video feeds from the public safety video surveillance system to be forwarded to a specified location for monitoring by other than police personnel, such as allied government agencies, road or traffic crews, or fire or emergency operations personnel.

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

#### **334.3.2 INTEGRATION WITH OTHER TECHNOLOGY**

The Department may elect to integrate its public safety video surveillance system with other technology to enhance available information. Systems such as gunshot detection, incident mapping, crime analysis, license plate recognition, facial recognition and other video-based analytical systems may be considered based upon availability and the nature of department strategy.

The Department should evaluate the availability and propriety of networking or otherwise collaborating with appropriate private sector entities and should evaluate whether the use of certain camera systems, such as pan-tilt-zoom systems and video enhancement or other analytical technology, requires additional safeguards.

#### **334.4 VIDEO SUPERVISION**

Supervisors should monitor video surveillance access.

##### **334.4.1 PROHIBITED ACTIVITY**

Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Public safety video surveillance equipment shall not be used in an unequal or discriminatory manner and shall not target individuals or groups based solely on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.

Video surveillance equipment shall not be used to harass, intimidate, or discriminate against any individual or group.

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### *Public Safety Video Surveillance System*

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#### **334.5 STORAGE AND RETENTION OF MEDIA**

All downloaded media shall be stored in a secure area with access restricted to authorized persons. A recording needed as evidence shall be copied to a suitable medium and booked into evidence in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

The type of video surveillance technology employed and the manner in which recordings are used and stored will affect retention periods. The recordings should be stored and retained in accordance with the established records retention schedule.

##### **334.5.1 EVIDENTIARY INTEGRITY**

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

#### **334.6 RELEASE OF VIDEO IMAGES**

All recorded video images gathered by the public safety video surveillance equipment are for the official use of the Chief of Police.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records.

Requests for recorded images from other law enforcement agencies shall be referred to the Support Services Commander for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### **334.7 VIDEO SURVEILLANCE AUDIT**

The Chief of Police or the authorized designee will conduct an annual review of the public safety video surveillance system. The review should include an analysis of the cost, benefit and effectiveness of the system, including any public safety issues that were effectively addressed or any significant prosecutions that resulted, and any systemic operational or administrative issues that were identified, including those related to training, discipline or policy.

The results of each review shall be appropriately documented and maintained by the Chief of Police or the authorized designee and other applicable advisory bodies. Any recommendations for training or policy should be promptly addressed.

#### **334.8 TRAINING**

All department members authorized to operate or access public video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, interaction

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### *Public Safety Video Surveillance System*

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with dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

## Child and Dependent Adult Safety

### 335.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department.

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse Policy and the Adult or Vulnerable Person Abuse Policy.

### 335.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Lorain Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

### 335.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken:

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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### *Child and Dependent Adult Safety*

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#### 335.3.1 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 children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
  - 1. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
  - 1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify Child Protective Services or the Department of Aging, if appropriate.
- (e) Notify the shift OIC or Watch Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another 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 caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

#### 335.3.2 DURING THE BOOKING PROCESS

During the booking process, the arrestee should be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law.

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

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### *Child and Dependent Adult Safety*

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#### 335.3.3 REPORTING

- (a) For all arrests involving children that are present or living in the household, the reporting member will document the following information:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. Special needs (e.g., medical, mental health)
  - 5. How, where and with whom or which agency the child was placed
  - 6. Identities and contact information for other potential caregivers
  - 7. Notifications made to other adults (e.g., schools, relatives)
- (b) For all arrests involving dependent adults that are present or living in the household, the reporting member will document the following information:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. Whether he/she reasonably appears able to care for him/herself
  - 5. Disposition or placement information if he/she is unable to care for him/herself

#### 335.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

#### **335.4 DEPENDENT WELFARE SERVICES**

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate.

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked law enforcement vehicle or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

#### **335.5 TRAINING**

The Training Coordinator is responsible to ensure that all members of this department who may be involved in arrests affecting children or dependent adults receive approved training on effective safety measures when a parent, guardian or caregiver is arrested.

## Service Animals

### 336.1 PURPOSE AND SCOPE

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Lorain 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.

### 336.2 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).

#### 336.2.1 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. Service animals may accompany the handler or companion person into, and is entitled to the full use of services to which the general public is invited (ORC § 955.43).

The following are some examples 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.

### 336.3 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the public is allowed. Department members are expected to treat individuals with

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## Policy Manual

### *Service Animals*

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service animals with the same courtesy and respect that the Lorain 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. 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 the 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 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 questions 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 in 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 a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice.

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## Off-Duty Law Enforcement Actions

### 337.1 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 Lorain Police Department with respect to taking law enforcement action while off-duty.

### 337.2 POLICY

Officers generally should not initiate law enforcement action outside the City of Lorain while off-duty. 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.

When the safety of the public 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.

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.

Officers should remember that their authority as a peace officer may not extend to actions taken outside their jurisdiction unless authorized by law (ORC § 2935.02, ORC § 2935.03(D) and ORC § 2935.04).

### 337.3 FIREARMS

Officers of this department are encouraged to carry firearms while off-duty in accordance with federal regulations, state law 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 refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any drugs or medications or any combination thereof that would tend to adversely affect the officer's senses or judgment.

Off-duty employees may carry firearms in establishments for which a "D" liquor permit has been issued and in compliance with ORC 2923.121B.

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### *Off-Duty Law Enforcement Actions*

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#### **337.4 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:

- (a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.
- (b) The inability to communicate with responding units.
- (c) The lack of equipment, such as handcuffs, Oleoresin Capsicum (OC) spray 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.

##### **337.4.1 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 Lorain police officer is on-scene and should be provided a description of the officer including his/her clothing if possible.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as a Lorain Police Department officer until acknowledged. Official identification should also be displayed.

##### **337.4.2 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.

##### **337.4.3 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.

##### **337.4.4 OTHER CONSIDERATIONS**

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgment by the non-uniformed officer in case he/she needs to maintain an undercover capability. Uniformed officers should not initiate contact with Narcotics Detectives, or Criminal Investigation Detectives unless a safety concern exists.

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### *Off-Duty Law Enforcement Actions*

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#### **337.5 REPORTING**

Any officer, prior to taking any off-duty enforcement action, shall notify and receive approval of a supervisor (or other applicable law enforcement authority if acting outside the jurisdiction of the Lorain Police Department). If prior contact is not reasonably possible, an officer shall notify the applicable local law enforcement agency as soon as reasonably practicable. The Watch Commander 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.

## Community Relations

### 338.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for community relationship-building.

Additional guidance on community relations and outreach is provided in other policies, including the:

- Hate or Prejudice Crimes Policy.
- Limited English Proficiency Services Policy.
- Communications with Persons with Disabilities Policy.
- Chaplains Policy.
- Patrol Function Policy.
- Suspicious Activity Reporting Policy.

### 338.2 POLICY

It is the policy of the Lorain Police Department to promote positive relationships between department members and the community by treating community members with dignity and respect and engaging them in public safety strategy development and relationship-building activities, and by making relevant policy and operations information available to the community in a transparent manner.

### 338.3 MEMBER RESPONSIBILITIES

Officers should, as time and circumstances reasonably permit:

- (a) Make casual and consensual contacts with community members to promote positive community relationships (see the Contacts and Temporary Detentions Policy).
- (b) Become reasonably familiar with the schools, businesses and community groups in their assigned jurisdictional areas.
- (c) Work with community members and the department community relations coordinator to identify issues and solve problems related to community relations and public safety.
- (d) Conduct periodic foot patrols of their assigned areas to facilitate interaction with community members. Officers carrying out foot patrols should notify an appropriate supervisor and the Communications Center of their status (i.e., on foot patrol) and location before beginning and upon completion of the foot patrol. They should also periodically inform the Communications Center of their location and status during the foot patrol.

### 338.4 COMMUNITY RELATIONS COORDINATOR

The Chief of Police or the authorized designee should designate a member of the Department to serve as the community relations coordinator. He/she should report directly to the Chief of Police or authorized designee and is responsible for:

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### *Community Relations*

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- (a) Obtaining department-approved training related to his/her responsibilities.
- (b) Responding to requests from department members and the community for assistance in identifying issues and solving problems related to community relations and public safety.
- (c) Organizing surveys to measure the condition of the department's relationship with the community.
- (d) Working with community groups, department members and other community resources to:
  - 1. Identify and solve public safety problems within the community.
  - 2. Organize programs and activities that help build positive relationships between department members and the community and provide community members with an improved understanding of department operations.
- (e) Working with the Patrol Operations Division Commander to develop patrol deployment plans that allow officers the time to participate in community engagement and problem-solving activities.
- (f) Recognizing department and community members for exceptional work or performance in community relations efforts.
- (g) Attending City council and other community meetings to obtain information on community relations needs.
- (h) Assisting with the department's response to events that may affect community relations, such as an incident where the conduct of a department member is called into public question.
- (i) Informing the Chief of Police and others of developments and needs related to the furtherance of the department's community relations goals, as appropriate.
- (j) Coordinating training as provided in this policy, including documentation of member awareness and understanding of the policy and training.

#### **338.5 SURVEYS**

The community relations coordinator should arrange for a survey of community members and department members to be conducted at least annually to assess the condition of the relationship between the Department and the community. Survey questions should be designed to evaluate perceptions of the following:

- (a) Overall performance of the Department
- (b) Overall competence of department members
- (c) Attitude and behavior of department members
- (d) Level of community trust in the Department
- (e) Safety, security or other concerns

A written summary of the compiled results of the survey should be provided to the Chief of Police.

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### *Community Relations*

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#### **338.6 COMMUNITY AND YOUTH ACTIVITIES AND PROGRAMS**

The community relations coordinator should organize or assist with programs and activities that create opportunities for department members and community members, especially youth, to interact in a positive setting. Examples of such programs and events include:

- (a) Department-sponsored athletic programs (e.g., baseball, basketball, soccer, bowling).
- (b) Police-community get-togethers (e.g., cookouts, meals, charity events).
- (c) Youth leadership and life skills mentoring.
- (d) School resource officer/Drug Abuse Resistance Education (D.A.R.E.®) programs.
- (e) Neighborhood Watch and crime prevention programs.
- (f) Community Use of Force Review
- (g) Patrol Ride-along Program
- (h) Buckle-up Program
- (i) Safety Town Program
- (j) Citizens Police Academy
- (k) Lorain Police Auxiliary
- (l) Cops and Kids Program
- (m) Coffee with a Cop Program
- (n) Do the Right Thing Program

#### **338.7 INFORMATION SHARING**

The community relations coordinator should work with the Public Information Officer to develop methods and procedures for the convenient sharing of information (e.g., major incident notifications, significant changes in department operations, comments, feedback, positive events) between the Department and community members. Examples of information-sharing methods include:

- (a) Community meetings.
- (b) Social media (see the Department Use of Social Media Policy).
- (c) Department website postings.

Information should be regularly refreshed, to inform and engage community members continuously.

#### **338.8 LAW ENFORCEMENT OPERATIONS EDUCATION**

The community relations coordinator should develop methods to educate community members on general law enforcement operations so they may understand the work that officers do to keep the community safe. Examples of educational methods include:

- (a) Development and distribution of informational cards/flyers.
- (b) Department website postings.

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- (c) Presentations to driver education classes.
- (d) Instruction in schools.
- (e) Department ride-alongs (see the Ride-Alongs Policy).
- (f) Scenario/Simulation exercises with community member participation.
- (g) Youth internships at the Department.
- (h) Citizen academies.

Instructional information should include direction on how community members should interact with the police during enforcement or investigative contacts and how community members can make a complaint to the Department regarding alleged misconduct or inappropriate job performance by department members.

#### **338.9 SAFETY AND OTHER CONSIDERATIONS**

Department members responsible for community relations activities should consider the safety of the community participants and, as much as reasonably practicable, should not allow them to be present in any location or situation that would jeopardize their safety.

Department members in charge of community relations events should ensure that participating community members have completed waiver forms before participation, if appropriate. A parent or guardian must complete the waiver form if the participating community member has not reached 18 years of age.

Community members are subject to a criminal history check before approval for participation in certain activities, such as citizen academies.

#### **338.10 COMMUNITY ADVISORY COMMITTEE**

The Chief of Police should establish a committee of volunteers consisting of community members, community leaders and other community stakeholders (e.g., representatives from schools, churches, businesses, social service organizations). The makeup of the committee should reflect the demographics of the community as much as practicable.

The committee should convene regularly to:

- (a) Provide a public forum for gathering information about public safety concerns in the community.
- (b) Work with the Department to develop strategies to solve public safety problems.
- (c) Generate plans for improving the relationship between the Department and the community.
- (d) Participate in community outreach to solicit input from community members, including youth from the community.

The Training Coordinator should arrange for initial and ongoing training for committee members on topics relevant to their responsibilities.

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The Chief of Police may include the committee in the evaluation and development of department policies and procedures and may ask them to review certain personnel complaints for the purpose of providing recommendations regarding supervisory, training or other issues as appropriate.

#### **338.10.1 LEGAL CONSIDERATIONS**

The Chief of Police and the community relations coordinator should work with the Law Director as appropriate to ensure the committee complies with any legal requirements such as public notices, records maintenance and any other associated obligations or procedures.

#### **338.11 TRAINING**

Subject to available resources, members should receive training related to this policy, including training on topics such as:

- (a) Effective social interaction and communication skills.
- (b) Cultural, racial and ethnic diversity and relations.
- (c) Building community partnerships.
- (d) Community policing and problem-solving principles.
- (e) Enforcement actions and their effects on community relations.

Where practicable and appropriate, community members, especially those with relevant expertise, should be involved in the training to provide input from a community perspective.

#### **338.11.1 STATE CERTIFICATION TESTING**

Officers shall be required annually to read, sign and be tested on this policy.

## Department Use of Social Media

### 339.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Department is consistent with the department mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by department members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this department (see the Investigation and Prosecution Policy).

#### 339.1.1 DEFINITIONS

Definitions related to this policy include:

**Social media** - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the department website or social networking services.

### 339.2 POLICY

The Lorain Police Department may use social media as a method of effectively informing the public about department services, issues, investigations and other relevant events.

Department members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

### 339.3 AUTHORIZED USERS

Only members authorized by the Chief of Police or the authorized designee may utilize social media on behalf of the Department. Authorized members shall use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief of Police may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over department social media by members who are not authorized to post should be made through the member's chain of command.

### 339.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the department mission and conforms to all department policies regarding the release of information may be posted.

Examples of appropriate content include:

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- (a) Announcements.
- (b) Tips and information related to crime prevention.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the Department mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
- (f) Traffic information.
- (g) Press releases.
- (h) Recruitment of personnel.

#### 339.4.1 INCIDENT-SPECIFIC USE

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Public Information Officer or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander.

#### 339.5 PROHIBITED CONTENT

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Lorain Police Department or its members.
- (e) Any information that could compromise the safety and security of department operations, members of the Department, victims, suspects or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a supervisor.

Any member who becomes aware of content on this department's social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

#### 339.5.1 PUBLIC POSTING PROHIBITED

Department social media sites shall be designed and maintained to prevent posting of content by the public.

The Department may provide a method for members of the public to contact department members directly.

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#### **339.6 MONITORING CONTENT**

The Chief of Police will appoint a supervisor to review, at least annually, the use of department social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

#### **339.7 RETENTION OF RECORDS**

Public records generated in the process of social media should be retained in accordance with established records retention schedules.

#### **339.8 TRAINING**

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on department sites.

# Native American Graves Protection and Repatriation

## 340.1 PURPOSE AND SCOPE

This policy is intended to ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

### 340.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

**Funerary objects** - Objects that, as part of the death rite or ceremony of a Native American culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects are either associated funerary objects or unassociated funerary objects.

Associated funerary objects are any funerary objects related to removed human remains, where the location of the human remains is known. This includes objects that were made exclusively for burial purposes or to contain human remains, regardless of the physical location or existence of any related human remains.

Unassociated funerary objects are any other funerary objects that are identified by a preponderance of the evidence such as:

- Related to human remains but the remains were not removed, or the location of the remains is unknown.
- Related to specific individuals or families.
- Removed from specific burial sites with Native American cultural affiliation.
- Removed from an area where such burial sites are known to have existed, but the site no longer exists.

**Native American human remains** - Any physical part of the body of a Native American individual.

**Objects of cultural patrimony** - Objects having ongoing historical, traditional, or cultural importance that is central to the Native American group or culture itself and, therefore, cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

**Sacred objects** - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

## 340.2 POLICY

It is the policy of the Lorain Police Department that the protection of Native American human remains, funerary objects, associated funerary objects, unassociated funerary objects, sacred

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objects, or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption, or complicated custody transfer processes.

#### **340.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT**

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, unassociated funerary objects, sacred objects, or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.5).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.5):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land - Ohio History Connection (ORC § 149.53)
- Tribal land - Responsible Indian tribal official

#### **340.4 EVIDENCE AND PROPERTY**

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.7).

## Part Time / Auxiliary Police Officers

### 341.1 PURPOSE AND SCOPE

The Lorain Police Department part time police & Auxiliary Police units were established to supplement and assist sworn police officers in their duties. These units provide professional, sworn part time, special function, and volunteer officers who can fill select specialized assignments within the department, and are categorized as follows:

- (a) Part time investigator: Supplements full time detectives by conducting background investigations, and other tasks of an investigative nature as directed by the Chief of Police or his designee.
- (b) Part time officer: Supplements full time officers in a limited capacity as directed by the Chief of Police or his designee.
- (c) Part time marine patrol officer: Supplements full time marine patrol officers by patrolling waterways and adjacent recreational areas as directed by the Chief of Police or his designee.
- (d) Auxiliary police officer: Supplements full time officers in limited capacity as directed by the Chief of Police or his designee.

### 341.2 SELECTION AND APPOINTMENT OF PART TIME POLICE OFFICERS

The Lorain Police Department shall endeavor to recruit and appoint only those applicants who meet the high ethical, moral and professional standards set forth by this department.

Part time police officers who work part-time and hold certification by the Ohio Peace Officer Training Commission (OPOTC) under ORC § 109.71 are considered peace officers.

#### 341.2.1 PROCEDURE

All applicants shall be required to pass a background check, and other pre-employment procedures as required by the Chief of Police before appointment.

Before appointment as a part time officer, an applicant must have completed a state-approved basic academy or extended basic academy (OAC § 109:2-1-03(A)(1)).

#### 341.2.2 APPOINTMENT

Applicants who are selected for appointment as a part time police officer shall, on the recommendation of the Chief of Police, be sworn in by the appointing authority and take the Oath of Office as required for the position. Members of the part time police unit serve at the appointing authority's discretion.

A part time police officer shall complete the minimum training required by OPOTC, unless prior training in another state, the military or other certifying entity has been deemed equivalent by OPOTC. Upon completion of the required hours of training, the applicant must take and pass the state certification examination.

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### *Part Time / Auxiliary Police Officers*

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#### **341.2.3 EMPLOYEES WORKING AS PART TIME POLICE OFFICERS**

Qualified employees of this department, when authorized, may also serve as part time police officers. However, the Department shall not utilize the services of a part time officer or volunteer in such a way that it would violate employment laws or labor agreements (e.g., a detention officer working as a part time police officer for reduced or no pay).

#### **341.3 DUTIES OF PART TIME POLICE OFFICERS**

Part time police officers assist regular officers in the enforcement of laws and in maintaining peace and order within the community. Assignments of part time police officers will usually be specific to the assignment they were appointed to fill. Part time police officers may be assigned to other areas within the Department in the event of emergency, or civil unrest.

Part time police officers may act only in a supplementary capacity to the regular force.

##### **341.3.1 POLICY COMPLIANCE**

Part time police officers shall be required to adhere to all Department policies and procedures. Access to the policies and procedures will be made available to each part time police officer via Lexipol upon appointment and they shall become thoroughly familiar with these policies.

Whenever a rule, regulation or guideline in the Policy Manual refers to a sworn full-time officer, it shall also apply to a part time police officer, unless by its nature it is inapplicable.

##### **341.3.2 PART TIME POLICE OFFICER ASSIGNMENTS**

All part time police officers will be assigned to duties by the Chief of Police or designee.

#### **341.4 SUPERVISION**

Part time police officers perform some of the duties of a peace officer and shall fall under the same rank structure as full time officers. Part time police officers may not be employed as a full-time officer, and will take direction from the senior full time officer present in the absence of an Officer in Charge.

##### **341.4.1 IDENTIFICATION OF OFFICERS**

All part time police officers will be issued a uniform badge and a Department identification card. The uniform badge shall be the same as that worn by a regular full time officer. The identification card will be the standard identification card with the exception that the officer's assignment shall also indicate the specialty (i.e.; Investigator, marine patrol, part time officer, ect...) on the card.

##### **341.4.2 UNIFORM**

Part time police officers shall be issued all necessary uniforms and equipment based upon their assignment. Part time police officers shall be required to maintain their issued uniforms / equipment and conform to all uniform regulation & appearance standards of this department. Upon termination, or conclusion of service, all issued uniform and equipment items shall be returned to the Lorain Police Department.

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### *Part Time / Auxiliary Police Officers*

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#### **341.4.3 INVESTIGATIONS AND COMPLAINTS**

If a part time police officer has a complaint made against them or becomes involved in an internal investigation, that complaint or internal investigation shall be investigated in the same manner as a full time police officer.

#### **341.5 TRAINING REQUIREMENTS**

Part time police officers are required to meet the training requirements of OPOTA as well as those directed by the Chief of Police, and should be commensurate with their assignment..

#### **341.6 FIREARMS**

Part time police officers shall successfully complete Department-authorized training in the use of firearms and have their appointment approved by the City prior to being issued a Department firearm or otherwise acting as an officer on behalf of the Lorain Police Department.

Part time police officers will be issued a duty firearm as specified in the Firearms Policy. Any part time police officer who is permitted to carry a firearm other than the assigned duty weapon or any optional firearm may do so only in compliance with the Firearms Policy, and at the discretion of the Chief of Police.

##### **341.6.1 OFF DUTY FIREARMS CARRY**

Part time police officers must have on their person both their badge, and department issued identification card while carrying a firearm off-duty. The weapon, holster, and method of carry must comply with all requirements set forth in Lorain Police Department Policy 306 "Firearms".

#### **341.7 EMERGENCY CALL-OUT FOR PART TIME POLICE PERSONNEL**

The Operations Commander shall develop a plan outlining an emergency call-out procedure for part time police personnel.

#### **341.8 REPORTS TO THE OHIO PEACE OFFICER TRAINING COMMISSION**

This department shall report the following information regarding part time police officers to OPOTC pursuant to ORC § 109.761:

- (a) Within 10 days, any appointment or employment as a part time police officer.
- (b) Within 10 days, any termination, resignation, felony conviction, death or guilty plea as a part time police officer.
- (c) Annually, a roster of all part time police officers.

#### **341.9 AUXILIARY POLICE OFFICER**

The Lorain Police Department operates a functional auxiliary police force. This unit works various part time details in the capacity of security officers, as well as support patrols. These support patrols can be utilized for non- confrontational duties such as; blocking intersections, directing traffic, sitting on downed utility wires, waiting on tow services, etc...

All on-duty Auxiliary Officers will be tracked in CAD and are required to either call out over the radio or via phone to put themselves in and out of service with Lorain Police Dispatch. Auxiliary

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### *Part Time / Auxiliary Police Officers*

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units will identify themselves by unit number which shall be in the 200s, and will call out with "A" or "Auxiliary" preceding their unit number if they have radio traffic.

After hours auxiliary call outs shall be cleared with the Patrol Operations Commander, at which time the Auxiliary Police Chief or his designee will be contacted to arrange necessary personnel.

## **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 intraorganizational cooperation and information sharing.

#### 400.1.1 FUNCTION

Officers will generally patrol in clearly marked vehicles. They will patrol assigned jurisdictional areas of Lorain, respond to calls for assistance, act as a deterrent to crime, enforce state, local and federal laws when authorized or empowered by agreement or statute, and respond to emergencies 24 hours a day, seven days a week.

Patrol will generally provide the following services within the limits of available resources:

- (a) Patrol that is directed at the prevention of criminal acts, traffic violations and collisions, the maintenance of public order and the discovery of hazardous situations or conditions.
- (b) Crime prevention activities, such as residential inspections, business inspections and community presentations.
- (c) Calls for service, both routine and emergency.
- (d) Investigation of both criminal and non-criminal acts.
- (e) The apprehension of criminal offenders.
- (f) Community Oriented Policing and problem-solving activities, such as citizen assists and individual citizen contacts of a positive nature.
- (g) The sharing of information between the patrol and other divisions within the Department, as well as other government agencies.
- (h) The application of resources to specific problems or situations within the community that may be improved or resolved by Community Oriented Policing and problem-solving strategies.
- (i) Traffic direction and control.
- (j) Disasters, civic unrest and natural emergencies.

#### 400.1.2 TERRORISM

It is the goal of the Lorain 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 Criminal Investigations supervisor in a timely fashion.

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## Policy Manual

### *Patrol Function*

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#### **400.2 PATROL INFORMATION SHARING PROCEDURES**

The following guidelines are intended to develop and maintain intraorganizational cooperation and information flow between the various divisions of the Lorain Police Department.

##### **400.2.1 CRIME ANALYSIS UNIT**

The Crime Analysis Unit will provide weekly statistical reports for review.

##### **400.2.2 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 bureau for retention or follow-up investigation.

##### **400.2.3 PATROL BRIEFINGS**

Patrol supervisors, investigative sergeants and special unit sergeants are encouraged to share information as much as reasonably possible. All supervisors and/or officers will be provided an opportunity to share information through daily patrol briefings, as time permits.

##### **400.2.4 BULLETIN BOARDS**

A bulletin board will be kept in the typing room for display of suspect information, investigative reports and photographs. New Special Orders will be made available for patrol supervisors and will be discussed at briefings and shift meetings.

#### **400.3 CROWDS, EVENTS AND GATHERINGS**

Officers may encounter gatherings of people, including but not limited to, civil demonstrations, civic, social and business events, public displays, parades and sporting events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action. Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety/order concerns.

Officers should consider enforcement of applicable state and local laws when the activity blocks the entrance or egress of a facility or location and when voluntary compliance with the law is not achieved.

## Bias-Based Policing

### 401.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the Lorain Police Department's commitment to policing that is fair and objective.

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, partnerships).

#### 401.1.1 DEFINITIONS

Definitions related to this policy include:

**Bias-based policing or improper profiling** - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement. This includes explicit and implicit biases (i.e., conscious and unconscious beliefs or attitudes towards certain groups).

### 401.2 POLICY

The Lorain 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.

### 401.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited in all enforcement actions, including traffic contacts, field contacts, and asset seizure and forfeiture efforts.

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.

### 401.4 MEMBER RESPONSIBILITIES

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member. Officers must conduct themselves in a dignified and respectful manner. Any and all contact with the public will be conducted in accordance with statute and applicable law.

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### *Bias-Based Policing*

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#### 401.4.1 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 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.

#### 401.4.2 REPORTING TRAFFIC STOPS

Each time an officer makes a self-initiated traffic stop, the officer shall report the gender and race or ethnicity of the driver.

#### 401.4.3 INVESTIGATIVE STOPS

- (a) The stopping of persons shall be based on reasonable articulable suspicion based on knowledge of facts that lead the officer to believe that the person is involved in criminal activity, may be armed and dangerous or who have committed a traffic infraction.
- (b) Officers shall not, as a pretext to a stop or detention, conduct a traffic stop or a pedestrian detention based solely on the person's race, ethnicity or national origin, religion, gender, or sexual orientation.
- (c) Officers shall not, as a pretext to a stop or detention, conduct a traffic stop, or a pedestrian detention based on the person's race, ethnicity or national origin for the sole purpose of determining their immigration status.
- (d) A traffic stop or investigative detention shall be conducted without undue delay, and last only as long as is reasonably necessary to perform the duties incurred by virtue of the stop.
- (e) Officers are prohibited from intentionally extending the detention of a person(s) for the sole purpose of determining their immigration status.
- (f) This policy shall not preclude officers from conducting consensual encounters so long as the stop does not constitute illegal profiling, or the pretext of the encounter is solely to determine a person(s) immigration status.

#### 401.4.4 ATTORNEY GENERAL REPORTS

The Traffic Commissioner should ensure that procedures are in place for the submission of bi-monthly reports relating to certain traffic citations (e.g., texting while driving, driving while distracted) to the Ohio Attorney General's Office consistent with the requirements of ORC § 4511.992.

### **401.5 SUPERVISOR RESPONSIBILITIES**

Supervisors should 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.

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### *Bias-Based Policing*

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- (a) Supervisors should discuss any issues with the involved officer and their supervisor in a timely manner.
  - 1. Supervisors should document these discussions, in the prescribed manner.
- (b) Supervisors should periodically review Mobile Video Recorder recordings, portable audio/video recordings, Mobile Data Computer (MDT) 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 or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
  - 1. If biased-based profiling occurs, corrective measures shall be taken, in accordance with the Personnel Complaints 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.

#### **401.6 CORRECTIVE MEASURES**

The Chief of Police or his designee shall be notified as soon as practical of any complaints of discrimination and/or violations of civil rights. These complaints will be thoroughly investigated, regardless of a formal complaint being filed, and if sustained, shall result in a recommendation for corrective action including, but not limited to counseling, training, punitive actions, and/or policy review. Any person may file a complaint with the Department if they feel they have been stopped or searched based on illegal profiling, or subjected to improper treatment. No person shall be discriminated against because they have filed such a complaint.

#### **401.7 ADMINISTRATION**

The Patrol Operations Division Commander should prepare a documented annual review of department practices, collected data, and citizen concerns and complaints and submit an annual report to the Chief of Police. The annual report should not contain any identifying information about any specific complaint, 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 should review the annual report and discuss the results with those they are assigned to supervise.

##### **401.7.1 ANNUAL REPORT**

The Chief of Police or the authorized designee may prepare an annual report that documents the annual administrative review of agency practices, data collected and citizens' concerns.

#### **401.8 TRAINING**

Training on fair and objective policing shall be conducted annually and include:

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## Policy Manual

### *Bias-Based Policing*

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- (a) Explicit and implicit biases.
- (b) Avoiding improper profiling.

#### 401.8.1 ADDITIONAL REQUIREMENTS

Annual training should also include bias-based policing issues and relevant legal aspects, such as: field contacts, traffic stops, search issues, asset seizure and forfeiture, interview techniques, cultural diversity, discrimination, and community support.

## Shift Briefing

### 402.1 PURPOSE AND SCOPE

Shift Briefing is generally conducted at the beginning of the officer's assigned shift. Shift Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct shift briefing. However, officers may conduct shift briefing for training purposes with supervisor approval.

Shift Briefing should accomplish, at a minimum, the following basic tasks:

- (a) Briefing officers with information regarding daily patrol activity, with particular attention given to unusual situations and changes in the status of wanted persons, stolen vehicles and major investigations.
- (b) Notifying officers of changes in schedules and assignments.
- (c) Notifying officers of new Special Orders or changes in Special Orders.
- (d) Reviewing recent incidents for training purposes.
- (e) Providing training on a variety of subjects.

### 402.2 BRIEFING AND ROLL CALL TRAINING

Shift Briefing and roll call training is generally conducted at the beginning of the officer's assigned shift, yet it may occur at another period. Shift Briefing and roll call training should incorporate short training segments on a variety of subjects and may include:

- (a) Review and discussion of new or updated policies.
- (b) Present and discuss proper application of existing policy to routine daily activities.
- (c) Present and discuss proper application of existing policy to unusual activities.
- (d) Reviewing recent incidents for training purposes.

### 402.3 PREPARATION OF MATERIALS

The supervisor conducting shift briefing and/or roll call training, or the officer if the supervisor is unable to participate in a group briefing or roll call training session, is responsible for collection and preparation of the materials necessary for a constructive briefing and/or roll call training. A supervisor may delegate this responsibility to a subordinate officer in his/her absence or for training purposes.

### 402.4 RETENTION OF BRIEFING AND 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.

## Crime and Disaster Scene Integrity

### 403.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

### 403.2 POLICY

It is the policy of the Lorain 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.

### 403.3 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.

### 403.4 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.

### 403.5 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.

#### 403.5.1 CONSENT

When possible, officers should seek written consent to search from authorized individuals. However, in the case of serious crimes or major investigations, it may be prudent to also obtain a search warrant. Consent as an additional authorization may be sought, even in cases where a search warrant has been granted.

## Crisis and Emergency Response

### 404.1 PURPOSE AND SCOPE

The Lorain Police Department has established two specially trained units to handle emergency crisis situations: the Crisis Negotiation Team (CNT) and the Special Weapons and Tactics team (SWAT). These teams have been established to provide specialized support in handling critical field operations where intense negotiations and/or special tactical deployment methods beyond the capacity of field officers appears to be necessary.

#### 404.1.1 OPERATIONAL AND ADMINISTRATIVE POLICY

The Policy Manual sections pertaining to the Special Weapons and Tactics are divided into Administrative and Operational Policy and Procedures. Since situations that necessitate the need for such a law enforcement response vary greatly from incident to incident, and because such events often demand on-scene evaluation, the Operational Policy outlined in this section serves as a guideline to Department personnel, allowing for appropriate on-scene decision-making as required. The Administrative Procedures, however, are more restrictive and few exceptions should be taken.

#### 404.1.2 SWAT TEAM DEFINED

**SWAT Team** - A designated unit of law enforcement officers that is specifically trained and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex or unusual that they may exceed the capabilities of first responders or investigative units. This includes, but is not limited to, hostage taking, barricaded suspects, snipers, apprehension, personal protection, active shooters, special assignments, civil disturbances, terrorist acts and other high-risk incidents. As a matter of department policy, such a unit may also be used to serve high-risk warrants, both search and arrest, where public and officer safety issues warrant the use of such a unit.

#### 404.1.3 COMPOSITION AND STRUCTURE

The Lorain Police SWAT Team is commanded by a supervisor that has tactical experience. When activated for an operation, the SWAT Team Commander, or the senior squad leader when the Commander is absent, reports directly to the Incident Commander, where one has been designated, or to the on-scene supervisor. The SWAT Team Commander is responsible for the deployment of the SWAT Team, tactical decision making and tactical resolution of the incident. The Incident Commander will determine the tactical course of action based on the threat level of the situation. The Incident Commander will utilize recommendations from the SWAT Commander to generate options, however, the Incident Commander will have ultimate authority in choosing the final course of action.

**SWAT COMMANDER:** The SWAT Commander shall be under the direct command of the Patrol Operations Captain. The SWAT Commander is given tactical control over the SWAT Team and is authorized to give orders to team members during an assault or other SWAT operation. The SWAT

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Commander shall also be responsible for documentation and file storage of all SWAT deployment and training reports.

**SQUAD LEADER(S):** Squad Leader(s) shall report directly to the SWAT Commander. Squad Leader(s) shall report any problems/needs of the SWAT Team to the Commander to include: equipment, personnel and training matters, etc. The Senior Squad Leader shall have tactical control of the SWAT Team in the absence of the SWAT Commander. The Squad Leader position(s) shall be composed of Sergeants or designated team members.

**TEAM OPERATORS:** Team Operators shall be composed of sworn officers who report directly to the SWAT Commander or Team Leader(s). Operators may be tasked with various positions within the unit to include: Inner perimeter security, breacher, reactionary/entry team element or sniper/observer.

#### **404.2 POLICY**

It is the policy of this department to maintain a SWAT team and to provide the equipment, manpower and training necessary to maintain a SWAT team. The SWAT team should develop sufficient resources to perform three basic operational functions:

- (a) Command and control.
- (b) Containment.
- (c) Entry/apprehension/rescue.

It is understood that it is difficult to categorize specific capabilities for critical incidents. Training needs may vary based on the experience level of the team personnel, team administrators and potential incident commanders. Nothing in this policy shall prohibit individual teams from responding to a situation that exceeds their training levels due to the exigency of the circumstances. The preservation of innocent human life is paramount.

##### **404.2.1 POLICY CONSIDERATIONS**

A needs assessment should be conducted to determine the type and extent of SWAT missions and operations that are appropriate to this department. The assessment should consider the team's capabilities and limitations and should be reviewed annually by the SWAT commander or designee.

##### **404.2.2 ORGANIZATIONAL PROCEDURES**

This department shall develop a separate written set of organizational procedures that should address, at minimum, the following:

- (a) Locally identified specific missions the team is capable of performing.
- (b) Team organization and function.
- (c) Personnel selection and retention criteria.
- (d) Training and required competencies.

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- (e) Procedures for activation and deployment.
- (f) Command and control issues, including a clearly defined command structure.
- (g) Multi-agency response.
- (h) Extrajurisdictional response.
- (i) Specialized functions and supporting resources.

#### 404.2.3 OPERATIONAL PROCEDURES

This department shall develop a separate written set of operational procedures, in accordance with its level of capability, using sound risk reduction practices.

The Lorain Police SWAT Team will utilize a written planning process for all operations that are proactive or anticipatory in nature, such as warrant service. The written process shall include a format that will document how the operation is to be conducted, command/control/communication, and support required. A copy of operational plans shall be forwarded to the Patrol Operations Captain. All operations plans shall be stored and maintained in a file. The SWAT Team Commander shall cause a log of events to be recorded on all operations, and shall also cause all planning or decision making documents to be recorded. These documents shall be attached to the incident report and a copy shall be stored and maintained in a file. The SWAT Commander will cause an incident report to be generated detailing the activation and the use of the team. The report will include details of the operation and pertinent information required for follow-up investigators, prosecutors, etc.

The operational procedures should include, at a minimum, the following elements:

- (a) Designating personnel responsible for developing an operational or tactical plan prior to, and/or during SWAT operations (time permitting).
  1. All SWAT team members should have an understanding of operational planning.
  2. SWAT team training should consider planning for both spontaneous and planned events.
  3. SWAT teams should incorporate medical emergency contingency planning as part of the SWAT operational plan.
- (b) Plans for mission briefings should be conducted prior to an operation unless circumstances require immediate deployment.
  1. When reasonably possible, briefings should include specialized units and supporting resources.
- (c) Protocols for a sustained operation should be developed. These may include relief, rotation of personnel and augmentation of resources.
- (d) A threat assessment checklist to be worked through prior to initiating a tactical action should be developed to provide a means of conducting a threat assessment to determine the appropriate response and resources necessary, including the use of SWAT. [See attachment: Risk Assessment Form](#)

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- (e) The appropriate role for a trained negotiator should be defined.
- (f) A standard method of determining whether a warrant should be regarded as high risk using the SWAT threat assessment form.
- (g) A method for deciding how best to serve a high-risk warrant with all reasonably foreseeable alternatives being reviewed in accordance with risk/benefit criteria prior to selecting the method of response.
- (h) Post-incident scene management, including:
  - 1. Documentation of the incident.
  - 2. Transition to investigations and/or other units.
  - 3. Debriefing after every deployment of the SWAT team.
    - (a) After-action team debriefing provides evaluation and analysis of critical incidents and affords the opportunity for individual and team assessments. It also helps to identify training needs and reinforces sound risk management practices.
    - (b) Debriefing should not be conducted until involved officers have had the opportunity to individually complete the necessary reports or provide formal statements.
    - (c) To maintain candor and meaningful exchange, debriefing will generally not be recorded.
    - (d) When appropriate, debriefing should include specialized units and resources.
- (i) Sound risk management analysis.
- (j) Standardization of equipment.

#### **404.3 TRAINING NEEDS ASSESSMENT**

The SWAT/SWAT commander shall conduct an annual SWAT training needs assessment to ensure that training is conducted within team capabilities and department policy.

##### **404.3.1 INITIAL TRAINING**

SWAT team operators and SWAT supervisors/team leaders should not be deployed until successful completion of an approved basic SWAT course or its equivalent.

- (a) To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content or topics meet or exceed requirements determined by the Department.

##### **404.3.2 UPDATED TRAINING**

Appropriate team training for the specialized SWAT functions and other supporting resources should be completed prior to full deployment of the team.

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#### 404.3.3 SUPERVISION AND MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the SWAT function at the organizational level. This is to ensure that personnel who provide active oversight at the scene of SWAT operations understand the purpose and capabilities of the team.

Command personnel who may assume incident command responsibilities should attend a SWAT or critical incident commander course or its equivalent. SWAT command personnel should attend a SWAT commander or tactical commander course or its equivalent that has been approved by the department.

#### 404.3.4 SWAT ONGOING TRAINING

Training shall be coordinated by the SWAT commander. The SWAT commander will conduct monthly training exercises that include a review and critique of personnel and their performance in the exercise, in addition to specialized training. Training shall consist of the following:

- (a) Each SWAT member shall perform a physical fitness test quarterly. A minimum qualifying score must be attained by each team member. The physical assessment requirements for specialized units are outlined in the department's procedural directive: Ongoing Physical Assessment Requirements For Specialized Units.
- (b) Any SWAT team member failing to attain the minimum physical fitness qualification score will be notified of the requirement to retest. Within 30 days of the previous physical fitness test date, the member required to qualify shall report to a team supervisor and complete the entire physical fitness test. Failure to qualify after a second attempt may result in dismissal from the team.
- (c) Those members who are on vacation, ill or are on limited duty status with a medical provider's note of approval on the test date shall be responsible for reporting to a team supervisor and taking the test within 30 days of their return to regular duty. Any member who fails to arrange for and perform the physical fitness test within the 30-day period shall be considered as having failed to attain a qualifying score for that test period.
- (d) Annually each SWAT team member shall perform the OPOTA Semi-Auto Pistol qualification course. Failure to qualify will require the officer to seek remedial training from a Firearms Training Supervisor approved by the SWAT commander. Team members who fail to qualify will not be used in SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify within 30 days with or without remedial training may result in dismissal from the team.
- (e) Annually each SWAT team member shall perform a mandatory OPOTA qualification course for any specialty weapon issued to or used by the officer during SWAT operations. Failure to qualify will require the officer to seek remedial training from a Firearms Training Supervisor approved by the SWAT commander. Team members who fail to qualify on their specialty weapon may not utilize the specialty weapon on SWAT operations until qualified. Team members who fail to qualify must retest within 30 days. Failure to qualify with specialty weapons within 30 days may result in the team member being removed from the team or permanently disqualified from use of that particular specialty weapon.

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#### 404.3.5 TRAINING SAFETY

Use of a designated safety officer should be considered for all tactical training.

#### 404.3.6 SCENARIO-BASED TRAINING

SWAT teams should participate in scenario-based training that simulates the tactical operational environment. Such training is an established method of improving performance during an actual deployment.

#### 404.3.7 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Training Division. Such documentation shall be maintained in each member's individual training file. A separate agency SWAT training file shall be maintained with documentation and records of all team training.

### **404.4 UNIFORMS, EQUIPMENT AND FIREARMS**

#### 404.4.1 UNIFORMS

SWAT teams from this department should wear uniforms that clearly identify team members as law enforcement officers. It is recognized that certain tactical conditions may require covert movement. Attire may be selected appropriate to the specific mission. All other items of personal wear or equipment must be approved by the Division Commander.

#### 404.4.2 EQUIPMENT

SWAT teams from this department should be adequately equipped to meet the specific mission identified by the Department.

The Lorain Police SWAT Team shall supply their team members with at least the following safety equipment:

- (a) Ballistic helmet.
- (b) Safety glasses or goggles.
- (c) Hearing protection.
- (d) Complete coverage ballistic entry vest with Threat Level IV insert.
- (e) A load-bearing vest or duty belt for tactical equipment.
- (f) Special weapons as authorized.
- (g) An appropriate amount of ammunition for weapons training.

Swat Team members to whom any item of equipment is issued, are responsible for the care and maintenance of the equipment. Failure to appropriately care for or maintain the equipment in full mission readiness will be grounds for removal from the team.

#### 404.4.3 FIREARMS

Weapons and equipment used by SWAT, the specialized units and the supporting resources should be Department-issued or approved, including any modifications, additions or attachments, and will only be used by properly trained/certified members. Weapons and equipment not

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authorized by the SWAT Commander are prohibited. Such specialized weapons include sub-machineguns, shotguns, high caliber precision rifles, less lethal weapons, flash/noise diversionary devices, and breaching tools and ammunition.

#### 404.4.4 OPERATIONAL READINESS INSPECTION

The commander of the SWAT Team shall appoint a SWAT Team member to perform an operational readiness inspection of all unit equipment at least quarterly. The result of the inspection will be forwarded to the SWAT Team commander. The inspection will include personal equipment issued to members of the unit as well as special use equipment maintained for periodic or occasional use in the SWAT vehicle.

#### **404.5 MANAGEMENT/SUPERVISION OF SPECIAL WEAPONS AND TACTICS**

The commander of the SWAT Team shall be selected by the Chief of Police upon recommendation of the Division Commanders.

##### 404.5.1 SQUAD LEADER

Each squad will be supervised by a squad leader who has been appointed by the SWAT Commander.

The following represents supervisor responsibilities for the Special Weapons and Tactics:

- (a) The SWAT team supervisor's primary responsibility is to supervise the operations of the team, which will include deployment, training, first-line participation and other duties as directed by the Operations Commander or Chief of Police.

#### **404.6 SWAT TEAM ADMINISTRATIVE PROCEDURES**

The SWAT team was established to provide a skilled and trained team that may be deployed during events requiring specialized tactics, in situations where suspects have taken hostages and/or barricaded themselves, as well as prolonged or predictable situations in which persons who are armed or suspected of being armed pose a danger to themselves or others.

The following procedures serve as directives for the administrative operation of the SWAT team.

##### 404.6.1 SELECTION OF PERSONNEL

When a vacancy on the SWAT team exists, an announcement may be made requesting letters of interest. Interested sworn personnel who have completed three years full-time law enforcement experience, shall submit a letter of interest to the SWAT Commander. Those qualifying applicants will then be invited to participate in the testing process. The order of the tests will be given at the discretion of the SWAT Commander. The testing process will consist of an oral board, physical agility test and a SWAT basic handgun and team evaluation.

- (a) Oral board: The oral board will consist of the Operations Division Commander, SWAT Commander, and a third person chosen by the two. Applicants will be evaluated by the following criteria:
  - 1. Recognized competence and ability as evidenced by performance and time in service.

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2. Demonstrated good judgment and an understanding of the critical role of a SWAT team member.
  3. Special skills, training or appropriate education as it pertains to the assignment.
  4. Commitment to the unit, realizing that the additional assignment may necessitate unusual working hours, conditions and training obligations.
- (b) **Physical agility:** The physical agility test is designed to determine the physical capabilities of the applicant as they relate to performance of SWAT-related duties. The test and scoring procedure will be established by the SWAT Commander. A minimum qualifying score shall be attained by the applicant to be considered for the position.
- (c) **SWAT basic handgun:** Candidates will be invited to shoot the SWAT basic drill for the handgun.
- (d) **Team evaluation:** Current team members will evaluate each candidate on field tactical skills, teamwork, ability to work under stress, communication skills, judgment and any special skills that could benefit the team.

#### 404.6.2 TEAM EVALUATION

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the SWAT Commander. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all SWAT team members. Any member of the SWAT team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

#### **404.7 OPERATIONAL GUIDELINES FOR SPECIAL WEAPONS AND TACTICS**

The following procedures serve as guidelines for the operational deployment of the Special Weapons and Tactics. Generally, the SWAT team and the CNT will be activated together. It is recognized, however, that a tactical team may be used in a situation not requiring the physical presence of the CNT, such as warrant service operations. This shall be at the discretion of the Operations Commander or Chief of Police.

##### 404.7.1 ON-SCENE DETERMINATION

The supervisor in charge at the scene of a particular event will assess whether the Special Weapons and Tactics should respond. Upon final determination by the Patrol Operations Commander, the SWAT Commander will be notified.

##### 404.7.2 APPROPRIATE SITUATIONS FOR USE OF A SPECIAL WEAPONS AND TACTICS

The following are examples of incidents that may result in the activation of the Special Weapons and Tactics:

- (a) Barricaded suspects who refuse an order to surrender.
- (b) Incidents where hostages have been taken.
- (c) Cases of suicide threats.

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- (d) Arrests of dangerous persons.
- (e) Any situation where a SWAT response could enhance the ability to preserve life, maintain social order and ensure the protection of property.

#### 404.7.3 OUTSIDE AGENCY REQUESTS

Requests by field personnel for assistance from outside agency crisis units must be approved by the Operations Commander. Deployment of the Lorain Police Department Special Weapons and Tactics in response to requests by other agencies must be authorized by a Division Commander.

#### 404.7.4 MULTIJURISDICTIONAL SWAT OPERATIONS

The SWAT team, including specialized units and supporting resources, should develop protocols, agreements, memorandums of understanding, collective bargaining agreements or working relationships to support multijurisdictional or regional responses.

- (a) If it is anticipated that multijurisdictional SWAT operations will regularly be conducted, SWAT multi-agency and multidisciplinary joint training exercises are encouraged.
- (b) Members of the Lorain Police Department SWAT team shall operate under the policies, procedures and command of the Lorain Police Department when working in a multi-agency situation.

#### 404.7.5 MOBILIZATION OF SPECIAL WEAPONS AND TACTICS

The on-scene supervisor shall make a request to the Operations Commander for the Special Weapons and Tactics to respond. Upon authorization, the on-scene supervisor will activate SWAT through the communications center.

The on-scene supervisor should advise the SWAT Commander with as much of the following information as is available at the time:

- (a) The number of suspects, known weapons and resources.
- (b) If the suspect is in control of hostages.
- (c) If the suspect is barricaded.
- (d) The type of crime involved.
- (e) If the suspect has threatened or attempted suicide.
- (f) The location and safe approach to the command post.
- (g) The extent of any perimeter and the number of officers involved.
- (h) Any other important facts critical to the immediate situation, and whether the suspect has refused an order to surrender.

The SWAT Commander shall then call selected officers to respond. A call-out for the SWAT Team shall include all available team members. Some incidents may not require the entire SWAT Team. The decision to activate a limited number of team members shall rest with the SWAT Team Commander or Operations Division Commander.

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#### 404.7.6 FIELD UNIT RESPONSIBILITIES

While waiting for the Special Weapons and Tactics, field personnel should, if safe, practicable and if sufficient resources exist:

- (a) Establish an inner and outer perimeter.
- (b) Establish a command post outside of the inner perimeter.
- (c) Establish a patrol emergency/arrest response team prior to SWAT arrival. The team actions may include:
  1. Securing any subject or suspect who may surrender.
  2. Taking action to mitigate a lethal threat or behavior.
- (d) Evacuate any injured persons or citizens in the zone of danger.
- (e) Attempt to establish preliminary communications with the suspect. Once the SWAT has arrived, all negotiations should generally be halted to allow the negotiators and SWAT team time to set up.
- (f) Be prepared to brief the SWAT Commander on the situation.
- (g) Plan for and stage anticipated resources.

#### 404.7.7 ON-SCENE COMMAND RESPONSIBILITIES

Upon arrival of the Special Weapons and Tactics, the Incident Commander shall brief the SWAT Commander and team supervisors. Upon review, it will be the Incident Commander's decision, with input from the SWAT Commander, whether to deploy the Special Weapons and Tactics. Once the Incident Commander authorizes deployment, the SWAT Commander 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 support for the Special Weapons and Tactics. Unless the SWAT Commander relinquishes his/her control to another person outside the SWAT Team, no other person who is not in a leadership position within the SWAT Team, will attempt to direct, supervise, or control any element or member of the SWAT Team.

#### 404.7.8 COMMUNICATION WITH SPECIAL WEAPONS AND TACTICS PERSONNEL

All persons who are non-Special Weapons and Tactics personnel should refrain from any non-emergency contact or from interference with any member of the unit during active negotiations. Operations require the utmost in concentration by involved personnel. No one should interrupt or communicate with SWAT personnel directly. All non-emergency communications shall be channeled through the Incident Commander or designee.

#### **404.8 CRISIS NEGOTIATION TEAM ADMINISTRATIVE PROCEDURES**

The CNT has been established to provide skilled verbal communicators, who may be utilized to attempt to de-escalate and effect surrender in critical situations where suspects have taken hostages, barricaded themselves or have suicidal tendencies. Crisis Negotiators are responsible for conducting negotiations with suspects and victims during the deployment of the team.

The following procedures serve as directives for the administrative operation of the CNT.

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#### 404.8.1 SELECTION OF PERSONNEL

When a vacancy on the CNT exists, an announcement may be made requesting letters of interest. Interested sworn personnel, who are off probation, shall submit a request to their appropriate Division Commander. A copy will be forwarded to the CNT Commander. Qualified applicants will then be invited to an oral interview. The oral board will consist of the CNT Commander, Division Commander and a third person to be selected by the two. Interested personnel shall be evaluated by the following criteria:

- (a) Recognized competence and ability as evidenced by performance.
- (b) Demonstrated good judgment and an understanding of the critical role of a negotiator and the negotiation process.
- (c) Effective communication skills to ensure success as a negotiator.
- (d) Special skills, training or appropriate education as it pertains to the assignment.
- (e) Commitment to the unit, realizing that the assignment may necessitate unusual working hours, conditions and training obligations.

The oral board shall submit a list of successful applicants to the staff for final selection.

#### 404.8.2 TRAINING OF NEGOTIATORS

Those officers selected as members of the CNT should attend a department-approved basic negotiator's course prior to deployment in an actual crisis situation. Untrained officers may be used in a support or training capacity. Additional training will be coordinated by the team supervisor.

A minimum of one training day per quarter will be required to provide the opportunity for role playing and situational training that is necessary to maintain proper skills. This will be coordinated by the team supervisor.

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the unit shall be conducted by the team supervisor. Performance and efficiency levels established by the team supervisor will be met and maintained by all team members. Any member of the CNT who performs or functions at a level less than satisfactory shall be subject to dismissal from CNT.

#### 404.8.3 CRISIS NEGOTIATION TEAM COMMANDER

The Crisis Negotiator Team Commander's primary responsibility is to supervise the operations of the team, to include deployment, training, first-line participation and to coordinate negotiations operations with the SWAT Team Commander if deployed during a SWAT Team activation.

## Ride-Alongs

### 405.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for a ride-along with members of the Lorain Police Department. This policy provides the requirements, approval process, hours of operation, and member responsibilities for ride-alongs.

### 405.2 REQUESTS TO PARTICIPATE

Generally, ride-along and job observation requests will be maintained and scheduled by the Operations Commander. The applicant will complete and sign a ride-along or job observation waiver form. If the applicant is under 18 years of age, a parent or guardian must be present to complete the waiver form. Information requested will include a valid state-issued identification card or driver license number, birthdate, address, and telephone number.

The Operations Commander will schedule a date, based on availability, generally one week after the date of application. If approved, a copy of the waiver form will be forwarded to the respective Watch Commander as soon as possible for scheduling considerations.

If the request is denied, a representative of the department will advise the applicant of the denial.

### 405.3 MEMBERS RESPONSIBILITIES

The department member shall consider the safety of the ride-along or job observation participant at all times. The member shall maintain control over the participant and shall instruct the individual about the conditions that necessarily limit the individual's participation. Instructions should include:

- (a) The participant will follow the directions of the department member.
- (b) The participant will not become involved in any investigation, handling of evidence, discussions with victims or suspects, reading an individual's criminal history or other protected information, or handling any police department equipment.
- (c) Participation may be terminated at any time by the member if the participant interferes with the performance of the member's duties.
  1. If the ride-along is in progress, the member may return the participant to the point the ride originated.
- (d) Participants may be allowed to continue a ride-along during the transportation and booking process, provided it does not jeopardize their safety.
- (e) Members will not allow participants to be present in any location or situation that would jeopardize the participant's safety or cause undue stress or embarrassment to a victim or any other member of the public.
- (f) Participants who are not law enforcement officers shall not be permitted to accompany the department member into a private residence without the express consent of the resident or other authorized person.

The member assigned to provide a ride-along shall advise the telecommunicator that a ride-along participant is present in the vehicle before going into service. An officer with a ride-along participant

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should use sound discretion when encountering a potentially dangerous situation, such as a high-speed pursuit and, if feasible, let the participant out of the vehicle in a well-lighted public place. The dispatcher will be advised of the situation and as soon as practicable have another department member respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

Conduct by a person participating in a ride-along that results in termination of the ride-along, or is otherwise inappropriate, should be immediately reported to the Watch Commander. The member should enter comments regarding the reasons for terminating the ride-along on the waiver form.

Upon completion of the ride-along, the member shall return the waiver form to the Watch Commander.

#### **405.4 POLICY**

Ride-along opportunities will be provided to the members of the public, City employees, and members of this department to observe and experience, first-hand, various functions of the Lorain Police Department. The term "ride-along" includes riding as a passenger with an officer on patrol or observing the work day of members engaged in other functions within the Department, such as the Communications Center.

#### **405.5 ELIGIBILITY**

A ride-along is available to Lorain residents and business owners, students currently attending class in Lorain, and those employed within the City of Lorain. Efforts will be made to accommodate all interested persons. However, any applicant may be disqualified without cause from participating.

Factors that may be considered in disqualifying an applicant include, but are not limited to:

- Being under 15 years of age.
- Prior criminal history.
- Pending criminal action.
- Pending lawsuit against this department or the [city/county].
- Denial by any supervisor.

#### **405.6 AVAILABILITY**

A ride-along or job observation is available most days of the week, from 10:00 a.m. to 11:00 p.m. Exceptions to this schedule may be made as approved by the Chief of Police or Watch Commander.

#### **405.7 PROCEDURES**

Once approved, ride-along applicants will be allowed to participate no more than once every six months. An exception may apply to the following law enforcement-involved participants:

- Explorers

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- Volunteers
- Chaplains
- Reserves
- Lorain Police Department applicants
- Any others with approval of the Watch Commander
- Students enrolled in any department-approved dispatcher training course

An effort will be made to ensure that no more than one member of the public will participate in a ride-along or job observation during any given time period. Normally, no more than one ride-along participant will be allowed in department vehicles at a given time.

Ride-along requirements for department Explorers are covered in the Police Cadets and Explorers Policy.

#### 405.7.1 OFF-DUTY PARTICIPATION

Off-duty members of this department or any other law enforcement agency, and employees of the City, will not be permitted to participate in a ride-along with on-duty members of this department without the express consent of the Chief of Police.

In the event that such participation is permitted, the off-duty department member, other law enforcement agency personnel, or City employee shall not:

- (a) Be considered on-duty.
- (b) Represent themselves as a member of this department or any other law enforcement agency.
- (c) Participate in any law enforcement activity except as emergency circumstances may require at the direction of the road OIC or officer assigned to them.

#### 405.7.2 CRIMINAL HISTORY CHECK

All ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and any other authorized state or national check prior to approval (provided the ride-along is not an employee of the Lorain Police Department).

#### 405.7.3 SUITABLE ATTIRE

Any person approved to participate in a ride-along is required to be suitably dressed in a collared shirt, blouse or jacket, slacks, and shoes. Sandals, t-shirts, tank tops, shorts, and ripped or torn pants are not permitted. Hats and ball caps will not be worn without the express consent of the Watch Commander. The Watch Commander or a supervisor may refuse a ride-along to anyone who is not dressed appropriately.

# Hazardous Material Response

## 406.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees as a result of their exposure. To comply with Ohio law, the following represents the policy of this department.

### 406.1.1 HAZARDOUS MATERIAL DEFINED

**Hazardous Material** - A substance which, by its nature, containment, or 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.

## 406.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic collision, chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and other persons.

A hazardous material response shall be in compliance with the County Chemical Emergency Response and Preparedness Plan (ORC § 3750.01 et seq.; OAC § 3750-1-01 et seq.).

The fire department, under the Ohio Fire Service Emergency Response Plan (OFCERP) for Hazardous Materials/WMD Incident Response, is the agency trained and equipped to properly respond and mitigate most hazardous materials and biohazards. Fire department personnel have the primary role and authority in a HAZMAT incident. The OFCERP provides a central contact number for requests for assistance and operations support (888-822-4900).

Responders should not perform tasks or use equipment without proper training.

A responder entering the area may require decontamination before he/she is allowed to depart the scene and should be evaluated by appropriate technicians and medical professionals for signs of exposure.

The following steps should be considered at any scene involving suspected hazardous materials:

- (a) Make reasonable efforts to secure the scene to prevent access from unauthorized personnel.
- (b) Safely attempt to identify the type of hazardous material. Identification can be determined by placard, driver's manifest or statements from the person transporting the material.
- (c) Notify the appropriate fire department.
- (d) Provide first aid to injured parties if it can be done safely and without contamination.
- (e) Begin evacuation of the immediate and surrounding areas dependent on the material. Voluntary evacuation should be considered. Depending on the material, mandatory evacuation may be necessary.

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### *Hazardous Material Response*

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- (f) Responders should remain uphill and upwind of the hazard until a zone of entry and a decontamination area is established.

#### **406.3 REPORTING EXPOSURE**

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, which shall be forwarded via chain of command to the 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.

##### **406.3.1 SUPERVISOR RESPONSIBILITIES**

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 treat 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 appropriate fire department.

## Hostage and Barricade Incidents

### 407.1 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.

#### 407.1.1 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.

### 407.2 POLICY

It is the policy of the Lorain 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.

### 407.3 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.

### 407.4 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

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### *Hostage and Barricade Incidents*

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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.

#### 407.4.1 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.
- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.

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#### 407.4.2 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 (PIO).

If necessary and available, establish a tactical or exclusive radio frequency for the incident.

#### **407.5 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

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### *Hostage and Barricade Incidents*

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and assume the role of Incident Commander until properly relieved. This includes requesting a 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 the Communications Center.
- (i) Identify a media staging area outside the outer perimeter and have the department PIO 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.

#### **407.6 SPECIAL WEAPONS AND TACTICS RESPONSIBILITIES**

It will be the Incident Commander's decision, with input from the SWAT Commander, whether to deploy the 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 the SWAT. The Incident Commander and the SWAT Commander or the authorized designee shall maintain communications at all times.

#### **407.7 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.

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## Response to Bomb Calls

### 408.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Lorain Police Department in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such 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 should always be the primary consideration. Any movement or investigation of suspected devices should be left to the Lorain County Bomb Squad personnel. LPD employees will not actively participate in search operations unless asked or required to do so.

### 408.2 POLICY

It is the policy of the Lorain Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

### 408.3 RECEIPT OF BOMB THREAT

Department members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established department evidence procedures.

The member receiving the bomb threat should ensure that the Watch Commander is immediately advised and informed of the details. This will enable the Watch Commander to ensure that the appropriate personnel are dispatched and, as appropriate, the threatened location is given an advance warning.

Documentation of the incident will include the completion of an incident report and a written statement taken from the person receiving a telephone bomb threat call. This written statement must include, the time the call was received, the phone number on which the call was received, notation as to whether or not the person receiving the call dialed "\* 57" after hanging up with the bomb threat caller, the name and telephone number of the last (or any other) call received immediately before the bomb threat call and the name and telephone number of the first (or any other) call received immediately after the bomb threat call.

Bomb technicians will not be requested to respond to locations involved in a bomb threat where no suspicious package or hazardous device has been located, or to assist in searching the location. Bomb technicians will be requested to search locations only if there is probable cause to believe the location has been booby trapped.

### 408.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

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### *Response to Bomb Calls*

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#### 408.4.1 LORAIN POLICE DEPARTMENT FACILITY

If the bomb threat is against the Lorain Police Department facility, the Watch Commander will direct and assign officers as required for coordinating a general building search or evacuation of the police department, as he/she deems appropriate.

#### 408.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the Lorain Police Department that is not the property of this department, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the Watch Commander deems appropriate.

#### 408.4.3 FEDERAL BUILDING OR PROPERTY

If the bomb threat is against a federal building or property, the Federal Protective Service should be immediately notified. The Federal Protective Service provides a uniformed law enforcement response for most facilities, which may include use of its Explosive Detector Dog teams.

If the bomb threat is against a federal government property where the Federal Protective Service is unable to provide a timely response, the appropriate facility's security or command staff should be notified.

Bomb threats against a military installation should be reported to the military police or other military security responsible for the installation.

#### **408.5 PRIVATE FACILITY OR PROPERTY**

When a member of this department receives notification of a bomb threat at a location in the City of Lorain, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

- (a) The location of the facility.
- (b) The nature of the threat.
- (c) Whether the type and detonation time of the device is known.
- (d) Whether the facility is occupied and, if so, the number of occupants currently on-scene.
- (e) Whether the individual is requesting police assistance at the facility.
- (f) Whether there are any internal facility procedures regarding bomb threats in place, such as:
  - 1. No evacuation of personnel and no search for a device.
  - 2. Search for a device without evacuation of personnel.
  - 3. Evacuation of personnel without a search for a device.
  - 4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Watch Commander is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

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#### 408.5.1 ASSISTANCE

The Watch Commander should be notified when police assistance is requested. The Watch Commander will make the decision whether the Department will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including police control over the facility.

Should the Watch Commander determine that the Department will assist or control such an incident, he/she will determine:

- (a) The appropriate level of assistance.
- (b) The plan for assistance.
- (c) Whether to evacuate and/or search the facility.
- (d) Whether to involve facility staff in the search or evacuation of the building.
  1. The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.
  2. The safety of all participants is the paramount concern.
- (e) The need for additional resources, including:
  1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request police assistance to clear the interior of a building, based upon the circumstances and known threat, officers may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

#### **408.6 FOUND DEVICE**

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging. Hazardous devices will not be brought into Police Headquarters or any other Lorain Police facility.
- (b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.
- (c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within 300 feet of the suspected device. This includes the following:
  1. Two-way radios
  2. Cell phones
  3. Other personal communication devices
- (d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.

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- (e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
- (f) A safe access route should be provided for support personnel and equipment.
- (g) Search the area for secondary devices as appropriate and based upon available resources.
- (h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.
- (i) Fire Department and EMS Units will be dispatched to respond and stand by near the scene in case of a detonation.
- (j) Promptly relay available information to the Watch Commander including:
  - (a) The time of discovery.
  - (b) The exact location of the device.
  - (c) A full description of the device (e.g., size, shape, markings, construction).
  - (d) The anticipated danger zone and perimeter.
  - (e) The areas to be evacuated or cleared.

#### **408.7 EXPLOSION/BOMBING INCIDENTS**

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic events, a rapid response may help to minimize injury to victims, minimize contamination of the scene by gathering crowds, or minimize any additional damage from fires or unstable structures.

##### **408.7.1 CONSIDERATIONS**

Officers responding to explosions, whether accidental or a criminal act, should consider the following actions:

- (a) Assess the scope of the incident, including the number of victims and extent of injuries.
- (b) Request additional personnel and resources, as appropriate.
- (c) Assist with first aid.
- (d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.
- (e) Assist with the safe evacuation of victims, if possible.
- (f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.
- (g) Preserve evidence.
- (h) Establish an outer perimeter and evacuate if necessary.
- (i) Identify witnesses.

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### *Response to Bomb Calls*

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#### 408.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Fire department
- Bomb squad
- Additional department personnel, such as investigators and forensic services
- Field supervisor
- Watch Commander
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate

#### 408.7.3 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel. Traffic should be diverted around the evacuation zone.

#### 408.7.4 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. The Criminal Investigation Division (CID) shall have primary responsibility for investigating bombing incidents, and will be responsible for crime scene management and will conduct a joint investigation with LFD, the State Fire Marshal's Office, and the BATF. The Watch Commander should assign officers to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

## Civil Commitments

### 409.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may place an individual under protective custody for civil commitment (ORC § 5122.10).

### 409.2 POLICY

It is the policy of the Lorain Police Department to protect the public and individuals through legal and appropriate use of the civil commitment process.

### 409.3 AUTHORITY

If an officer has reason to believe that a person is a person with a mental illness and subject to a court order because the person presents a substantial risk of physical harm to themselves or others, the officer may take, or cause the person to be taken, into custody and immediately transport the person to an appropriate hospital for evaluation (ORC § 5122.10).

#### 409.3.1 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.

### 409.4 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.
- (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.

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### *Civil Commitments*

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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.

#### **409.5 TRANSPORTATION**

When transporting any individual for a civil commitment, the transporting officer should have the Communications Center 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, Watch Commander approval is required before transport commences.

##### **409.5.1 MANNER OF TRANSPORTATION**

Officers should make an effort to take individuals into custody in the least conspicuous manner possible. The officer shall inform the individual (ORC § 5122.10):

- (a) Of the officer's name, rank/title and agency.
- (b) That the person is not being arrested.
- (c) That the person is being taken for examination by mental health professionals at a mental health facility identified by name.

Officers may transport individuals in a patrol vehicle and shall secure them in accordance with the Handcuffing and Restraints Policy.

#### **409.6 TRANSFER TO APPROPRIATE FACILITY**

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking voluntary treatment, the officer should provide the staff member with the written application for a civil commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

#### **409.7 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.

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#### 409.7.1 REQUIRED DOCUMENTATION

The application for emergency admission should include the circumstances under which the person's condition was called to the attention of the officer, the circumstances under which the person was taken into custody and a description of probable cause to believe that the person, because of mental illness, chemical dependency or intoxication, is likely to harm him/herself or others if allowed his/her liberty. This statement shall be made available to the person or the person's attorney upon the request of either (ORC § 5122.10).

#### 409.8 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:

- (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.

#### 409.9 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.

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#### 409.9.1 RETURN OF FIREARM

The officer taking custody of any firearm or other deadly weapon should document the firearm information thoroughly in the case report (including any serial number), photograph the weapon documenting it's condition, and indicate the location where the weapon may be recovered.(ORC § 2923.163).

#### **409.10 TRAINING**

This department will endeavor to provide department-approved training on interaction with mentally disabled persons, civil commitments and crisis intervention.

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## Citation Releases

### 410.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of the Lorain 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.

Additional release restrictions may apply to those detained for domestic violence, as outlined in the Domestic Violence Policy.

### 410.2 POLICY

The Lorain Police Department will consider its resources and protecting the community when exercising any discretion to release suspected offenders on a citation when authorized to do so.

### 410.3 RELEASE

A suspected offender may be released on issuance of a citation as follows:

- (a) In cases of minor misdemeanors, officers shall not arrest the offender but shall issue a citation for all offenses in which the potential penalty does not exceed \$150 (ORC § 2935.26; Ohio R. Crim. P. 4.1(B)).
- (b) In all other misdemeanors, unless otherwise prohibited by law, officers having probable cause to arrest a person may, in lieu of making the arrest, issue the person a summons to appear if the officer reasonably believes that the summons will ensure the person's appearance. The officer shall also file a complaint describing the alleged offense (Ohio R. Crim. P. 4(3)).

### 410.4 PROHIBITIONS

The release of a suspected offender on a citation is not permitted when:

- (a) The offense is a minor misdemeanor (ORC § 2935.26(A)) and one of the following applies:
  - 1. The offender requires medical care or is unable to provide for his/her own safety.
  - 2. The offender cannot or will not offer satisfactory evidence of his/her identity.
  - 3. The offender refuses to sign the citation.
  - 4. The offender has previously been issued a citation for the commission of that misdemeanor and has failed to either:
    - (a) Appear at the time and place stated in the citation.
    - (b) Within seven days after receiving the citation, sign a plea of guilty and pay the total fine and costs by appearing in person or mailing the citation to the court.

See the Domestic Violence Policy for release restrictions related to those investigations.

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### *Citation Releases*

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#### **410.5 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 alleged offender.
- (c) The ability to identify the 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 a reasonable likelihood that criminal conduct by the individual will continue.

# Foreign Diplomatic and Consular Representatives

## 411.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Lorain Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

## 411.2 POLICY

The Lorain Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

## 411.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

## 411.4 ENFORCEMENT ACTION

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

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### *Foreign Diplomatic and Consular Representatives*

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- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
  - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
  - 1. Diplomatic-level staff of missions to international organizations and recognized family members
  - 2. Diplomatic agents and recognized family members
  - 3. Members of administrative and technical staff of a diplomatic mission and recognized family members
  - 4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
  - 1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
  - 2. Support staff of missions to international organizations
  - 3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
  - 4. Honorary consular officers

#### **411.5 DOCUMENTATION**

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

#### **411.6 DIPLOMATIC IMMUNITY TABLE**

Reference table on diplomatic immunity:

Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members

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<b>Diplomatic Agent</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Member of Admin and Tech Staff</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Service Staff</b>	Yes (note (a))	Yes	Yes	Yes	No for official acts Yes otherwise (note (a))	No immunity or inviolability (note (a))
<b>Career Consul Officer</b>	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts Yes otherwise (note (a))	No immunity or inviolability
<b>Honorable Consul Officer</b>	Yes	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise	No immunity or inviolability
<b>Consulate Employees</b>	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise	No for official acts Yes otherwise (note (a))	No immunity or inviolability (note (a))
<b>Int'l Org Staff (note (b))</b>	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts Yes otherwise (note (c))	No immunity or inviolability
<b>Diplomatic-Level Staff of Missions to Int'l Org</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Support Staff of Missions to Int'l Orgs</b>	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

- (a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.

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### *Foreign Diplomatic and Consular Representatives*

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- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

#### **411.7 OTHER CONSULAR NOTIFICATION SITUATIONS**

Officers must make consular notification to the US DOS in incidents where death occurs to a foreign national or diplomat or when a foreign ship or aircraft wrecks or crashes. Details on consular notification can be located on the DOS website at [travel.state.gov](http://travel.state.gov) or by calling 202-458-7703. Urgent telephone inquiries outside normal business hours may also be made to the DOS operations Center at 202-647-1512.

## Rapid Response and Deployment

### 412.1 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 officers in situations that call for rapid response and deployment.

### 412.2 POLICY

The Lorain 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.

### 412.3 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.

### 412.4 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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### *Rapid Response and Deployment*

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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 with other personnel or resources.
- (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 a 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).

#### **412.5 TRAINING**

The Training Coordinator should include rapid response to critical incidents in the training plan. This training should address:

- (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).

#### **412.5 PLANNING**

The Patrol Operations Division Commander 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.

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### *Rapid Response and Deployment*

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- (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.

#### 412.5.1 SCHOOL SAFETY DRILLS

The Patrol Operations Division Commander or the authorized designee should cooperate with local school officials required to conduct school safety drills in conjunction with the Lorain Police Department pursuant to ORC § 3737.73. The Department should consider information obtained during the drills when pre-planning department emergency responses to schools.

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# Immigration Violations

## 413.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Lorain Police Department relating to immigration and interacting with federal immigration officials.

## 413.2 POLICY

It is the policy of the Lorain 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.

## 413.3 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 Ohio constitutions.

## 413.4 DETENTIONS

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of federal immigration law may detain the person for a reasonable period of time in order to contact federal immigration officials to verify whether an immigration violation is a federal civil violation or a criminal violation. If the violation is a criminal violation, the officer may continue to detain the person for a reasonable period of time if requested by federal immigration officials (8 USC § 1357(g)(10)). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has committed a criminal immigration offense, he/she may continue the detention and may request a federal immigration official to respond to the location to take custody of the detained person (8 USC § 1357(g)(10)).

An officer is encouraged to forgo detentions made solely on the basis of a misdemeanor offense when time limitations, availability of personnel, issues of officer safety, communication capabilities, or the potential to obstruct a separate investigation outweigh the need for the detention.

An officer should notify a supervisor as soon as practicable whenever an individual is being detained for a criminal immigration violation.

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### *Immigration Violations*

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#### 413.4.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has detained an individual and established reasonable suspicion or probable cause to believe the person has violated a criminal immigration offense, the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Lawfully arrest the person for a criminal offense or pursuant to a judicial warrant (see the Law Enforcement Authority Policy).

#### **413.5 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.

#### **413.6 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, such as traffic control or peacekeeping efforts.

#### **413.7 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):

- (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

#### 413.7.1 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.

#### **413.8 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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### *Immigration Violations*

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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 Criminal Investigations supervisor assigned to oversee the handling of any related case. The Criminal Investigations 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.
  - 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.

#### **413.9 TRAINING**

The Training Coordinator should ensure officers receive training on this policy.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed.

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## Emergency Utility Service

### 414.1 PURPOSE AND SCOPE

The City Public Works Department has personnel available to handle emergency calls 24 hours per day, seven days a week. Calls for service during non-business hours are frequently directed to the Police Department. Requests for such service received by this department should be handled in the following manner.

#### 414.1.1 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 practicable by the Communications Center. The Lorain Water Department can be contracted at 440-204-2280.

#### 414.1.2 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. Ohio Edison should be promptly notified, as appropriate by contacting the police emergency number at 800-527-8059.

#### 414.1.3 RESERVOIRS, PUMPS AND WELLS

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.

#### 414.1.4 EMERGENCY NUMBERS

A current list of emergency personnel who are to be called for municipal utility emergencies will be maintained by the Communications Center.

### 414.2 TRAFFIC SIGNAL MAINTENANCE

The City of Lorain Street Department provides maintenance for all traffic signals within the City, other than those maintained by the Ohio Department of Transportation (ODOT).. The Street Department can be contacted at 440-204-2550 option 3.

#### 414.2.1 OFFICER'S RESPONSIBILITIES

Upon observing a damaged or malfunctioning signal, the officer will advise the Communications Center of the location and problem with the signal. The dispatcher should make the necessary notification to the proper maintenance agency.

## Field Training Officer Program

### 415.1 PURPOSE AND SCOPE

The Field Training Officer Program 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 Lorain Police Department.

It is the policy of this department to assign all new police officers to a structured Field Training Officer Program that is designed to prepare the new officer to perform in a patrol assignment and to acquire all of the skills needed to operate in a safe, productive and professional manner.

### 415.2 FIELD TRAINING OFFICER

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.

#### 415.2.1 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, two of which shall be with this department.
- (c) Demonstrated ability as a positive role model.
- (d) Participate and pass an internal oral interview selection process.
- (e) Evaluation by supervisors and current FTOs.
- (f) Possess a basic training certificate from the Ohio Peace Officer Training Commission (OPOTC).
- (g) A track record for being above-average in initiative and self-motivation.
- (h) No Major sustained complaints for two years prior to the appointment to the assignment.
- (i) The ability to formulate clear and complete reports.
- (j) The ability to communicate as an instructor.
- (k) At a minimum, a professional appearance as required by policy.
- (l) Sensitivity to cultural differences and the special training needs of a probationary employee.

#### 415.2.2 TRAINING

An officer selected as an FTO shall successfully complete a Field Training Officer's course approved by the Department prior to being assigned as an FTO.

All FTOs must complete a Field Training Officer update course approved by the Department periodically while assigned to the position of FTO.

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### *Field Training Officer Program*

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#### **415.3 FIELD TRAINING OFFICER PROGRAM SUPERVISOR**

The Field Training Officer Program supervisor will be selected from the rank of sergeant or above by the Chief of Police or designee and should complete Department-approved supervisory training within one year of appointment to this position.

The responsibilities of the FTO Program supervisor include the following:

- (a) Assignment of trainees to FTOs.
- (b) Conduct 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 FTO 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.

#### **415.4 TRAINEE DEFINED**

**Trainee** - Any entry level or lateral police officer newly appointed to the Lorain Police Department who has successfully completed an OPOTC approved basic academy and possesses an OPOTC basic training certificate within one year after commencing employment as a peace officer.

#### **415.5 REQUIRED TRAINING**

Entry level officers shall be required to successfully complete the Field Training Program.

The training period for officers with previous experience may be modified depending on the trainee's demonstrated performance and level of experience, but shall consist of a minimum of eight weeks.

The Field Training Officer may recommend that a probationary Officer with previous experience, may be accelerated through the FTO program.

The required training will take place on at least two different shifts and with at least two different FTOs if reasonably possible.

- (a) The Field Training Program for probationary officers is divided into three phases.
  1. Phase one consists of the basic peace officer academy.
  2. Phase two consists of two weeks of street orientation then a minimum of sixteen (16) weeks of intensive in-the-field training with an FTO.
    - (a) There are four steps in phase two, during which time the FTO submits daily observation reports (DOR's) reflecting the PO's performance. The DOR is made up of individual tasks on which the PO will be evaluated daily.

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### *Field Training Officer Program*

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- (b) Upon completion of the FTO program, the PO will complete a supervisor evaluation period, where designated Lorain Police supervisors will ride in an evaluation role only for a minimum of one week, to give a final assessment of the PO's readiness for solo officer assignment. This evaluation period may be extended beyond one week, based on the supervisor's availability to evaluate, and the PO's performance.
  - (c) The supervisor assigned to evaluate the PO will complete a daily written report on the PO's performance.
3. Phase three consists of the remainder of the PO's probationary period during which time the performance of the officer is monitored by the FTO Supervisor.
- (b) The PO will rotate throughout the Field Training Program with various FTOs.
  - (c) Documented meetings concerning the progress of the PO will be held weekly with the FTO Supervisor.
  - (d) The FTO will maintain liaison with the FTO Supervisor throughout the training period. During this time, the FTO will forward DOR's and any other pertinent paperwork to the FTO Supervisor.
  - (e) Guidelines for the evaluation of probationary officers by the FTO will use measurable characteristics listed in the FTO manual.
  - (f) Prior to assuming the duties of FTO, officers selected as an FTO will attend a department-approved FTO training course.

#### POLICY AND PROCEDURE TRAINING

- (a) The Department utilizes an FTO program for further training after academy training is concluded. The FTO training manual covers the policies and procedures of the Department.
- (b) The Department will conduct Policy and Procedure Training before a probationary officer (PO) is assigned to a Field Training Officer (FTO).

#### 415.5.1 ACCELERATED PROGRAM

Classroom and field training will be conducted simultaneously.

The Field Training program shall be four hundred eighty (480) hours for sworn patrol members, but may be modified based on performance and prior experience.

ORIENTATION SHALL INCLUDE (but not be limited to):

- (a) Organization and rank structure of the Department.
- (b) Department reports/administration paperwork.
- (c) Department policy statements, procedures, rules and regulations.
- (d) Communications, radio codes.

OPERATIONS SHALL INCLUDE, (but not be limited to):

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### *Field Training Officer Program*

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- (a) Firearms familiarization, training, qualification. Criminal law, Criminal investigation, Criminal arrest procedures.
- (b) Traffic law, Accident investigation, Traffic Enforcement.
- (c) Civil liability issues.
- (d) Defensive tactics, Baton certification, O.C. and Taser.

#### 415.5.2 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 skills necessary to properly function as an officer with the Lorain 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 of the Lorain Police Department.

#### **415.6 EVALUATIONS**

Evaluations are an important component of the training process and shall be completed as outlined below.

##### 415.6.1 FIELD TRAINING OFFICER

- (a) FTOs shall complete and submit a written evaluation on the performance of their assigned trainee.
- (b) FTOs shall review the Daily Trainee Performance Evaluations with the trainee each day.
- (c) A detailed end-of-phase performance evaluation on the assigned trainee shall be completed by the FTO at the end of each phase of training.
- (d) FTOs shall be responsible for signing off on all completed topics contained in the Field Training Manual, noting the method of learning and evaluating the performance of the assigned trainee.

##### 415.6.2 IMMEDIATE SUPERVISOR

The FTO supervisor shall review and approve the Daily Observation Reports.

##### 415.6.3 FIELD TRAINING ADMINISTRATOR

The Field Training Supervisor will hold periodic meetings with all FTOs to ensure understanding and compliance with the requirements of the Field Training Program. At least annually, the Field Training Supervisor will hold a process review meeting with all FTOs to discuss changes needed in the FTO Program.

##### 415.6.4 TRAINEE

At the completion of the Field Training Program, the trainee shall submit a performance evaluation of each of his/her FTOs and of the Field Training Program.

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**415.7 DOCUMENTATION**

All documentation of the Field Training Program will be retained in the officer's training files and will consist of the following:

- (a) Daily Trainee Performance Evaluations.
- (b) End of phase evaluations.

## Aircraft Accidents

### 416.1 PURPOSE AND SCOPE

The purpose of this policy is to provide department members with guidelines for handling aircraft accidents.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Emergency Management Plan and Hazardous Material Response policies.

#### 416.1.1 DEFINITIONS

Definitions related to this policy include:

**Aircraft** - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

### 416.2 POLICY

It is the policy of the Lorain Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

### 416.3 ARRIVAL AT SCENE

Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

- (a) Protect persons and property.
- (b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.
- (c) Preserve ground scars and marks made by the aircraft.
- (d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.
- (e) Maintain a record of persons who enter the accident site.
- (f) Consider implementation of an Incident Command System (ICS).

### 416.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

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### *Aircraft Accidents*

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#### **416.5 NOTIFICATIONS**

When an aircraft accident is reported to this department, the responding supervisor shall ensure notification is or has been made to the Ohio State Highway Patrol at 440-365-5045, NTSB at 844-373-9922, the Federal Aviation Administration (FAA) at 440-774-0300, and when applicable, the appropriate branch of the military. The OSHP should be contacted first and will take charge of the scene once they arrive. Officers will provide assistance to OSHP, and the FAA as needed.

Supervisors shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

- (a) Fire department
- (b) Appropriate airport tower
- (c) Emergency medical services (EMS)

#### **416.6 CONTROLLING ACCESS AND SCENE AUTHORITY**

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

- (a) FAA.
- (b) Fire department, EMS or other assisting law enforcement agencies.
- (c) Coroner.
- (d) Air Carrier/Operators investigative teams with NTSB approval.
- (e) Appropriate branch of the military, when applicable.
- (f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this department will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene department supervisor should ensure the accident is still appropriately investigated and documented.

#### **416.7 DANGEROUS MATERIALS**

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

- (a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.

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### *Aircraft Accidents*

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- (b) Pressure vessels, compressed gas bottles, accumulators and tires.
- (c) Fluids, batteries, flares and igniters.
- (d) Evacuation chutes, ballistic parachute systems and composite materials.

#### **416.8 DOCUMENTATION**

All aircraft accidents occurring within the City of Lorain shall be documented. At a minimum, the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of LPD members deployed to assist; other City resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

##### **416.8.1 WRECKAGE**

When reasonably safe, members should:

- (a) Obtain the aircraft registration number (N number) and note the type of aircraft.
- (b) Attempt to ascertain the number of casualties.
- (c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.
  - 1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).
- (d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.
- (e) Acquire copies of any recordings from security cameras that may have captured the incident.

##### **416.8.2 WITNESSES**

Members tasked with contacting witnesses should obtain:

- (a) The location of the witness at the time of his/her observation relative to the accident site.
- (b) A detailed description of what was observed or heard.
- (c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.
- (d) The names of all persons reporting the accident, even if not yet interviewed.
- (e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

#### **416.9 MEDIA RELATIONS**

The Public Information Officer (PIO) should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the

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surrounding community. Any release of information regarding details of the accident itself should be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The PIO should coordinate with other involved entities before the release of information.

## Obtaining Air Support Assistance

### 417.1 PURPOSE AND SCOPE

The use of air support can be invaluable in certain situations. This policy specifies potential situations where the use of air support may be requested and the responsibilities for making a request.

### 417.2 REQUEST FOR AIR SUPPORT ASSISTANCE

If a supervisor or officer in charge of an incident determines that the use of air support would be beneficial, a request to obtain air support assistance may be made.

#### 417.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for air support, the Watch Commander or designee will call the Ohio State Highway Patrol hub at 440-365-5045 or the Cleveland Police Department Aviation Unit at 216-623-5000 for assistance. The Watch Commander will apprise that agency of the specific details of the incident prompting the request.

#### 417.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Law enforcement air support may be requested under any of the following conditions:

- (a) When the aircraft is activated under existing mutual aid agreements.
- (b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the aircraft may reduce such hazard.
- (c) When the use of aircraft will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community.
- (d) When an aircraft is needed to locate a person who is lost and whose continued absence constitutes a serious health or safety hazard.
- (e) Vehicle pursuits.
- (f) Pre-planned events or actions that require air support.
- (g) When the Watch Commander or equivalent authority determines a reasonable need exists.

While it is recognized that the availability of air support will generally provide valuable assistance to ground personnel, the presence of air support will rarely replace the need for officers on the ground.

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## Contacts and Temporary Detentions

### 418.1 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.

#### 418.1.1 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 purpose 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.

**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.

**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.

**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.

### 418.2 POLICY

The Lorain 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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#### **418.3 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. Officers will inform the person of the reason he/she is being stopped when any form of detention occurs.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Lorain Police Department to strengthen community involvement, community awareness, and problem identification.

##### **418.3.1 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 an 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.
- (j) A field intelligence report may be completed on a subject who is stopped for a traffic violation, if the situation "warrants" according to the officer's judgment.

##### **418.3.2 DOCUMENTATION**

Field Intelligence Reports shall be viewed as a formal police document.

- (a) Officers are directed to complete a "Field Intelligence Report " for all interviews and all suspects stopped during field interviews.
- (b) Field Intelligence Reports shall be completed with as much information as possible and should include physical identifiers of the subject, and any caution statements.

Field Intelligence Reports will be routed directly to your immediate supervisor, who will turn them into the Operations Bureau Commander for review, processing and distribute and maintain all Field Interview Reports in accordance with the City of Lorain Records Retention Schedule.

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#### **418.4 FIELD PHOTOGRAPHS**

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

##### **418.4.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT**

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent.

##### **418.4.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT**

Field photographs may be taken without consent only if they are taken during a detention that is based upon 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.

##### **418.4.3 FIELD PHOTOGRAPHS OF CHILDREN**

Field photographs may only be taken of a child with the consent of a juvenile court judge, except when the child has been (ORC § 2151.313):

- (a) Arrested or otherwise taken into custody for committing, or has been adjudicated as a delinquent child for committing, an act that would be a felony if committed by an adult.
- (b) Convicted of or pleaded guilty to committing a felony.
- (c) Arrested or otherwise taken into custody or has been adjudicated as a delinquent child for committing an act where all of the following apply:
  1. The offense is not a traffic offense or minor misdemeanor if committed by an adult.
  2. There is probable cause to believe the child may have been involved in the act.

The officer who photographs a juvenile shall immediately inform the juvenile court that the photographs were taken and shall provide the court with the identity of the juvenile, the number of photographs taken and the name and address of each person who has custody and control of the photographs or copies of the photographs (ORC § 2151.313(A)(2)).

##### **418.4.4 DISPOSITION OF PHOTOGRAPHS**

All detainee photographs must be adequately labeled and submitted to the Watch Commander with either an associated FI report or other documentation explaining the nature of the contact.

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If a photograph is not associated with an investigation where a case number has been issued, the Watch Commander should review and forward the photograph to one of the following locations:

- (a) If the photograph and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the Watch Commander 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 in 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 and Information Center.

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.

Photographs of children shall be retained in a file separate and apart from all photographs taken of adults until released to the juvenile court or as otherwise ordered by a juvenile judge (ORC § 2151.313(B)).

When a photograph of a child is taken in association with a particular case, before filing a complaint regarding the offense, the photograph may only be used in the investigation of the original offense and may only be released to the court.

After filing the complaint, the photograph may be used to investigate the original offense or to investigate any other juvenile delinquency offense involving the juvenile as a suspect. Photographs may also be used in a photo lineup when the child in the photograph has been adjudicated as a delinquent child for the commission of an act that would be a felony if committed by an adult, or convicted or pleaded guilty to a criminal offense that is a felony as a result of the arrest or custody that was the basis of the taking of the photographs (ORC § 2151.313(C)).

#### **418.4.5 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.

#### **418.4 PAT-DOWN SEARCHES**

Once a valid stop has been made, and consistent with the officer's training and experience, an officer may pat a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk. 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:

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- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of weapons is involved.
- (b) Where more than one suspect must be handled by a single officer.
- (c) The hour of the day and the location or area where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.
- (e) The actions and demeanor of the suspect.
- (f) Visual indications which suggest that the suspect is carrying a firearm or other dangerous weapon.

Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

#### **418.5 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.

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# Criminal Organizations

## 419.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Lorain Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

### 419.1.1 DEFINITIONS

Definitions related to this policy include:

**Criminal Intelligence System** - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

## 419.2 POLICY

The Lorain Police Department recognizes that certain criminal activities, including but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this department to collect and share relevant information while respecting the privacy and legal rights of the public.

## 419.3 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

A designated supervisor will be responsible for maintaining each criminal intelligence system that has been approved for department use. The supervisor or the authorized designee should ensure the following:

- (a) Members using any such system are appropriately selected and trained.
- (b) Use of every criminal intelligence system is appropriately reviewed and audited.
- (c) Any system security issues are reasonably addressed.

### 419.3.1 SYSTEM ENTRIES

It is the designated supervisor's responsibility to approve the entry of any information from a report, FI, photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Records and Information Center. Any supporting documentation for an entry shall be retained by the Records and Information

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Center in accordance with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated supervisor should ensure that any documents retained by the Records and Information Center are appropriately marked as intelligence information. The Support Services Commander may not purge such documents without the approval of the designated supervisor.

#### **419.4 TEMPORARY INFORMATION FILE**

No member may create or keep files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the department-approved CIS only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of CIS entries.

##### **419.4.1 FILE CONTENTS**

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

- (a) Must only be included upon documented authorization of the responsible department supervisor.
- (b) Should not be originals that would ordinarily be retained by the Records and Information Center or Evidence Room, but should be copies of, or references to, retained documents, such as copies of reports, field interview (FI) forms, the Communications Center records or booking forms.
- (c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.
- (d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

##### **419.4.2 STREET GANG PREMISES**

Any building, premises or real estate, including vacant land, which is used or occupied by a criminal gang on more than two occasions within a one-year period to engage in a pattern of criminal gang activity is a public nuisance. The Criminal Investigations supervisor may authorize members to collect information on such property for purposes of abatement, pursuant to ORC § 3767.01 through 3767.11 (ORC § 2923.43).

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#### 419.4.3 FILE REVIEW AND PURGING

The designated supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the supervisor.

#### 419.5 INFORMATION RECOGNITION

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

- (a) Gang indicia associated with a person or residence.
- (b) Information related to a drug-trafficking operation.
- (c) Vandalism indicating an animus for a particular group.
- (d) Information related to an illegal gambling operation.

Department supervisors who utilize an authorized criminal intelligence system should work with the Training Coordinator to train members to identify information that may be particularly relevant for inclusion.

#### 419.6 RELEASE OF INFORMATION

Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

#### 419.7 CRIMINAL STREET GANGS

The Criminal Investigations supervisor should ensure that there are an appropriate number of department members who can:

- (a) Testify as experts on matters related to criminal street gangs, and maintain an above average familiarity with identification of criminal street gangs, criminal street gang members and patterns of criminal gang activity.
- (b) Coordinate with other agencies in the region regarding criminal street gang crimes and information.
- (c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

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#### **419.8 TRAINING**

The Training Coordinator should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

- (a) The protection of civil liberties.
- (b) Participation in a multiagency criminal intelligence system.
- (c) Submission of information into a multiagency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.
- (d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.
- (e) The review and purging of temporary information files.

## Watch Commanders

### **420.1 PURPOSE AND SCOPE**

Each patrol shift must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with Department policies, procedures, practices, functions and objectives. To accomplish this goal, a Lieutenant heads each watch.

### **420.2 DESIGNATION AS ACTING WATCH COMMANDER**

When a Lieutenant is unavailable for duty the Operations Commander will assume command. If the Watch Commander will be unavailable for an extended period of time, the Chief of Police may designate an Acting Watch Commander.

## Mobile Audio/Video (In Car Cameras)

### 421.1 PURPOSE AND SCOPE

The Lorain Police Department has equipped marked patrol cars with Mobile Video Recording (MVR) systems. The MVR is designed to provide records of events and assist officers in the performance of their duties. This policy provides guidance on the use of these systems.

#### 421.1.1 DEFINITIONS

Definitions related to this policy include:

**Activate** - Any process that causes the MVR system to transmit or store video or audio data in an active mode.

**In-Car Camera System and Mobile Video Recorder (MVR)** - Synonymous terms which refer to any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes at minimum, a camera, microphone, recorder and monitor.

**MVR Technician** - Personnel certified or trained in the operational use and repair of MVRs, duplicating methods, storage and retrieval methods and procedures, and who have working knowledge of video forensics and evidentiary procedures.

**Recorded media** - Audio-video signals recorded or digitally stored on a storage device or portable media.

### 421.2 POLICY

It is the policy of the Lorain Police Department to use mobile video recording technology to more effectively fulfill the department's mission and to ensure these systems are used securely and efficiently.

### 421.3 OFFICER RESPONSIBILITIES

Prior to going into service, each officer will properly equip him/herself to record audio and video in the field. At the end of the shift, each officer will follow the established procedures for providing to the Department any recordings or used media and any other related equipment. Each officer should have adequate recording media for the entire duty assignment. In the event an officer works at a remote location and reports in only periodically, additional recording media may be issued. Only Lorain Police Department-identified and labeled media with tracking numbers is to be used.

At the start of each shift, officers should test the MVR system's operation in accordance with manufacturer specifications and department operating procedures and training.

System documentation is accomplished by the officer recording his/her name, serial number, badge or PIN number and the current date and time at the start and again at the end of each shift. If the system is malfunctioning, the officer shall take the vehicle out of service unless a supervisor requests the vehicle remain in service.

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### *Mobile Audio/Video (In Car Cameras)*

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#### **421.4 ACTIVATION OF THE MVR**

The MVR system is designed to turn on whenever the unit's emergency lights are activated. The system remains on until it is turned off manually. The audio portion is independently controlled and should be activated manually by the officer whenever appropriate. When audio is being recorded, the video will also record.

##### **421.4.1 REQUIRED ACTIVATION OF THE MVR**

This policy is not intended to describe every possible situation in which the MVR system may be used, although there are many situations where its use is appropriate. An officer may activate the system any time the officer believes its use would be appropriate and/or valuable to document an incident.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the MVR. The MVR system should be activated in any of the following situations:

- (a) All field contacts involving actual or potential criminal conduct within video or audio range:
  - 1. Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
  - 2. Priority responses
  - 3. Vehicle pursuits
  - 4. Suspicious vehicles
  - 5. Arrests
  - 6. Vehicle searches
  - 7. Physical or verbal confrontations or use of force
  - 8. Pedestrian checks
  - 9. OVI investigations including field sobriety tests
  - 10. Consensual encounters
  - 11. Crimes in progress
  - 12. Responding to an in-progress call
- (b) All self-initiated activity in which an officer would normally notify the Communications Center
- (c) Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect:
  - 1. Family violence calls
  - 2. Disturbance of peace calls
  - 3. Offenses involving violence or weapons

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- (d) Any other contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording
- (e) Any other circumstance where the officer believes that a recording of an incident would be appropriate

#### 421.4.2 CESSATION OF RECORDING

Once activated, the MVR system should remain on until the incident 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 and victims have been interviewed. Recording may cease if an officer is simply waiting for a tow truck or a family member to arrive, or in other similar situations.

#### 421.4.3 WHEN ACTIVATION IS NOT REQUIRED

Activation of the MVR system is not required when exchanging information with other officers or during breaks, lunch periods, when not in service or actively on patrol.

No member of this department may surreptitiously record a conversation of any other member of this department except with a court order or when lawfully authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.

#### 421.4.4 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if vehicles with non-functioning MVR systems should be placed into service. If these vehicles are placed into service, the appropriate documentation should be made, including notification of the Communications Center.

At reasonable intervals, supervisors should validate that:

- (a) Beginning and end-of-shift recording procedures are followed.
- (b) Logs reflect the proper chain of custody, including:
  1. The tracking number of the MVR system media.
  2. The date it was issued.
  3. The law enforcement operator or the vehicle to which it was issued.
  4. The date it was submitted.
  5. Law enforcement operators submitting the media.
  6. Holds for evidence indication and tagging as required.
- (c) The operation of MVR systems by new employees is assessed and reviewed no less than biweekly.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, peace officer-involved shootings, department-involved collisions), a supervisor shall respond to the scene and ensure that the appropriate supervisor, MVR technician or crime scene

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investigator properly retrieves the recorded media. The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

Supervisors may activate the MVR system remotely to monitor a developing situation, such as a chase, riot or an event that may threaten public safety, officer safety or both, when the purpose is to obtain tactical information to assist in managing the event. Supervisors shall not remotely activate the MVR system for the purpose of surveillance regarding the conversations or actions of an officer.

#### **421.5 REVIEW OF MVR RECORDINGS**

All recording media, recorded images and audio recordings are the property of the Department. Dissemination outside of the agency is strictly prohibited except to the extent permitted or required by law.

To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the agency MVR technician or forensic media staff. When reasonably possible, a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

Recordings may be reviewed in any of the following situations:

- (a) For use when preparing reports or statements
- (b) By a supervisor investigating a specific act of officer conduct
- (c) By a supervisor to assess officer performance
- (d) To assess proper functioning of MVR systems
- (e) By department investigators who are participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation
- (f) By department personnel who request to review recordings
- (g) By an officer who is captured on or referenced in the video or audio data and reviews and uses such data for any purpose relating to his/her employment
- (h) By court personnel through proper process or with permission of the Chief of Police or the authorized designee
- (i) By the media through proper process or with permission of the Chief of Police or the authorized designee
- (j) To assess possible training value
- (k) Recordings may be shown for training purposes. If an involved officer objects to showing a recording, his/her objection will be submitted to the staff to determine if the training value outweighs the officer's objection.

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Employees desiring to view any previously uploaded or archived MVR recording should submit a request in writing to the Watch Commander. Approved requests should be forwarded to the MVR technician for processing.

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any employee.

#### **421.6 DOCUMENTING MVR USE**

If any incident is recorded with either the video or audio system, the existence of that recording shall be documented in the officer's report. If a citation is issued, the officer shall make a notation on the back of the records copy of the citation indicating that the incident was recorded.

#### **421.7 RECORDING MEDIA STORAGE AND INTEGRITY**

Once submitted for storage, all recording media will be labeled and stored in a designated secure area. All recording media that is not booked as evidence will be retained as required by the established records retention schedule.

##### **421.7.1 COPIES OF ORIGINAL RECORDING MEDIA**

Original recording media shall not be used for any purpose other than for initial review by a supervisor. Upon proper request, a copy of the original recording media will be made for use as authorized in this policy (ORC § 9.01).

Original recording media may only be released in response to a court order or upon approval by the Chief of Police or the authorized designee. In the event that an original recording is released to a court, a copy shall be made and placed in storage until the original is returned.

##### **421.7.2 MVR RECORDINGS AS EVIDENCE**

Officers who reasonably believe that an MVR recording is likely to contain evidence relevant to a criminal offense, potential claim against the officer or against the Lorain Police Department should indicate this in an appropriate report. Officers should ensure relevant recordings are preserved.

#### **421.8 SYSTEM OPERATIONAL STANDARDS**

- (a) MVR system vehicle installations should be based on officer safety requirements and vehicle and device manufacturer recommendations.
- (b) The MVR system should be configured to minimally record for 30 seconds prior to an event.
- (c) The MVR system may not be configured to record audio data occurring prior to activation.
- (d) Unless the transmitters being used are designed for synchronized use, only one transmitter, usually the primary initiating officer's transmitter, should be activated at a scene to minimize interference or noise from other MVR transmitters.

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### *Mobile Audio/Video (In Car Cameras)*

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- (e) Officers using digital transmitters that are individually synchronized to their individual MVR shall activate both audio and video recordings when responding in a support capacity. This is to obtain additional perspectives of the incident scene.
- (f) With the exception of law enforcement radios or other emergency equipment, other electronic devices should not be used inside MVR-equipped vehicles to minimize the possibility of causing electronic or noise interference with the MVR system.
- (g) Officers shall not erase, alter, reuse, modify or tamper with MVR recordings. Only a supervisor, MVR technician or other approved designee may erase and reissue previous recordings and may only do so pursuant to the provisions of this policy.
- (h) To prevent damage, original recordings shall not be viewed on any equipment other than the equipment issued or authorized by the MVR technician.

#### **421.9 MVR TECHNICIAN RESPONSIBILITIES**

The MVR technician is responsible for:

- (a) Ordering, issuing, retrieving, storing, erasing and duplicating of all recorded media.
- (b) Collecting all completed media for oversight and verification of wireless downloaded media. Once collected, the MVR technician:
  - 1. Ensures it is stored in a secured location with authorized controlled access.
  - 2. Makes the appropriate entries in the chain of custody log.
- (c) Erasing of media:
  - 1. Pursuant to a court order.
  - 2. In accordance with established retention policies, including reissuing all other media deemed to be of no evidentiary value.
- (d) Assigning all media an identification number prior to issuance to the field.
  - 1. Maintaining a record of issued media.
- (e) Ensuring that an adequate supply of recording media is available.
- (f) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and records retention schedule.

#### **421.10 TRAINING**

Users of the MVR systems and supervisors shall successfully complete an approved course of instruction prior to being deployed with MVR systems.

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## Mobile Data Computer Use

### 422.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use and application of the Mobile Data Computer (MDT) 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 the Communications Center.

### 422.2 POLICY

Lorain Police Department members using the MDT shall comply with all appropriate federal and state rules and regulations and shall use the MDT in a professional manner, in accordance with this policy.

### 422.3 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).

### 422.4 RESTRICTED ACCESS AND USE

MDT use is subject to the Information Technology Use and Protected Information policies as well as all LEADS security requirements.

Members shall not access the MDT system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDT by another member to their supervisors or Watch Commanders.

Use of the MDT 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 MDT system is prohibited and will 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 MDT system unless directed to do so by a supervisor. Members are required to log off the MDT or secure the MDT when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

#### 422.4.1 USE WHILE DRIVING

Generally, use of the MDT by the vehicle operator should be limited to times when the vehicle is stopped. Information that is required for immediate enforcement, investigative, tactical or safety needs should be transmitted over the radio.

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In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion. At no time shall any member who is driving a vehicle enter information into a report on the MDT.

#### **422.5 DOCUMENTATION OF ACTIVITY**

Except as otherwise directed by the Watch Commander or other department-established protocol, all calls for service assigned by a telecommunicator should be communicated by voice over the police radio and electronically via the MDT unless security or confidentiality prevents such broadcasting.

MDT 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 telecommunicator.
- (c) Whenever the activity or contact is not initiated by voice, the member shall document it via the MDT.

##### **422.5.1 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 MDT 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 MDT when the vehicle is not in motion.

##### **422.5.2 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 Watch Commander 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.

#### **422.6 EQUIPMENT CONSIDERATIONS**

##### **422.6.1 MALFUNCTIONING MDT**

Whenever possible, members will not use vehicles with malfunctioning MDTs. Whenever members must drive a vehicle in which the MDT is not working, they shall notify the Communications Center. It shall be the responsibility of the telecommunicator to document all information that will then be transmitted verbally over the police radio.

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#### 422.6.2 BOMB CALLS

When investigating reports of possible bombs, members should not communicate on their MDTs when in the evacuation area of a suspected explosive device. Radio frequency emitted by the MDT could cause some devices to detonate.

## Portable Audio/Video Recorders (Body Worn Cameras / BWC)

### 423.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Lorain Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

#### 423.1.1 ORGANIZATIONAL PHILOSOPHY

The Lorain Police Department recognizes that audio and video data is valuable recorded evidence that may provide a means of accountability for both officers and the public. It is also recognized that audio and video data may not be an accurate reflection of all that is involved with an incident. Audio and video data cannot reflect the human and cognitive conditions associated with an officer and public contact. Additionally, audio and video shall not supersede the principles established by *Graham vs. Connor*.

### 423.2 POLICY

The Lorain Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

### 423.3 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 procedures for a documented review of recordings.

### 423.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an 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.

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### *Portable Audio/Video Recorders (Body Worn Cameras / BWC)*

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#### **423.5 MEMBER RESPONSIBILITIES**

Prior to going into service, to include approved off duty employment in which interaction with the general public is expected, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order. If the recorder is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Members will not attempt repairs, nor will they modify the device in any way unless specifically authorized by the Coordinator or a Division Command. Uniformed members will wear the recorder forward facing on their torso so that it captures video from the viewpoint of the officer.

Non-uniformed members, and members of specialty units (Detective, Narcotics, SWAT, ect...) shall wear and activate their recorder when conducting street level enforcement, seizing / inventorying / counting evidence, and during warrant services until such time that the scene is secure, or otherwise directed by a supervisor.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner.

When using a portable recorder, the assigned member shall record his/her name, LPD identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software automatically captures the user's unique identification and the date and time of each recording upon the officer's unique Radio Frequency Identification (RFID) card being scanned into the recorder at the beginning of the officer's tour of duty.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

#### **423.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER**

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder shall be activated in any of the following situations:

- (a) All calls for service and official contacts with the public
- (b) All enforcement and investigative contacts including stops and field interview (FI) situations

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- (c) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (d) Self-initiated activity in which an officer would normally notify the Communications Center
- (e) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded. During times of contact with victims of sensitive nature crimes, members may reposition the portable recording device to prevent video of the victim from being captured, and allowing only audio statements to be recorded. (e.g. child sexual assaults)

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

#### 423.6.1 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Should officers need to confer regarding the tactical considerations or planning of an incident while it is transpiring, recording may be muted. A supervisor should be notified as soon as practicable of the recording being muted. Once tactical planning is complete, audio recording should commence.

#### 423.6.2 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Ohio law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission (ORC § 2933.52).

Members may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee.

#### 423.6.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

### **423.7 PROHIBITED USE OF PORTABLE RECORDERS**

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

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Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Watch Commander. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

Members are prohibited from activating or using any portable recording device while inside the Lorain Police Department to record any activity that is not directly related to a criminal incident, or that the recording will have no criminal evidentiary value.

Accidental activations and recordings while an officer is on station may be purged from the system upon review and approval of the Coordinator at the discretion of the Chief of Police. (E.g.; lunch, call of nature breaks)

#### **423.8 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

All videos are required to be appropriately classified daily in the system through the MDC video recording application or desktop video recording application.

Members are required to download videos daily, at the end of each day's tour of duty by re-depositing the portable recording device in the appropriate docking station.

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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.

#### **423.9 RETENTION OF RECORDINGS**

All evidentiary recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule. Recordings of official contacts with no evidentiary value will be retained for a period of thirty days.

##### **423.9.1 RELEASE OF AUDIO/VIDEO RECORDINGS**

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy. This may include costs of media devices used to provide recordings, being paid by the requester.

#### **423.10 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance. Supervisors may do a routine review of recordings made by personnel under their supervision.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see 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.

##### **423.10.1 PERFORMANCE REVIEW OF PROBATIONARY OFFICER VIDEO**

In order to ensure the highest quality of police service, the Lorain Police Department training department, and Operations Division Commander will make random reviews of all newly hired officers. These random reviews will be done frequently once a probationary officer is complete

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with the field training program, and will continue throughout the probationary officer's first year of employment. These quality control reviews should concentrate on:

- (a) Adherence to current department policy.
- (b) Professionalism and interaction with the public in general and under stressful conditions.
- (c) General knowledge and competency.

Quality control reviews of probationary officers should be used to both confirm that the provided training is being retained by the probationary officer, and to indicate if any additional training may be needed.

#### **423.11 POLICY REVIEW**

Annually, the Chief of Police or the authorized designee shall conduct a review of this policy for best practice and compliance purposes.

#### **423.12 TRAINING**

Initially, at least annually, or more frequently upon any updates, sworn members of this department shall certify in writing, or acknowledge electronically, that they have received, read, and understand this policy.

## Public Recording of Law Enforcement Activity

### 424.1 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.

### 424.2 POLICY

The Lorain 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.

### 424.3 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.
- (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.

### 424.4 OFFICER 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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### *Public Recording of Law Enforcement Activity*

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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.

#### **424.5 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.

#### **424.6 SEIZING RECORDINGS AS EVIDENCE**

Officers should not seize recording devices or media unless (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 evidence is to transmit a copy of the recording from a device to a department-owned device.

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### *Public Recording of Law Enforcement Activity*

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Recording devices and media that are seized will be submitted within the guidelines of the Property and Evidence Policy.

## Foot Pursuits

### 425.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

### 425.2 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.

### 425.3 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 reevaluated 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 potentially place Department personnel and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances reasonably permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer 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.

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### *Foot Pursuits*

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- (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.

#### **425.4 GENERAL GUIDELINES**

Unless the officer reasonably believes that exigent circumstances exist (e.g. a serious threat to the safety of personnel or members of the public), officers should consider alternatives to engaging in or continuing a foot pursuit under the following conditions:

- (a) 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 officers renders them incapable of controlling the suspect if apprehended.
- (g) The officer loses radio contact with the Communications Center or with backup officers.
- (h) The suspect enters a building, structure, confined space or a wooded or otherwise isolated area and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the pursuit and coordinating containment pending the arrival of sufficient officers.
- (i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers 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 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 personnel or the public if the suspect is not immediately apprehended.

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- (o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other conditions.

#### **425.5 RESPONSIBILITIES IN FOOT PURSUITS**

##### **425.5.1 INITIATING OFFICER RESPONSIBILITIES**

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. 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 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 officer unable to promptly and effectively broadcast this information should terminate the pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be implemented and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify the Communications Center of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary.

##### **425.5.2 ASSISTING OFFICER RESPONSIBILITIES**

Whenever any officer announces that he/she is engaged in a foot pursuit, all other officers should minimize nonessential radio traffic to permit the involved officers maximum access to the radio frequency.

##### **425.5.3 SUPERVISOR RESPONSIBILITIES**

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever reasonably possible. The supervisor does not, however, need to be physically present to exercise control over

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the pursuit. The supervisor should continuously assess the situation in order to ensure the foot pursuit is conducted within established Department guidelines.

The supervisor should 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 should promptly proceed to the termination point to direct the post-pursuit activity.

#### **425.5.4 THE COMMUNICATIONS CENTER RESPONSIBILITIES**

Upon notification or becoming aware that a foot pursuit is in progress, the telecommunicator is responsible for:

- (a) Clearing the radio channel of non-emergency traffic.
- (b) Coordinating pursuit communications of the involved officers.
- (c) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (d) Ensuring that a field supervisor is notified of the pursuit.
- (e) Notifying and coordinating with other involved or affected agencies as practicable.
- (f) Notifying the Watch Commander as soon as practicable.
- (g) Assigning an incident number and logging all pursuit activities.

#### **425.6 REPORTING REQUIREMENTS**

The initiating officer shall complete the appropriate case report documenting, at a minimum:

- (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) Arrestee information, if applicable.
- (h) Any injuries and/or medical treatment.
- (i) Any property or equipment damage.
- (j) 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.

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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.

## Automated License Plate Readers (ALPR)

### 426.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPRs are used by the Lorain Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. The ALPR may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

### 426.2 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Executive Officer. The Operations Division Commander will assign personnel under his/her command the use of any ALPR equipped vehicle(s).

### 426.3 ALPR OPERATION

Use of an ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use, the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official and legitimate law enforcement business.
- (b) An ALPR may be used in conjunction with any patrol operation or official Department investigation. Reasonable suspicion or probable cause is not necessary before using ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) If practicable, the officer will verify an ALPR response through LEADS before taking enforcement action that is based solely upon an ALPR alert.
- (f) No ALPR operator may access Ohio Law Enforcement Automated Data System (LEADS) data unless otherwise authorized to do so.

### 426.4 ALPR DATA COLLECTION AND RETENTION

All data and images gathered by an ALPR are for the official use of the Lorain Police Department. Because such data may contain confidential information LEADS data is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law.

All ALPR data downloaded to the server should be stored for the minimum period established in the Department Records Retention Schedule. Thereafter, ALPR data may be purged unless it has

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### *Automated License Plate Readers (ALPR)*

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become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

#### **426.5 ACCOUNTABILITY AND SAFEGUARDS**

All saved data will be closely safeguarded and protected by both procedural and technological means. The Lorain Police Department will observe the following safeguards regarding access to and use of stored data:

- (a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Executive Officer and processed in accordance with applicable law.
- (b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
- (c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.
- (e) ALPR system audits should be conducted on a regular basis.

#### **426.6 CUSTOM HOT LIST ENTRIES**

Members of the Lorain Police Department have the ability to make custom hot list entries within the Flock Safety ALPR software. All entries must be in full compliance with this policy, applicable law, and for official law enforcement business only.

Custom hot list entries will alert members of this agency, as well as other agencies connected to the system, to a particular vehicle's presence. For this reason, road patrol members who enter a vehicle into the hot list shall set the entry to expire at 10:00 am on the next day courts are scheduled to be in session as to avoid stale data prompting the stop of a vehicle no longer wanted. Should a vehicle on the custom hot list be located it shall be removed by the locating officer immediately upon being located.

The road patrol OIC shall review the hot list entries prior to their shift briefing, and remove any stale entries.

An audit of all active custom hot list entries shall be conducted weekly by the detective bureau OIC to ensure stale entries are purged from the Flock Safely ALPR system.

## Homeless Persons

### 427.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide officers during all contacts with the homeless, whether consensual or for enforcement purposes. The Lorain Police Department recognizes that members of the homeless community are often in need of special protection and services. The Lorain Police Department will address these needs in balance with the overall mission of this department. Therefore, officers will consider the following policy when serving the homeless community.

#### 427.1.1 POLICY

It is the policy of the Lorain Police Department to provide law enforcement services to all members of the community while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime and members of this department will not use homelessness solely as a basis for detention or law enforcement action.

### 427.2 HOMELESS COMMUNITY LIAISON

The Lorain Police Department Community Relations Unit will act as the homeless liaison officer. The responsibilities of the homeless liaison officer include:

- (a) Maintaining and making available to all Department employees a list of assistance programs and other resources that are available to the homeless.
- (b) Meeting with social services and representatives of other organizations that render assistance to the homeless.
- (c) Maintaining a list of the areas within and near this jurisdiction that are used as frequent homeless encampments.
- (d) Remaining abreast of laws dealing with the removal and/or destruction of the personal property of the homeless. This will include:
  1. Proper posting of notices of trespass and clean-up operations.
  2. Proper retention of property after clean-up, to include procedures for owners to reclaim their property in accordance with the Property Procedures Policy and other established procedures.
- (e) Be present during any clean-up operation conducted by this department involving the removal of personal property of the homeless to ensure the rights of the homeless are not violated.
- (f) Develop training to assist officers in understanding current legal and social issues relating to the homeless.

### 427.3 FIELD CONTACTS

Officers are encouraged to contact the homeless for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade an officer

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from taking reasonable enforcement action when facts support a reasonable suspicion of criminal activity. However, when encountering a homeless person who has committed a nonviolent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest.

Officers should provide homeless persons with resource and assistance information whenever it is reasonably apparent such services may be appropriate.

#### **427.3.1 OTHER CONSIDERATIONS**

Homeless members of the community will receive the same level and quality of service provided to other members of our community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Officers should consider the following when handling investigations involving homeless victims, witnesses or suspects:

- (a) Document alternate contact information. This may include obtaining addresses and telephone numbers of relatives and friends.
- (b) Document places the homeless person may frequent.
- (c) Provide homeless victims with victim/witness resources when appropriate.
- (d) Obtain statements from all available witnesses in the event a homeless victim is unavailable for a court appearance.
- (e) Consider whether the person may be a dependent adult or elder and if so proceed in accordance with the Vulnerable Adult Abuse Policy.
- (f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.
- (g) Consider whether a crime should be reported and submitted for prosecution even when a homeless victim indicates he/she does not desire prosecution.

#### **427.4 PERSONAL PROPERTY**

The personal property of homeless persons must not be treated differently than the property of other members of the public. Officers should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, the arrestee's personal property should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the officer, a supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure the property. It will be the supervisor's responsibility to coordinate the removal and safekeeping of the property.

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Officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the Department homeless liaison Officer. When practicable, requests by the public for clean-up operations of a homeless encampment should be referred to the homeless liaison Officer.

Officers who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the Department homeless liaison Officer if such property appears to involve a trespass, blight to the community or is the subject of a complaint. It will be the responsibility of the homeless liaison Officer to address the matter in a timely fashion.

#### **427.5 MENTAL ILLNESSES AND MENTAL IMPAIRMENTS**

Some homeless persons may suffer from a mental illness or a mental impairment. Officers shall not detain a homeless person for an emergency admission to a mental health facility unless facts and circumstances warrant such a detention.

When a mental illness hold is not warranted, the contacting officer should provide the homeless person with contact information for mental health assistance as appropriate. In these circumstances, officers may provide transportation to a mental health specialist if requested by the person and approved by a supervisor.

#### **427.6 ECOLOGICAL ISSUES**

Sometimes homeless encampments can affect the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

## First Amendment Assemblies

### 428.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

### 428.2 POLICY

The Lorain 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.

### 428.3 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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### *First Amendment Assemblies*

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#### 428.3.1 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.

#### 428.4 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 the Communications Center, 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.

#### 428.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

##### 428.5.1 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).

#### 428.5.2 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).
- (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.
- (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.

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- (t) Parameters for the use of body-worn cameras and other portable recording devices when available.

#### 428.5.3 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 Outside Agency Assistance Policy).

#### **428.6 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.

#### **428.7 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 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).

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Force or control devices, including oleoresin capsaicin (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.

#### **428.8 ARRESTS**

The Lorain 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).

#### **428.9 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).

#### **428.10 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 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.

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### *First Amendment Assemblies*

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#### **428.11 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, the Communications Center records/tapes
- (g) Media accounts (print and broadcast media)

##### **428.11.1 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.

#### **428.12 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.

## Civil Disputes

### 429.1 PURPOSE AND SCOPE

This policy provides members of the Lorain Police Department with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Violence Policy will address specific legal mandates related to domestic violence court orders. References in this policy to “court orders” apply to any order of a court that does not require arrest or enforcement by the terms of the order or by Ohio law.

### 429.2 POLICY

The Lorain Police Department recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this department will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

### 429.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial.

While not intended to be an exhaustive list, members should give considerations to the following when handling civil disputes:

- (a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.
- (b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.
- (c) Members shall not provide legal advice, however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.
- (d) Members are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.
- (e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

### 429.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent

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### *Civil Disputes*

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court order violation in an incident report through CAD narrative or case report if necessary. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document the following:

- (a) The person's knowledge of the court order or whether proof of service exists.
- (b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor.

#### **429.4.1 STANDBY REQUESTS**

Officers responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Officers should not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location.

#### **429.5 VEHICLES AND PERSONAL PROPERTY**

Officers may be faced with disputes regarding possession or ownership of vehicles or other personal property. Officers may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, officers should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented.

#### **429.6 REAL PROPERTY**

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

# Suspicious Activity Reporting

## 430.1 PURPOSE AND SCOPE

This policy provides guidelines for reporting and investigating suspicious and criminal activity.

### 430.1.1 DEFINITIONS

Definitions related to this policy include:

**Involved party** - An individual who has been observed engaging in suspicious activity, as defined in this policy, when no definitive criminal activity can be identified, thus precluding the person's identification as a suspect.

**Suspicious activity** - Any reported or observed activity that a member reasonably believes may have a nexus to any criminal act or attempted criminal act, or to foreign or domestic terrorism. 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 should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions). Examples of suspicious activity may include but are not limited to:

- Suspected pre-operational surveillance or intelligence gathering (e.g., photographing security features, asking questions about sensitive security-related subjects).
- Tests of security measures and response to incidents (e.g., "dry run," creating false alarms, attempts to enter secure areas without authorization).
- Suspicious purchases (e.g., purchasing large quantities of otherwise legal items, such as fertilizer, that could be used to create an explosive or other dangerous device).
- An individual in possession of such things as a hoax explosive or dispersal device, sensitive materials (e.g., passwords, access codes, classified government information), or coded or ciphered literature or correspondence.

**Suspicious Activity Report (SAR)** - An incident report used to document suspicious activity.

## 430.2 POLICY

The Lorain Police Department recognizes the need to protect the public from criminal conduct and acts of terrorism and shall lawfully collect, maintain and disseminate information regarding suspicious activities, while safeguarding civil liberties and privacy protections.

## 430.3 RESPONSIBILITIES

The Criminal Investigations Division Commander and authorized designees will manage SAR activities. Authorized designees should include supervisors who are responsible for department participation in criminal intelligence systems as outlined in the Criminal Organizations Policy.

The responsibilities of the Criminal Investigations Division include but are not limited to:

- (a) Remaining familiar with those databases available to the Department that would facilitate the purpose of this policy.

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### *Suspicious Activity Reporting*

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- (b) Maintaining adequate training in the area of intelligence gathering to ensure no information is being maintained that would violate the law or civil rights of any individual.
- (c) Ensuring a process is available that would allow members to report relevant information. The process should be designed to promote efficient and quick reporting, and should not be cumbersome, duplicative, or complicated.
- (d) Ensuring that members are made aware of the purpose and value of documenting information regarding suspicious activity, as well as the databases and other information resources that are available to the Department.
- (e) Ensuring that SAR information is appropriately disseminated to members in accordance with their job responsibilities.
- (f) Coordinating investigative follow-up, if appropriate.
- (g) Coordinating with any appropriate agency or fusion center.
- (h) Ensuring that, as resources are available, the Department conducts outreach that is designed to encourage members of the community to report suspicious activity and that outlines what they should look for and how they should report it (e.g., website, public service announcements).

#### **430.4 REPORTING AND INVESTIGATION**

Any department member receiving information regarding suspicious activity should take any necessary immediate and appropriate action, including notifying the appropriate supervisor for a request for tactical response or immediate notification of specialized entities, when applicable. Any civilian member who receives such information should ensure that it is passed on to an officer in a timely manner.

If the suspicious activity is not directly related to a reportable crime, the member should prepare a SAR and include information about involved parties and the circumstances of the incident. If, during any investigation, an officer becomes aware of suspicious activity that is unrelated to the current investigation, the information should be documented separately in a SAR and not included in the original incident report. The report number of the original incident should be included in the SAR as a cross reference. A SAR should be processed as any other incident report.

#### **430.5 HANDLING INFORMATION**

The Records and Information Center will forward copies of SARs, in a timely manner, to the following:

- Criminal Investigations supervisor
- Crime Analysis Unit
- Other authorized designees

## Medical Aid and Response

### 431.1 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.

### 431.2 POLICY

It is the policy of the Lorain Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

### 431.3 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 the Communications Center 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 the Communications Center 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 extreme agitation or is engaging in violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain.

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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#### **431.4 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.

#### **431.5 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.

#### **431.6 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.

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.

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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.

#### **431.7 MEDICAL ATTENTION RELATED TO USE OF FORCE**

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

#### **431.8 AIR AMBULANCE**

Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

The department should follow 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.

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.

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- Do not carry or hold items, such as IV bags, above the head.
- Ensure that no one smokes near the aircraft.

#### **431.9 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE**

A member should use an AED only after the member has received the required training (ORC § 3701.85).

##### 431.9.1 AED USER RESPONSIBILITY

Members who are issued AEDs for use in department vehicles should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly will be taken out of service and given to the 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 shall contact the Communications Center as soon as possible and request response by EMS (ORC § 3701.85).

##### 431.9.2 AED REPORTING

Any member using an AED will complete an incident report detailing its use.

##### 431.9.3 AED TRAINING AND MAINTENANCE

The Training Coordinator should ensure appropriate training, that includes training in CPR and AED use, is provided to members authorized to use an AED (ORC § 3701.85).

The Training Coordinator is responsible for ensuring AED devices are appropriately maintained and tested consistent with the manufacturer's guidelines, and will retain records of all maintenance and testing in accordance with the established records retention schedule (ORC § 3701.85).

#### **431.10 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION**

The Patrol Operations Division Commander may authorize the acquisition of opioid overdose medication as provided in ORC § 3715.50 for use by members. The department Quartermaster is responsible for the storage, maintenance, control, and general oversight of the opioid overdose medication acquired by the Department (ORC § 3715.50; ORC § 3715.504).

##### 431.10.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES

Members who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Members should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Training Coordinator.

Any member who administers an opioid overdose medication should contact the Communications Center as soon as possible and request response by EMS.

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#### 431.10.2 OPIOID OVERDOSE MEDICATION REPORTING

Any member administering opioid overdose medication should detail its use in an appropriate report.

#### 431.10.3 OPIOID OVERDOSE MEDICATION TRAINING

The Training Coordinator should ensure training is provided to members authorized to administer opioid overdose medication.

### **431.11 ADMINISTRATION OF EPINEPHRINE**

Members who have completed epinephrine administration training may administer epinephrine in accordance with protocol specified by the physician who prescribed the medication for use by the member (ORC § 2925.64; ORC § 3728.01; ORC § 4729.47).

#### 431.11.1 EPINEPHRINE USER RESPONSIBILITIES

Members who are qualified to administer epinephrine 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 epinephrine should contact the Communications Center as soon as possible and request response by EMS.

#### 431.11.2 EPINEPHRINE REPORTING

Any member administering epinephrine should detail its use in an appropriate report.

#### 431.11.3 EPINEPHRINE TRAINING

The Training Coordinator should ensure that training is provided to members authorized to administer epinephrine.

### **431.12 FIRST AID TRAINING**

Subject to available resources, the Training Coordinator should ensure officers receive periodic first aid training appropriate for their position.

## Medical Marijuana

### 432.1 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 Ohio's medical marijuana laws.

#### 432.1.1 DEFINITIONS

Definitions related to this policy include:

**Medical marijuana** - Can include any of the following marijuana products obtained from a licensed dispensary (ORC § 3796.06; OAC § 3796:8-2-01):

- (a) Oil, tincture, capsule, or edible forms
- (b) Metered oil or solid preparation for vaporization
- (c) Patches for transdermal administration or lotions, creams, or ointments for topical administration
- (d) Plant material

**Registry identification card** - A card issued by the State of Ohio Division of Marijuana Control (DMC) as evidence that an individual is registered as a patient or caregiver (OAC § 3796:7-1-01).

### 432.2 POLICY

It is the policy of the Lorain 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.

Ohio's medical marijuana laws are intended to provide protection from prosecution to those who use, possess, administer, or cultivate marijuana to mitigate the symptoms of certain chronic or debilitating medical conditions. However, Ohio 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 Lorain Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under Ohio law and the resources of the Department.

### 432.3 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 involving a registered patient
- (c) Investigations involving a caretaker

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### *Medical Marijuana*

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#### 432.3.1 INVESTIGATIONS WITH NO MEDICAL 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 if the amount is greater than permitted for personal use under state law (ORC § 3780.36). A medicinal claim 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.

#### 432.3.2 INVESTIGATIONS INVOLVING A REGISTERED PATIENT

Officers should not arrest or take enforcement action against registered patients who (ORC § 3796.22):

- (a) Obtain, use, or possess a quantity of medical marijuana allowed under OAC § 3796:8-2-04.
- (b) Possess any permissible paraphernalia or accessories associated with medical marijuana.

Patients who do not have a registry identification card in their possession should not be arrested when investigation supports a reasonable belief that the person is a registered patient.

#### 432.3.3 INVESTIGATIONS INVOLVING A CAREGIVER

Officers should not arrest or take enforcement action against registered caregivers who (ORC § 3796.23):

- (a) Obtain or possess a quantity of medical marijuana allowed under OAC § 3796:8-2-04.
- (b) Possess any permissible paraphernalia or accessories associated with medical marijuana.

Caregivers who do not have a registry identification card in their possession should not be arrested when investigation supports a reasonable belief that the person is a registered caregiver.

#### 432.3.4 ADDITIONAL CONSIDERATIONS

Officers should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:

- (a) The State of Ohio DMC may enter into reciprocity agreements with other states to allow their medical marijuana patient registration to be recognized in Ohio (ORC § 3796.16).
- (b) Because enforcement of medical marijuana laws can be complex, time-consuming, and can 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.

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### *Medical Marijuana*

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3. Sufficient evidence, such as photographs or samples, have been lawfully obtained.
  4. Any other relevant factors exist, such as limited available department resources and time constraints.
- (c) A person's status as a registered patient or caregiver is not a sufficient basis for conducting a field sobriety test. To conduct any field sobriety test, a law enforcement officer must have an independent, factual basis giving reasonable suspicion that the person was operating a vehicle under the influence of marijuana or with a prohibited concentration of marijuana in the person's whole blood, blood serum, plasma, breath, or urine (ORC § 3796.24).
- (d) Before proceeding with enforcement related to medical marijuana cultivators, processors, laboratories that test medical marijuana, and retail dispensaries, officers should consider conferring with appropriate legal counsel, the Ohio Department of Commerce, and/or the State of Ohio DMC.
- (e) Patients and caregivers shall not cultivate medical marijuana or manufacture medical marijuana extract unless specifically licensed to do so (OAC § 3796:7-2-05).

#### 432.3.5 EXCEPTIONS

This policy does not apply to the following offenses. Officers may take enforcement action if the person:

- (a) Operates a vehicle, streetcar, trackless trolley, watercraft, or aircraft while under the influence of medical marijuana (ORC § 3796.22; OAC § 3796:7-2-05).
- (b) Uses, possesses, or administers medical marijuana on federal land or in other prohibited areas (ORC § 3796.24; OAC § 3796:7-2-05).

#### **432.4 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.

#### **432.5 EVIDENCE**

##### 432.5.1 MEMBER RESPONSIBILITIES

The investigating member should notify the receiving Evidence Room member in writing when marijuana may be the subject of a medical claim.

##### 432.5.2 PROPERTY BUREAU SUPERVISOR RESPONSIBILITIES

The Evidence Room supervisor should 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. The Evidence Room supervisor is not responsible for caring for live marijuana plants.

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Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Evidence Room supervisor should, as soon as practicable, return to the person from whom it was seized any usable marijuana, plants, drug paraphernalia, or other related property.

The Evidence Room supervisor should not destroy marijuana that was alleged to be for medical purposes except upon receipt of a court order.

The Evidence Room supervisor may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Criminal Investigations supervisor.

## Crisis Intervention Incidents

### 433.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

#### 433.1.1 DEFINITIONS

Definitions related to this policy include:

**Person in crisis** - A situation whereby a person has become unable to self-regulate thinking, mood, or behavior. A person could be experiencing intense feelings of distress and/or displaying obvious changes in functioning in their daily living activities. This disturbance with a person's understanding and comprehension, ability to regulate emotions, and/or ability to regulate behavior may occur due to mental illness, intellectual or developmental disability, an injury/trauma to the brain, deterioration of the brain, other medical conditions, or a medical emergency.

**Service provider** – Behavioral health service providers are licensed agencies or professionals who can diagnose various conditions, including mental health, and then provide treatment. These agencies and professionals may provide a range of diagnostic and treatment services and methods.

### 433.2 POLICY

The Lorain Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

### 433.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

- (a) A known history of mental illness
- (b) Threats of or attempted suicide
- (c) Loss of memory
- (d) Incoherence, disorientation or slow response
- (e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
- (f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
- (g) Social withdrawal
- (h) Manic or impulsive behavior, extreme agitation, lack of control

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### *Crisis Intervention Incidents*

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- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility or paranoia

Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

#### **433.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS**

The Chief of Police should designate an appropriate CIT Coordinator to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources, to guide department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

#### **433.5 FIRST RESPONDERS**

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis should:

- (a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
- (b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.
- (c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (d) Attempt to determine if weapons are present or available.
- (e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.
- (f) Secure the scene and clear the immediate area as necessary.
- (g) Employ tactics to preserve the safety of all participants.
- (h) Determine the nature of any crime.
- (i) Request a supervisor, as warranted.
- (j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.
- (k) If circumstances reasonably permit, consider and employ alternatives to force.

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#### **433.6 DE-ESCALATION**

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

#### **433.7 INCIDENT ORIENTATION**

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the telecommunicator provide critical information as it becomes available. This includes:

- (a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- (b) Whether there have been prior incidents, suicide threats/attempts, access to weapons, and whether there has been previous police response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

#### **433.8 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond if available or requested to the scene of any interaction with a person in crisis. Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources.

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### *Crisis Intervention Incidents*

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- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
- (e) Conduct an after-action operational debriefing with the Division Commander.
- (f) Evaluate whether a critical incident stress management debriefing for involved members is warranted.

#### **433.9 INCIDENT REPORTING**

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

##### **433.9.1 DIVERSION**

Individuals who are not being arrested should be processed in accordance with the Civil Commitments Policy.

#### **433.10 CIVILIAN INTERACTION WITH PEOPLE IN CRISIS**

Civilian members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

#### **433.11 EVALUATION**

The CIT Coordinator is designated to coordinate the crisis intervention strategy for this department should ensure that a thorough review and analysis of the department response to these incidents is conducted annually. The report will not include identifying information pertaining to any involved

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individuals, officers or incidents and will be submitted to the Chief of Police through the chain of command.

#### **433.12 TRAINING**

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis (ORC § 109.742).

Members should receive documented initial training to include recognizing and effectively communicating with a person in crisis, assessing a person's mental state, and determining how best to care for the person in crisis. All sworn personnel should have annual documented training to build on their initial training. Training should be reviewed annually and updated accordingly.

## **Chapter 5 - Traffic Operations**

## Traffic Function and Responsibility

### 500.1 PURPOSE AND SCOPE

The goal of traffic law enforcement is to reduce traffic collisions and improve the safety and quality of life for the community through traffic law compliance. 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 collision 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 collision 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 Lorain Police Department. Information provided by the Ohio Traffic Safety Office (OTSO) is a valuable resource for traffic collision 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 traffic laws and address collision-causing violations during those periods and at those locations where the incidence of collisions is increased. As a matter of routine, all officers will take directed enforcement action on request, and random enforcement action when appropriate, against violators. All officers shall maintain high visibility while working general enforcement, especially at high-collision incidence locations.

Other factors to be considered for deployment are citizen requests, construction zones, school 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 officer overall performance. The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

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### *Traffic Function and Responsibility*

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#### 500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and may be substituted for arrests or citations when circumstances warrant.

#### 500.3.2 TRAFFIC CITATIONS

Traffic 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 (ORC § 2935.27). Officers should provide the following information at minimum:

- (a) Explanation of the violation or charge.
- (b) Court appearance procedure, including the optional or mandatory appearance by the motorist.
- (c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court.
- (d) The court contact information.
- (e) The person's driver license will be suspended for failure to comply with the directions on the citation.
- (f) For drivers issued a citation related to use of a cellphone or other device while driving in violation of ORC § 4511.204, notice that the driver may decline a search of the cellphone or device.

#### 500.3.3 TRAFFIC CITATION COURT JURISDICTION

An officer who issues a traffic citation shall ensure that the citation is properly directed to the court having jurisdiction over the violation within the county in which the offense charged is alleged to have been committed (Ohio Traf. R. Rule 3(E)(1)).

#### 500.3.4 REFUSAL TO SIGN TRAFFIC CITATION OR PROVIDE SATISFACTORY IDENTIFICATION

A person who refuses to sign a traffic citation or provide satisfactory identification, and thereby declines to make a written promise to appear in court, may be arrested (ORC § 2935.26(A)(2); ORC § 2935.26(A)(3)). When reasonable under the circumstances, a supervisor may be requested to assist with resolution of the incident prior to resorting to an arrest.

#### **500.4 SUSPENDED OR REVOKED DRIVER LICENSE**

If an officer contacts a traffic violator for driving on a suspended, revoked, or restricted license and the violation is not an unclassified misdemeanor, the officer may, without a warrant, arrest the violator (ORC § 2935.03; ORC § 4510.11; ORC § 4510.14).

In addition, if the violator is arrested for driving under an operating a vehicle under the influence (OVI) suspension, the officer shall seize the vehicle and its license plates if the vehicle is registered in the arrested person's name (ORC § 4510.41(B)(1)). At the time of the seizure, the arresting officer shall notify the arrestee, in writing, of the following:

- (a) The vehicle and its license plates are being seized.

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- (b) The vehicle will either be kept by the Department or will be immobilized at least until the person's initial court appearance.
- (c) The court may order that the vehicle and license plates be released to the arrested person until the disposition of the charge.
- (d) If the arrestee is convicted, the court generally must order the immobilization of the vehicle and the impoundment of its license plates or the forfeiture of the vehicle.
- (e) The arrestee may be charged expenses or charges.

The arresting officer shall ensure that the Bureau of Motor Vehicles (BMV) Form 2255 is completed as required and that written notice of the seizure is forwarded to the court of initial jurisdiction (ORC § 4510.41(B)(2)).

#### **500.5 HIGH-VISIBILITY VESTS**

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601).

Although intended primarily for use while performing traffic-related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

##### **500.5.1 REQUIRED USE**

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, collision 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 anytime a plainclothes officer might benefit from being readily identified as an officer.

##### **500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS**

High-visibility vests shall be maintained in the designated storage area of each patrol and investigation unit, in the side box of each police motorcycle and in the saddlebag or gear bag of each police bicycle. Each vest should be stored in such a manner as to protect and maintain the vest in a serviceable condition. Before going into service, each employee shall ensure a serviceable high-visibility vest is properly stored.

Additional high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Training Coordinator should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

## Vehicle Towing and Release Policy

### 501.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Lorain Police Department and under the authority of ORC § 4510.41, ORC § 4511.67, ORC § 4513.60 and ORC § 4513.61 or other applicable municipal ordinance.

### 501.2 RESPONSIBILITIES

The responsibilities of those employees storing or impounding a vehicle are as follows.

#### 501.2.1 COMPLETION OF VEHICLE IMPOUND AND INVENTORY REPORT

Department members requesting storage of a vehicle shall complete a vehicle inventory report including a description of property within the vehicle.

Traffic Division personnel shall send a notice to the owner and any lienholder that the motor vehicle will be declared a nuisance and disposed of if not claimed within 10 days of the date of mailing of the notice (ORC § 4513.61).

Approved storage forms shall be promptly placed into the auto-file so that they are immediately available for release or for information should inquiries be made. The Support Services Commander shall ensure that records are maintained of motor vehicles towed and/or disposed of by this department, as required by Ohio law (ORC § 4513.60; ORC § 4513.61).

#### 501.2.2 REMOVAL OF VEHICLE DISABLED IN A TRAFFIC COLLISION

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if reasonably possible, and shall relay the request for the specified towing company to the Communications Center.

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 the current contracted tow company. The officer will then conduct an inventory and store the vehicle using a vehicle inventory report.

#### 501.2.3 DRIVING A NON-CITY VEHICLE

Vehicles that have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant, or to comply with posted signs.

#### 501.2.4 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

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### *Vehicle Towing and Release Policy*

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#### **501.3 TOWING SERVICES**

The City of Lorain periodically selects one or more firms to act as official tow services and awards contracts to those firms. Those firms will be used in the following situations:

- (a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.
- (b) When a vehicle is seized pursuant to a violation of ORC § 4511.195 or ORC § 4511.203.
- (c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles and the removal of vehicles obstructing traffic in violation of state or local regulations.

If more than one firm has been awarded contracts, they shall be placed on a rotation list. Nothing in this policy shall require the Department to tow a vehicle.

#### **501.4 TOWING 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 towing the arrestee's vehicle subject to the exceptions described below. However, a vehicle shall be towed whenever it is needed for the furtherance of an investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be towed. For example, a vehicle shall be towed if it would present a traffic hazard or if it would be in jeopardy of theft or damage if left at the scene in a high-crime area.

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of towing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic-related warrant arrest
- Situations where the vehicle was not used to further the offense for which the occupant was arrested or is not subject to forfeiture proceedings
- Whenever the vehicle 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 note in the report that the owner was informed that the Department will not be responsible for theft or damages.

#### **501.5 VEHICLE INVENTORY**

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle inventory report. This includes the trunk and any compartments or containers, even if they are closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practicable in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while the owner is in police custody, to provide for the safety

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of officers and the public, and to protect the Department against fraudulent claims of lost, stolen or damaged property.

If the apparent potential for damage to a locked container reasonably appears to outweigh the protection of the items inside other options to consider regarding locked containers include, but are not limited to, obtaining access to the locked container from the owner, placing the locked container into safe keeping or obtaining a written waiver of responsibility for the contents of the locked container.

#### **501.6 SECURITY OF VEHICLES AND PROPERTY**

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, an officer should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cellular telephone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property.

## Impaired Driving

### 502.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of operating a vehicle under the influence of alcohol or drugs (OVI).

### 502.2 POLICY

The Lorain Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of Ohio's impaired driving laws.

### 502.3 INVESTIGATIONS

Officers should not enforce OVI laws to the exclusion of their other duties unless specifically assigned to OVI enforcement. All officers are expected to enforce these laws with due diligence.

Any OVI investigation will be documented using a case report which at a minimum should include the following:

- (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 Ohio or another jurisdiction.

### 502.4 FIELD TESTS

The Traffic Commissioner should identify standardized FSTs and any approved alternate tests for officers to use when investigating violations of OVI laws.

### 502.5 CHEMICAL TESTS

A person implies consent under Ohio law to a chemical test or tests, and to providing the associated chemical sample, under any of the following (ORC § 4511.191):

- (a) The arresting officer has reasonable grounds to believe the person was operating or in physical control of a motor vehicle while under the influence of alcohol, a drug or a combination of the two.
- (b) An officer has arrested a person under the age of 21 and has reasonable grounds to believe the person was OVI (ORC § 4511.19(B)).
- (c) The person has been arrested for a substantially equivalent municipal OVI ordinance.

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If a person withdraws this implied consent, the officer should consider implied consent revoked, and proceed as though the person has refused to provide a chemical sample.

Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code. (4511.191A4)

#### 502.5.1 STATUTORY NOTIFICATIONS

An officer arresting a person for OVI shall, prior to requesting that the person submit to a chemical test, read from a written BMV 2255 form the mandatory statutory advice provided by ORC § 4511.192(B). The reading of the advice shall be witnessed by one or more persons and the witness shall certify to this fact by signing the form (ORC § 4511.192(A)).

If the arrestee has a previous conviction for OVI as described in ORC § 4511.191, the officer (ORC § 4511.191(A)(5)):

- (a) Shall request the person to submit to a chemical test.
- (b) Is not required to advise the person of the consequences of submitting or refusing to submit to a chemical test.
- (c) Is not required to provide the person with the written form described in this policy.
- (d) Shall advise the person that the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test.
- (e) At the time of arrest, shall advise the person that he/she may have an independent chemical test taken at his/her own expense and permit such testing (ORC § 4511.19(D)(3)).

If an officer does not ask the arrestee to submit to a chemical test, the officer shall seize the person's driver license and forward it to the court in which the person is to appear, pursuant to ORC § 4511.192(C). If the person is not in possession of his/her license, the officer shall order the person to submit it to this department within 24 hours of the arrest.

#### 502.5.2 BREATH SAMPLES

The Traffic Commissioner should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

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 Traffic Commissioner.

#### 502.5.3 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (ORC § 4511.19(D)(1)(b)). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

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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 draw 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.

#### **502.5.4 URINE SAMPLES**

If a urine test will be performed, the arrestee should be promptly transported to an appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the individual giving the sample. The arrestee tested should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample.

The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

#### **502.6 REFUSALS**

When an arrestee refuses to provide a chemical sample, officers should:

- (a) Advise the arrestee of the requirement to provide a sample (ORC § 4511.191).
- (b) Audio- and/or video-record the admonishment and the response when it is practicable.
- (c) Document the refusal in the appropriate report.

##### **502.6.1 STATUTORY NOTIFICATIONS UPON REFUSAL**

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of license suspension upon the person and take possession of any state-issued license to operate a motor vehicle that is held by that person. If a person was arrested only for having physical control of a vehicle while under the influence pursuant to ORC § 4511.194, the officer shall not seize the person's driver license if the person submits to the chemical tests, regardless of the amount of alcohol or controlled substances indicated by the test (ORC § 4511.192(D)).

##### **502.6.2 BLOOD SAMPLE WITHOUT CONSENT**

A blood sample may be obtained from a person who refuses to submit to a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained.
- (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

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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 delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

#### 502.6.3 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:

- (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 person to submit to such a sample without physical resistance. This dialogue should be recorded on audio and/or video when 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 which 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.

### **502.7 ARREST AND INVESTIGATION**

#### 502.7.1 DESIGNATION OF CHEMICAL TESTS

The type of chemical test to be administered to persons in violation of OVI laws shall be the type designated by the Department and administered at the direction of the arresting officer (ORC § 4511.191(A)(3)).

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#### **502.7.2 OFFICER RESPONSIBILITIES**

If a person refuses to submit to a chemical test, or submits to the test and the results indicate a prohibited concentration of alcohol, controlled substance or metabolite of a controlled substance, the officer shall (ORC § 4511.192(D)):

- (a) Confirm the arrested person's residence and notify the Bureau of Motor Vehicles (BMV) of any change.
- (b) Within 48 hours, forward a sworn report to the BMV and the court in which the arrested person will appear that contains the statements required by ORC § 4511.192(D)(1)(d).
- (c) Provide a copy of the officer's sworn report to the arrested person, if available. A copy of an unsworn report may be provided to the arrested person provided that the report is complete when given to the person and that it is subsequently sworn to by the arresting officer (ORC § 4511.192(E)).

#### **502.7.3 TIME TO CONSENT TO TEST**

If an officer requests that a person consent to providing a chemical sample pursuant to Ohio law, failure to consent to the test within two hours of the alleged violation automatically constitutes a refusal (ORC § 4511.192(A)).

#### **502.7.4 VEHICLE SEIZURE**

An officer arresting a person for OVI shall seize the vehicle the person was operating at the time of the offense if the person is the registered owner of the vehicle and either of the following conditions apply (ORC § 4511.195(B)):

- (a) The person is arrested for OVI or for a municipal OVI ordinance and has been previously convicted of or pleaded guilty to OVI, or an equivalent offense, within the last 10 years.
- (b) The person is arrested for OVI or for a municipal OVI ordinance and has been previously convicted of or pleaded guilty to a felony OVI offense, regardless of when the conviction or guilty plea occurred.

#### **502.8 RECORDS AND INFORMATION CENTER RESPONSIBILITIES**

The Support Services Commander will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

#### **502.9 ADMINISTRATIVE HEARINGS**

The Support Services Commander will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to the BMV.

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 BMV file number in a supplemental report. Specific details of the hearing generally should not be

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included in the report unless errors, additional evidence or witnesses are identified. The Records and Information Center should forward this to the prosecuting attorney as part of the case file.

#### **502.10 TRAINING**

The Training Coordinator should ensure that officers participating in the enforcement of OVI laws receive periodic training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to OVI investigations. The Training Coordinator should confer with the prosecuting attorney's office and update training topics as needed.

## Traffic and Parking Citations

### 503.1 PURPOSE AND SCOPE

This policy outlines the responsibilities for issuing, correcting, voiding, and dismissing traffic and parking citations.

### 503.2 RESPONSIBILITIES

Members of this department shall use the Ohio Uniform Traffic Ticket for all traffic offense citations (Ohio Traf. R. Rule 3(A)). The Chief of Police or the authorized designee shall determine whether to use the Ohio Uniform Traffic Ticket or adopt a local parking ticket for parking violations (ORC § 4521.03).

The Records and Information Center shall be responsible for the supply and accounting of all traffic and parking citations issued to members of this department (Ohio Traf. R. Rule 3(D)). Citations will be kept in a secure location and issued to members by Records and Information Center staff. Citation books shall be electronically logged to the member by their shift OIC when issued, and the Records and Information Center is responsible for maintaining records of parking tickets issued by members of this department (ORC § 4521.03(D)).

#### 503.2.1 OFFICER RESPONSIBILITIES

The officer who issues a moving traffic ticket shall do all of the following (Ohio Traf. R. Rule 3(E)):

- (a) Complete the ticket with all available information and sign the ticket.
- (b) Serve a copy of the completed ticket on the defendant.
- (c) File the court copy with the court without unnecessary delay.
- (d) Notify the recipient that the recipient must comply with the directions on the ticket or the recipient's license will be cancelled, the recipient will not be eligible for the reissuance of a license for one year, and the recipient will be subject to any applicable criminal penalties.

#### 503.2.2 WRITTEN OR VERBAL WARNINGS

Written or verbal warnings may be issued when the department member believes it is appropriate. The Records and Information Center should maintain information relating to traffic stops in which a written warning is issued. Written warnings are retained by this department in accordance with the established records retention schedule.

### 503.3 PARKING CITATION APPEALS

Parking citations may be appealed in accordance with local and state law.

Disposition of notice of parking violation appeals is conducted pursuant to Ohio state law and local regulations (ORC § 4521.04 et seq.).

#### 503.3.1 APPEAL STAGES

Appeals may be pursued sequentially at three different levels:

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### *Traffic and Parking Citations*

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- (a) Administrative reviews are conducted by the Traffic Division, which will review written documentary data. Requests for administrative reviews are available at the front desk or Traffic Division of the Lorain Police Department. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be mailed to the current mailing address of the processing agency.
- (b) If the appellant wishes to pursue the matter beyond administrative review, an administrative hearing may be conducted in person or by written application at the election of the appellant. Independent referees review the existent administrative file, amendments and/or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.
- (c) If the appellant wishes to pursue the matter beyond an administrative hearing, an appellant may petition the court for a hearing as required (ORC § 4521.08).

#### 503.3.2 TIME REQUIREMENTS

Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

- (a) Requests for an administrative review must be postmarked within 21 days of issuance of the notice of parking violation or within 10 days of the mailing of the Notice of Delinquent Parking Violation.
- (b) Requests for administrative hearings must be postmarked within 15 days of the mailing of the results of the administrative review.
- (c) Requests for appeal to the District Court must be made within 15 days of the mailing of the administrative hearing results (ORC § 4521.08).
- (d) Registered owners of leased or rented vehicles may transfer responsibility for the violation to the lessee or renter of the vehicle at the time of the violation if the name, address, and driver license number of the lessee/renter is provided to the processing agency within 30 days of actual receipt of the parking ticket or notification of infraction (ORC § 4521.09).

#### 503.3.3 COSTS

- (a) There is no cost for an administrative review.
- (b) Appellants must pay the full amount due for the citation or provide satisfactory proof of their inability to pay before receiving an administrative hearing.
- (c) An appeal through the District Court requires prior payment of filing costs, including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if the appellant's liability is overruled by the District Court.

#### 503.4 POLICY

It is the policy of the Lorain Police Department to enforce traffic laws fairly and equally. Authorized members may issue a traffic citation, parking citation, or written or verbal warning based upon the circumstances of the contact and in the best interest of the motoring public and community safety.

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#### **503.5 TRAFFIC CITATIONS**

##### **503.5.1 CORRECTION**

When a traffic citation is issued but is in need of correction, the member issuing the citation shall submit the citation to the member's immediate supervisor requesting a specific correction. Once approved, the citation shall then be forwarded to the Records and Information Center. The Support Services Commander or the authorized designee shall prepare a letter of correction to the court having jurisdiction and notify the citation recipient in writing.

##### **503.5.2 VOIDING**

Voiding a traffic citation may occur when the citation has not been completed, when it is completed but not issued. All copies of the voided citation shall be presented to a supervisor for approval. The citation and copies shall then be forwarded to the Records and Information Center.

##### **503.5.3 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 a juvenile a citation.

##### **503.5.4 DISPOSITION**

The court and file copies of all traffic citations issued by members of this department shall be forwarded to the member's immediate supervisor for review by the end of each shift. The citation copies shall then be filed with the Records and Information Center.

Upon separation from appointment or employment with this department, all members who were issued traffic citation books shall return any unused citations to the Records and Information Center.

##### **503.5.5 DISMISSAL**

Members of this department do not have the authority to dismiss a traffic citation once it has been issued. Only the court has that authority. Any request from a recipient to dismiss a citation shall be referred to the Traffic Commissioner. Upon a review of the circumstances involving the issuance of the traffic citation, the Traffic Commissioner may request the Patrol Operations Division Commander to recommend dismissal. If approved, the citation will be forwarded to the appropriate prosecutor with a request for dismissal. All recipients of traffic citations whose request for dismissal has been denied shall be referred to the appropriate court.

Prior to a court hearing, a member may submit a request for dismissal of a traffic citation to the member's supervisor. The request must be in writing and should include the reason for dismissal (i.e., in the interest of justice, prosecution is deemed inappropriate). Upon a review of the circumstances involving the issuance of the traffic citation, the supervisor may forward the request to the Patrol Operations Division Commander to recommend dismissal. If approved, the citation will be forwarded to the appropriate prosecutor with a request for dismissal.

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Should a member determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate, the member may request the court to dismiss the citation. Upon such dismissal, the member shall notify the member's immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required, and forward it to the Patrol Operations Division Commander for review.

## Disabled Vehicles

### 504.1 PURPOSE AND SCOPE

Law enforcement and other public agencies may develop and adopt a written policy to provide assistance to motorists in disabled vehicles that are within their primary jurisdiction.

### 504.2 OFFICER RESPONSIBILITIES

When an on-duty officer observes a disabled vehicle, 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 if available as soon as practicable.

### 504.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After assistance is rendered or arrangements for assistance are made, continued involvement by Department personnel will be contingent on the time of day, the location, the availability of Department resources and the vulnerability of the disabled motorist.

#### 504.3.1 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.

#### 504.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

## Abandoned Vehicles

### 505.1 PURPOSE AND SCOPE

This policy provides guidance for the recording and storage of abandoned vehicles on public or private property under the authority of ORC § 4513.60 and ORC § 4513.61.

#### 505.1.1 DEFINITIONS

Definitions related to this policy include:

**Abandoned Junk Vehicle** - A motor vehicle meeting all of the following requirements (ORC § 4513.63):

- The motor vehicle has remained on private property for 48 hours or longer without the permission of the property owner, renter, or person having control of the property; or on a public street or other property open to the public for purposes of vehicular travel or parking; or upon or within the right-of-way of any road or highway for 48 hours or longer.
- The motor vehicle is three years old or older.
- The motor vehicle is extensively damaged, including but not limited to, any of the following: missing wheels, tires, motor, or transmission.
- The motor vehicle is apparently inoperable.
- The motor vehicle has a fair market value of \$1,500 or less.

**Private Residential Property** - Private property on which is located (ORC § 4513.60(A)(4)):

- One or more structures that are used as a home, residence, or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures.
- Does not include any private property on which is located one or more structures that are used as a home, residence, or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

### 505.2 PROCEDURE

Vehicles on public roadways suspected of being abandoned in violation of Ohio abandoned vehicle laws shall be noted on the Lorain Police Department vehicle card or documented via the computer-aided dispatch (CAD) system. No case number is required at this time.

All vehicle cards shall be submitted to the Traffic Division for computer data entry unless documented via the CAD system.

If a vehicle has been moved during the investigation period, the vehicle shall be recorded again and a new vehicle card completed and forwarded to the Traffic Division or a CAD update completed.

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#### 505.2.1 VEHICLE CARD FILE

The Traffic Division shall be responsible for maintaining a file for all vehicle cards. In addition, abandoned vehicles may be entered into the Ohio Law Enforcement Automated Data System (LEADS) towed vehicle file.

Parking control officers assigned to the Traffic Division shall be responsible for the follow-up investigation of all abandoned violations noted on the vehicle cards or CAD system.

#### **505.3 VEHICLE STORAGE**

##### 505.3.1 PRIVATE PROPERTY

A vehicle, other than an abandoned junk motor vehicle, left on private residential or private agricultural property, that has not been established as a private tow-away zone, without the permission of the property owner, may be removed if (ORC § 4513.60(A)(1)):

- (a) A complaint is received from any person adversely affected and the motor vehicle has been left for at least four hours.
- (b) A complaint is received from a representative of a repair garage or place of storage because the motor vehicle has been left at the garage or place of storage for a period longer than that agreed upon.

##### 505.3.2 PUBLIC PROPERTY

Any motor vehicle, including an abandoned junk motor vehicle, left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, may be removed if the motor vehicle has been left for 48 hours or longer. When such a motor vehicle constitutes an obstruction to traffic, it may be ordered into storage immediately (ORC § 4513.61).

##### 505.3.3 VEHICLE STORAGE REPORTING

Any vehicle in violation should be stored and a vehicle storage report shall be completed in accordance with the Vehicle Towing and Release Policy.

## **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 POLICY

It is the policy of the Lorain Police Department to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

### 600.3 INITIAL INVESTIGATION

#### 600.3.1 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 Watch Commander.
  - 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.
- (d) Patrol officers will not advise citizens that the CID will arrive and take fingerprints or gather other evidence for every reported offense. When necessary, evidence should either be tagged by the investigating officer, or, if too bulky or fragile preserved by the complainant. Either should be noted on the case report so CID personnel have knowledge of the evidence and can act on it in a timely and orderly manner.

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- (e) The CID does follow-up investigations on a case by case basis with respect to solvability factors. The decision to conduct a follow-up investigation will primarily depend on the facts reported in the initial case report.
- (f) Patrol officers will not advise citizens that their case will not be investigated due to lack of evidence.

#### SERIOUS INCIDENTS

The CID, Traffic Bureau, SWAT, Crisis Negotiators, Under Water Recovery, Health Department, etc. will be contacted when necessary and in accordance with procedures.

#### INVESTIGATIONS CONDUCTING

Investigations will be conducted in accordance with established policy and procedures. No officer shall investigate any case involving any family member. No officer shall personally file any criminal charge in a court of law, against any person for a criminal offense committed against any member of his family. Officers shall not intentionally become involved in neighborhood quarrels or disputes in their neighborhood when off duty. Such disputes shall be handled by on-duty officers.

#### IDENTIFICATION

Department personnel shall furnish their name and where applicable, identification number, or photo ID, to any person requesting that information when they are on duty or while holding themselves out as having an official capacity, except when the withholding of such information is necessary for the performance of their duties or is authorized by proper authority. Department personnel shall not lend to another person their identification cards or badges or permit them to be photographed or reproduced without the approval of the Chief of Police.

#### 600.3.2 CIVILIAN MEMBER RESPONSIBILITIES

A civilian 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.

#### 600.4 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

##### 600.4.1 AUDIO/VIDEO RECORDINGS

Any custodial interrogation of an individual who is suspected of having committed any violent felony offense should be recorded (audio or video with audio as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

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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.

If a person is suspected of committing a violation of any offense enumerated in ORC § 2933.81, officers should both audio and video record, in its entirety, any custodial interrogation occurring at the station, a jail or other place of detention (ORC § 2933.81).

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Criminal Investigations 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.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

#### **600.4.2 RECORD KEEPING AND RETENTION REQUIREMENTS**

Electronic recordings of custodial interrogations shall be clearly labeled and retained as required by ORC § 2933.81(D).

#### **600.4.3 REQUIRED RECORDING OF INDIVIDUALS**

Both audio and video recording of custodial interrogations is statutorily required when an individual is suspected of committing a violation of any offense enumerated in ORC § 2933.81 and the interrogation occurs at the station, a jail, or other place of detention except when (ORC § 2933.81):

- (a) The suspect requests that the interrogation not be recorded. Any such request shall be preserved in a recording or in writing.
- (b) The recording equipment malfunctions.
- (c) There are exigent circumstances related to public safety.
- (d) The interrogation occurs outside of the state.
- (e) The statements are made during routine processing or booking.
- (f) The statements are made spontaneously and not in response to interrogation.

#### **600.5 COLD CASE REGISTER**

The Department should maintain a confidential cold case register for offenses, including homicides and felony sexual offenses that have remained unsolved for more than one year. As reasonably practicable, cold cases should be revisited periodically for new information.

The Criminal Investigations Division should submit cold cases to the Ohio Bureau of Criminal Investigation (BCI), which will provide investigative support in accordance with the BCI's Unresolved Homicide Initiative.

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#### **600.6 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 or Vulnerable Person Abuse policies may also require an arrest or submittal of a case to a prosecutor.

#### **600.7 COMPUTERS AND DIGITAL EVIDENCE**

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

#### **600.8 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

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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).

#### **600.8.1 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.

#### **600.8.2 INTERCEPTING ELECTRONIC COMMUNICATION**

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

#### **600.9 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 Commander or the Chief of Police. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

#### **600.10 SCRAP METAL THEFT**

To assist in scrap metal theft investigations, the Criminal Investigations supervisor shall provide scrap metal dealers in this jurisdiction with an electronically searchable list of the names, descriptions and conviction information of persons known to be thieves or receivers of stolen property. A list may be requested from the appropriate clerk of the court or prepared pursuant to

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rules adopted by the Ohio Department of Public Safety (DPS). The list shall also be provided to DPS in the format and manner described in OAC § 4501:5-3-01. Following the initial submission of the list, if there are any updates, a new list shall be submitted to dealers and DPS on the first business day of each month (ORC § 4737.04; OAC § 4501:5-3-01).

An individual included on the list prepared by this department may request that his/her name be removed by filing an application with the Criminal Investigations. The Criminal Investigations supervisor or the authorized designee shall remove the applicant's name from the list if the individual has not been convicted of, or pleaded guilty to, either of the following (ORC § 4737.04):

- (a) A misdemeanor theft offense, as defined in ORC § 2913.01, within three years immediately prior to the date of the application
- (b) A felony theft offense within six years immediately prior to the date of the application

## Sexual Assault Investigations

### 601.1 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 or Vulnerable Person Abuse policies.

#### 601.1.1 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 Title 29, Chapter 2907 (Sex Offenses).

**Sexual Assault Response Team (SART)** - A multidisciplinary team generally comprised 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.

### 601.2 POLICY

It is the policy of the Lorain 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.

### 601.3 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 (ORC § 2907.30).
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.
- (e) Provide referrals to therapy services, victim advocates and support for the victim.
- (f) Participate in or coordinate with SART or other multidisciplinary investigative teams as applicable.

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#### **601.4 REPORTING**

In all reported or suspected cases of sexual assault, a report should be reviewed for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

#### **601.5 VICTIM INTERVIEWS**

The primary considerations in sexual assault investigations, which begin with the initial call to the Communications Center, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of the SART should be included in the initial victim interviews.

An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator (ORC § 2907.30).

No opinions of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; ORC § 2907.10).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

#### **601.6 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE**

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When 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.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

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. The sexual assault will be sent to BCI for testing.

##### **601.6.1 COLLECTION AND TESTING REQUIREMENTS**

Members investigating sexual assaults or handling related evidence are required to do the following:

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- (a) Submit biological evidence to the appropriate crime laboratory within thirty days for a DNA analysis after it has been determined that any of the following offenses have occurred (ORC § 2933.82; OAC § 109:7-1-07):
  - 1. A rape offense (ORC § 2907.02).
  - 2. A sexual battery offense (ORC § 2907.03).
  - 3. Gross sexual imposition with a victim less than 13 years of age (ORC § 2907.05).
  - 4. Any sexual assault involving a homicide or an attempted homicide offense (ORC § 2907.02).
  - 5. Any sexual assault related to human trafficking (ORC § 2905.32).
- (b) Facilitate the testing of a suspect for disease as set forth in ORC § 2907.27 upon the request of a victim or the prosecutor.
- (c) Log and update information relating to sexual assault evidence kits into the state tracking system as required by OAC § 109:7-1-07 (e.g., receiving a kit, forwarding a kit to a laboratory, a change in the status of the case).

Additional guidance regarding evidence retention and destruction is found in the Evidence Room Policy.

#### 601.6.2 DNA TEST RESULTS

Members investigating sexual assault cases should notify victims of any DNA test results as soon as reasonably practicable.

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

Members investigating sexual assaults cases should ensure that DNA results are entered into databases when appropriate and as soon as practicable.

#### 601.7 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 Criminal Investigations supervisor.

Classification of a sexual assault case as unfounded requires the Criminal Investigations supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

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#### **601.8 CASE REVIEW**

The Criminal Investigations 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:

- (a) Case dispositions.
- (b) Decisions to collect biological evidence.
- (c) 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.

#### **601.9 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 Criminal Investigations 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.

#### **601.10 TRAINING**

Subject to available resources, periodic training will be provided to:

- (a) Members who are first responders. This includes but is not limited to:
  - 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. This includes but is not limited to:
  - 1. Interviewing sexual assault victims.
  - 2. SART or multidisciplinary response team.
  - 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 (ORC § 2907.30).

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#### **601.11 STATE REPORTING REQUIREMENTS**

The Criminal Investigations Division Commander or the authorized designee shall develop procedures to provide for collecting and reporting data related to sexual assault evidence kits to the attorney general as required by ORC § 2933.821.

## Asset Forfeiture

### 602.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

#### 602.1.1 DEFINITIONS

Definitions related to this policy include:

**Fiscal agents** - The person or persons designated by the Chief of Police to be responsible for securing, reviewing, and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Lorain Police Department seizes property for forfeiture or when the Lorain 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.

**Property subject to forfeiture** - Includes the following (ORC § 2981.02; ORC § 2981.04; ORC § 2981.05):

- (a) Contraband involved in an offense.
- (b) Proceeds derived from or acquired through the commission of an offense.
- (c) An instrumentality that is used in, or intended to be used in, the commission or facilitation of any of the following offenses:
  1. A felony.
  2. A misdemeanor, when forfeiture is specifically authorized by a section of the Ohio Revised Code, or by a municipal ordinance that creates the offense or sets forth its penalties.
  3. An attempt to commit, complicity in committing or a conspiracy to commit either of the above.

**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.

### 602.2 POLICY

The Lorain 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 Lorain 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.

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#### **602.3 ASSET SEIZURE**

Property may be seized for forfeiture as provided in this policy.

##### **602.3.1 PROPERTY SUBJECT TO SEIZURE**

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

- (a) Property subject to forfeiture identified in a search warrant or court order.
- (b) Property subject to forfeiture that is not the subject of a court order but for which an officer has probable cause to believe qualifies as property subject to forfeiture (ORC § 2981.03).

Whenever practicable, obtaining a search warrant or court order for seizure prior to making a seizure is the preferred method. Real property shall only be seized by court order unless an immediate need to protect the public exists (ORC § 2981.03).

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

##### **602.3.2 PROPERTY NOT SUBJECT TO SEIZURE**

The following property should not be seized for forfeiture:

- (a) Property that reasonably appears to the officer to have a value disproportionate to the severity of the crime considering the impact of the offense on the community, the extent to which the owners participated in the offense and whether the offense was completed or attempted (ORC § 2981.09).

When deciding to seize property as an alleged instrumentality of a crime under ORC Chapter 2981.02, officers should consider:

- Whether the offense could not have been committed or attempted but for the presence of the property.
- Whether the primary purpose in using the property was to commit or attempt to commit the offense, and
- The extent to which the property furthered the offense.

#### **602.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS**

When property or cash subject to this policy is seized, the property officer making the seizure should ensure compliance with the following:

- (a) Complete any applicable seizure forms if required by applicable court case, and present the appropriate copy to the person from whom the property is seized. When property is seized and no one claims an interest in the property, the property officer will follow state guidelines for time limits to complete the seizure.
- (b) Complete and submit a report within 24 hours of the seizure, if practicable.

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The officer may book seized property as evidence with the notation in the comment section of the property form in the records management system.

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.

#### **602.5 MAINTAINING SEIZED PROPERTY**

The property officer 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 by the Department unless the forfeiture action has been completed.

#### **602.6 DISPOSITION OF FORFEITED PROPERTY**

Assets forfeited shall be disposed of as set forth in ORC § 2981.12 and ORC § 2981.13.

No member of this department may use property that has been seized for forfeiture until the forfeiture action has been completed and the Chief of Police has given written authorization to retain the property for official use. No department member involved in the decision to seize property should be involved in any decision regarding the disposition of the property.

#### **602.7 RECORDS REQUIREMENTS**

Detailed records related to the amount of forfeited property acquired by the Department under ORC Chapter 2981 and the date the property was acquired shall be kept and open to public inspection (ORC § 2981.11).

Detailed records of the disposition of acquired property shall be kept and open to public inspection. These shall include, but not be limited to (ORC § 2981.11):

- (a) The manner in which property was disposed, the date of disposition, detailed financial records concerning any property sold and the name of any person who received the property. The record shall not identify or enable identification of the individual officer who seized any item of property.
- (b) The general types of expenditures made with amounts that are gained from the sale of the property and that are retained by the department, including the specific amount expended on each general type of expenditure, except for the identification of any specific expenditure that is made in an ongoing investigation.

## Informants

### 603.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

#### 603.1.1 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 Lorain Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Lorain Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

### 603.2 POLICY

The Lorain 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.

### 603.3 USE OF INFORMANTS

#### 603.3.1 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.

#### 603.3.2 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

#### 603.3.3 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.

#### **603.4 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 Commander, Narcotics Bureau 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 Lorain 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 Narcotics Bureau 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 Narcotics Bureau 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.

##### **603.4.1 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 provides. The supervisor shall document the decision and conditions in file notes and mark the file "unsuitable" when appropriate.

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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.

#### **603.5 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 Narcotics Bureau. The Narcotics Bureau 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 Commanders, Narcotics Bureau supervisor or their authorized designees.

The Criminal Investigations Division Commander 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 Narcotics Bureau 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.

##### **603.5.1 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
- (b) Date of birth
- (c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features

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- (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

#### **603.6 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 Narcotics Bureau supervisor will discuss the above factors with the Patrol Operations Division Commander and recommend the type and level of payment subject to approval by the Chief of Police.

#### **603.6.1 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 Narcotics Bureau buy/expense fund.
  1. The Narcotics Bureau 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.
  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.

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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 Safety Director 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) Lorain 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.

#### 603.6.2 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.

#### 603.6.3 AUDIT OF PAYMENTS

The Narcotics Bureau 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 annually, 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

### 604.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (ORC § 2933.83).

#### 604.1.1 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.

### 604.2 POLICY

The Lorain 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.

### 604.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

### 604.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Criminal Investigations 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 (ORC § 2933.83):

- (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 perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
  - 1. If applicable, the member shall advise the witness that the member does not know who the suspect is.
- (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, instructions and any results.
- (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.
- (k) Any witness identification of one or more fillers in the lineup.
- (l) Other process direction adopted by the Ohio Attorney General under ORC § 2933.831.

The process and related forms should be reviewed at least annually and modified when necessary.

[See attachment: Line Up Form](#)

#### **604.5 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 (ORC § 2933.83).

#### **604.6 PHOTOGRAPHIC 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

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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 (ORC § 2933.83)

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 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.

#### **604.7 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.
- (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) A subject of the show up should not be shown to the same witness more than once.

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- (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show up one at a time.
- (g) The 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 perpetrator, 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.

#### **604.8 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. The original photo line up itself will then be placed into evidence.

## Brady Material Disclosure

### 605.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called “*Brady* information”) to a prosecuting attorney.

#### 605.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** - Information known or possessed by the Lorain Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

### 605.2 POLICY

The Lorain 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 Lorain 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.

### 605.3 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 whether evidence or facts are material, 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.

### 605.4 DISCLOSURE OF PERSONNEL 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 and address any issues or questions raised by the court.
- (d) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.
  1. Prior to the release of any information 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 a member's file in any case, the prosecutor should be notified of that fact in all future cases involving that member.

The person or persons designated by the Chief of Police should periodically examine the personnel files and/or internal affairs files of all officers who may be material witnesses in criminal cases to determine whether they contain *Brady* information. The obligation to provide *Brady* information is ongoing. If any new *Brady* information is identified, the prosecuting attorney should be notified.

#### **605.5 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.

#### **605.6 TRAINING**

Department personnel should receive periodic training on the requirements of this policy.

## Warrant Service

### 607.1 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.

### 607.2 POLICY

It is the policy of the Lorain 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.

### 607.3 OPERATIONS COMMANDER

The operations commander (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 commander 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.

### 607.4 SEARCH WARRANTS

Officers should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the officer will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor and the operations commander for review and classification of risk (see the Operations Planning and Deconfliction Policy).

### 607.5 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 commander for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations commander. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a

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residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

#### **607.6 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 or no-knock warrant execution.
  - 1. No-knock warrant applications shall be consistent with the requirements of state law (R.C. § 2933.231).
- (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).

#### **607.7 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 audio- and video-recorded when practicable and reasonable to do so.

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- (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.

#### 607.7.1 NO KNOCK WARRANT

- (a) An affidavit must state facts that the affiant has probable cause to believe that complying with the “knock and announce” rule will result in a substantial risk of serious physical harm to officers.
- (b) No-knock warrants will not be sought when the affiant alleges only misdemeanor drug possession or the possession of drug paraphernalia.
- (c) Officers are required to wear readily identifiable markings when serving a no-knock warrant and identify themselves as soon as possible upon entry.
- (d) Absent exigent circumstances body cameras must be worn and activated when law enforcement officers are executing a no-knock search warrant, if the department has access to them.

#### **607.8 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.

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#### **607.9 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.

#### **607.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS**

The operations commander will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the operations commander. The operations commander should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The commander should ensure that members of the Lorain Police Department are utilized appropriately. Any concerns regarding the requested use of Lorain 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 commander is unavailable, the Watch Commander should assume this role.

If officers intend to serve a warrant outside Lorain Police Department jurisdiction, the operations commander 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 Lorain Police Department when assisting outside agencies or serving a warrant outside Lorain Police Department jurisdiction.

#### **607.11 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.

#### **607.12 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.

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#### **607.13 NO-KNOCK ENTRIES**

No-knock entries are only authorized if a no-knock warrant has been obtained or if exigent circumstances arise at the scene such that knocking and announcing the officer's presence would create an imminent threat of physical violence to the officer or another person.

#### **607.14 DOCUMENTATION**

Documentation related to the service of a warrant shall be maintained in accordance with the established records retention schedule.

# Operations Planning and Deconfliction

## 608.1 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.

### 608.1.1 DEFINITIONS

Definitions related to this policy include:

**High-risk operations** - Operations, including service of search and high-risk 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.

## 608.2 POLICY

It is the policy of the Lorain Police Department to properly plan and carry out high-risk operations, including deconfliction in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

## 608.3 OPERATIONS COMMANDER

The operations commander 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 commander will review risk assessment forms with involved supervisors to determine whether a particular incident qualifies as a high-risk operation. The commander will also have the responsibility for coordinating operations that are categorized as high risk.

## 608.4 RISK ASSESSMENT

### 608.4.1 RISK ASSESSMENT FORM PREPARATION

Supervisors 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 supervisor 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.

The supervisor 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.

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- (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).

#### 608.4.2 RISK ASSESSMENT REVIEW

Supervisors will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to the operations commander.

The operations commander and assigned supervisor 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.

#### 608.4.3 HIGH-RISK OPERATIONS

If the operations commander determines that the operation is high risk, the operations commander should:

- (a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:
  1. Special Weapons and Tactics (SWAT)
  2. Additional personnel
  3. Outside agency assistance
  4. Special equipment
  5. Medical personnel
  6. Persons trained in negotiation
  7. Additional surveillance
  8. Canines
  9. Evidence Room or analytical personnel to assist with cataloguing seizures
  10. Forensic specialists

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11. Specialized mapping for larger or complex locations
  - (b) Contact the appropriate department members or other agencies as warranted to begin preparation.
  - (c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.
  - (d) Coordinate the actual operation.

#### **608.5 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 supervisor who is the operations lead should ensure the subject of investigation and operations information have been entered in any 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 supervisor 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.

#### **608.6 OPERATIONS PLAN**

The operations commander should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

- (a) Operation goals, objectives and strategies.
- (b) Operation location and people:
  1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)
  2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, 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)

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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 or Vulnerable Person Abuse, Child and Dependent Adult Safety and Animal Control Procedures policies.
- (k) Communications plan.
- (l) Responsibilities for writing, collecting, reviewing and approving reports.

#### **608.6.1 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.

#### **608.7 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.

- (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

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initial a copy that is retained with the operation plan. Any items to be seized should be identified at the briefing.

- (c) The operations commander shall ensure that all participants are visually identifiable as law enforcement officers.
  - (a) Exceptions may be made by the operations commander 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.
  - (a) It is the responsibility of the operations commander to ensure that the Communications Center 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.
  - (b) If the radio channel needs to be monitored by the Communications Center, 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.
  - (c) 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.

#### **608.8 SWAT PARTICIPATION**

If the operations commander determines that SWAT participation is appropriate, the operations commander and the SWAT supervisor shall work together to develop a written plan.

The on scene command will be handled by the incident commander, who will authorize the deployment of the SWAT team in accordance with the Crisis and Emergency Response policy.

#### **608.9 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.

#### **608.10 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.

#### **608.11 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, topics such as legal issues, deconfliction practices, operations planning concepts and reporting requirements.

## **Chapter 7 - Equipment**

## Department-Owned and Personal Property

### 700.1 PURPOSE AND SCOPE

This policy addresses the care of department-owned property and the role of the Department when personal property, the property of another, or department-owned property is damaged or lost.

### 700.2 DEPARTMENT-ISSUED PROPERTY

The Quartermaster should document all property and equipment issued by the Department in the appropriate file at the time of issuance. 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.

#### 700.2.1 MEMBER RESPONSIBILITIES

Members shall be responsible for the safekeeping, serviceable condition, proper care, proper use, and replacement of department property that has been assigned or entrusted to them.

- (a) Members shall promptly report, through their chain of command, any loss, damage to, or unserviceable condition of any department-issued property or equipment.
- (b) The use of damaged or unserviceable property should be discontinued as soon as practicable, and the item replaced with a comparable item as soon as available.
- (c) Except when otherwise directed by a supervisor or when exigent circumstances exist, department-issued 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-issued property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without prior approval.
- (e) Members should obtain a supervisor's approval before any attempt to repair damaged or unserviceable property, unless the repair is of a minor or temporary nature.

### 700.3 RETURN OF EQUIPMENT AT SEPARATION

Upon an employee's separation from the Department, all issued equipment shall be returned and documentation of the return in the Asset Tracking System will be completed by the Quartermaster. Absent normal wear and tear, all issued equipment should be in good working order.

### 700.4 PERSONAL PROPERTY

Carrying and/or using personal property or equipment on-duty requires prior written approval by the Chief of Police or the appropriate Division Commander. The member should submit a request that includes a description of the property and the reason and length of time it will be used. Personal property of the type routinely carried by persons who are not performing law enforcement duties, and that is not a weapon, is excluded from this requirement.

The Department will not replace or repair items (e.g., jewelry, expensive watches) that are not reasonably required as part of work.

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#### 700.4.1 FILING CLAIMS FOR PERSONAL PROPERTY

A member requesting reimbursement for damage to, or loss of, personal property must submit the request in writing to the member's immediate supervisor. The supervisor may require a separate written report.

Upon review by command 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 City department responsible for issuing payments.

#### **700.5 DAMAGE OF PROPERTY OF ANOTHER PERSON OR ENTITY**

Members who intentionally or unintentionally damage or cause to be damaged the real or personal property of another person or entity while performing any law enforcement function shall promptly report the damage through the member's chain of command.

##### 700.5.1 DAMAGE BY PERSONNEL OF ANOTHER AGENCY

Personnel from another agency may intentionally or unintentionally cause damage to the real or personal property of the City of Lorain or of another person while performing their duties within the jurisdiction of this department. The department member present or the member responsible for the property is responsible to report the damage as follows:

- (a) A verbal report shall be made to the member's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted before the member goes off-duty or as otherwise directed by the supervisor.

#### **700.6 POLICY**

The Lorain Police Department will ensure that members are issued appropriate property and equipment necessary for the member's job function. The department will take steps to minimize the cost associated with maintaining department property, including personal property authorized for use in the member's duties.

#### **700.7 SUPERVISOR RESPONSIBILITIES**

The supervisor receiving a report that property, including personal property authorized for use, has been damaged should conduct an investigation and direct a memo to the appropriate Division Commander. The memo should include the result of the investigation and whether reasonable care was taken to prevent the loss, damage, or unserviceable condition.

Cases where the supervisor has reason to believe that misconduct or negligence was involved in the loss, damage, or unserviceable condition of property should be handled in accordance with the Standards of Conduct and Personnel Complaints policies.

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## Personal Communication Devices

### 701.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded 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 (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets 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.

### 701.2 POLICY

The Lorain Police Department allows members to utilize department-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on- or off-duty for business-related purposes, or reasonably associated with work-related misconduct, will be subject to monitoring and inspection consistent with applicable law and this policy.

Additionally, the use of a PCD either on-duty or after duty hours for business-related purposes, or reasonably associated with work-related misconduct, may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory staff.

### 701.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received or reviewed on any PCD issued or funded by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities (see the Information Technology Use Policy for additional guidance).

### 701.4 DEPARTMENT-ISSUED PCD

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue or fund a PCD for the member's use to facilitate on-duty performance. Department-issued or -funded PCDs may not be used for personal business either on- or off-duty unless authorized by the Chief of Police or the authorized designee. Such devices and the associated telephone number, if any, 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.

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#### **701.5 PERSONALLY OWNED PCD**

Members may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provision of this policy.
- (b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) The PCD and any associated services shall be purchased, used and maintained solely at the member's expense.
- (d) The device should not be used for work-related purposes except in exigent circumstances (unavailability of radio communications). Members 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.
  - 1. Members may use personally owned PCDs on-duty for routine administrative work as authorized by the Chief of Police.
- (e) PCDs are not authorized to access, process, store, or transmit criminal justice information unless authorized by the Chief of Police.
- (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 while at work or for work-related business 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, members will provide the Department with the telephone number of the device.
- (h) All work-related documents, emails, photographs, recordings or other public records created or received on a member's personally owned PCD should be transferred to the Lorain Police Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

Except with prior express authorization from their supervisors, members are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty. If a member is in an authorized status that allows for appropriate compensation consistent with policy or existing collective bargaining agreements, or if the member has prior express authorization from his/her supervisor, the member may engage in business-related communications. Should members engage in such approved off-duty communications or work, members entitled to compensation shall promptly document the time worked and communicate the information to their supervisors to ensure appropriate compensation. Members 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.

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#### **701.6 USE OF PCD**

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). Members shall endeavor to limit their use of PCDs to authorized break times unless an emergency exists.
- (d) Members may use a PCD to communicate with other personnel in situations where the use of radio communications 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) Members are prohibited from taking pictures, audio or video 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 requires the express authorization of the Chief of Police or the authorized designee.
- (f) Members will not access social networking sites for any purpose that is not official department business. This restriction does not apply to a personally owned PCD used during authorized break times.
- (g) Using PCDs to harass, threaten, coerce, or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

#### **701.7 SUPERVISOR RESPONSIBILITIES**

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

- (a) Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.
- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.
  - 1. An investigation into improper conduct should be promptly initiated when circumstances warrant.
  - 2. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Chief of Police or the authorized designee.

#### **701.8 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

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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 (ORC § 4511.204).

Except in an emergency, members who are operating vehicles that are not equipped with lights and siren shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (ORC § 4511.204). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

#### **701.9 OFFICIAL USE**

Members 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, members shall conduct sensitive or private communications on a land-based or other department communications network.

## Vehicle Maintenance

### 702.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, maintained, refueled and present a clean appearance.

### 702.2 DEFECTIVE VEHICLES

When a Department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who becomes aware of the defective condition. Paperwork, describing the correction needed, shall be promptly forwarded to vehicle maintenance for repair.

#### 702.2.1 SUSPECTED DAMAGE OR POOR PERFORMANCE

Vehicles that may have suffered damage, perform poorly or whose control or safety features has been diminished shall be immediately removed from service for inspection and repair. All damage will be reported and documented in accordance with current procedures for damage and accidents.

#### 702.2.2 SEVERE USE INSPECTION

Vehicles operated under severe use conditions, including rough roadway or off-road operation, hard or extended braking, pursuits or prolonged high-speed operation, should be removed from service and subjected to a safety inspection as soon as reasonably possible.

#### 702.2.3 REMOVAL OF WEAPONS

All firearms, weapons and kinetic impact weapons shall be removed from a vehicle and properly secured prior to the vehicle being taken for maintenance, service or repair.

### 702.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all Department vehicles for emergency purposes and to perform routine duties. All Lorain Police Department patrol vehicles will be marked in accordance with directives developed through the Office of the Chief of Police and shall be marked in some distinctive manner or color. Lorain Police Department patrol vehicles will display the Lorain Police Department door emblem and other markings that are reflective in nature.

#### 702.3.1 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 and in working order in the vehicle:

- emergency road flares
- At least one flashing, oscillating, or rotating colored light mounted outside on the top of the vehicle
- 1 roll crime scene barricade tape
- 1 first-aid kit

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- 1 fire extinguisher
- 1 traffic safety vest
- 1 hazardous materials emergency response handbook (can substitute mobile app)
- An electronic siren
- An exterior driver's side spotlight
- A public address system (PA)
- Rescue tool with window breaching device and seat belt cutter

#### **702.3.2 UNMARKED VEHICLES**

An employee driving an unmarked Department vehicle shall ensure that, at minimum, the equipment listed below is present in the vehicle:

- 1 roll crime scene barricade tape
- 1 first-aid kit
- 1 traffic safety vest

#### **702.4 VEHICLE REFUELING**

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place or operate a vehicle in service that has less than one-half tank of fuel. Vehicles shall only be refueled with authorized fuel. Officers on assigned training or outside the city will ensure that only fuel meeting manufacturer's recommendations is used. When traveling outside the city officers shall maximize usage of the city garage fuel point for fuel as much as possible by fueling prior to leaving, and only purchasing enough fuel at retail fuel points to return to the city garage fuel point. Prior to the end of any tour of duty, officers will ensure vehicles are fueled and ready for use by the next shift.

#### **702.5 WASHING OF VEHICLES**

All units shall be kept clean at all times and, weather conditions permitting, shall be washed as necessary to enhance their appearance.

Officers on patrol shall obtain clearance from the dispatcher before responding to the car wash. Only one marked unit should be at the car wash at a time unless otherwise approved by a supervisor.

Employees using a vehicle shall remove any trash or debris at the end of the shift. Confidential documents should be placed in a designated receptacle provided for the shredding of this material.

#### **702.6 CIVILIAN EMPLOYEE USE**

Civilian employees will only operate or transport marked vehicles with the approval of a supervisor. All weapons should be removed from the vehicle before being operated. Civilian employees should also prominently display the "out of service" placards or light bar covers at all times, if available.

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Civilian employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

## Vehicle Use

### 703.1 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 Lorain to provide assigned take-home vehicles.

### 703.2 POLICY

The Lorain 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.

### 703.3 USE OF VEHICLES

#### 703.3.1 SHIFT ASSIGNED VEHICLES

The Watch Commander shall ensure a copy of the shift assignment roster indicating member assignments and vehicle numbers is completed for each shift. If a member exchanges vehicles during his/her shift, the new vehicle number shall be documented on the roster.

#### 703.3.2 OTHER USE OF VEHICLES

Members utilizing a vehicle for any purpose other than their normally assigned duties or normal vehicle assignment (e.g., transportation to training, community event) shall first notify the Watch Commander. A notation will be made on the shift assignment roster indicating the member's name and vehicle number.

This subsection does not apply to those who are assigned to vehicle transportation duties to and from the maintenance yard or carwash.

#### 703.3.3 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 shifts. 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. Contraband or other items found in any vehicle upon being searched, should reported to the Watch Commander or shift OIC, and may require an incident report or supplemental report to be completed.

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.

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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 or its contents.

#### 703.3.4 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, canine safety, 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.

Members shall ensure all weapons are secured while the vehicle is unattended.

#### 703.3.5 MDT

Members assigned to vehicles equipped with a Mobile Data Computer (MDT) shall log onto the MDT with the required information when going on-duty. If the vehicle is not equipped with a working MDT, the member shall notify the Communications Center. Use of the MDT is governed by the Mobile Data Computer Use Policy.

#### 703.3.6 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.

System data may be accessed by supervisors at any time. However, access to historical data by other than supervisors will require Division Commander approval.

All data captured by the system shall be retained in accordance with the established records retention schedule.

#### 703.3.7 KEYS

Members who are assigned a specific vehicle should be issued keys for that vehicle. The loss of a key shall be promptly reported in writing through the member's chain of command. Members who lose vehicle ignition keys may be held financially responsible for the replacement and programming of electronic vehicle keys and remotes if lost due to negligence.

#### 703.3.8 AUTHORIZED PASSENGERS

Members operating department vehicles shall not permit persons other than City personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Along Policy.

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#### 703.3.9 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.

#### 703.3.10 PARKING

Except when responding to an emergency or when urgent department-related business requires otherwise, members driving department vehicles should obey all parking regulations at all times.

Department vehicles should be parked in assigned areas. Members shall not park privately owned vehicles in areas assigned to department vehicles or in other areas of the parking lot that are not so designated unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

#### 703.3.11 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without written permission from the Executive Officer.

#### 703.3.12 CIVILIAN MEMBER USE

Civilian members using marked emergency vehicles shall ensure that all weapons have been removed before going into service. Civilian members shall prominently display the "out of service" placards or light bar covers at all times, when available. Civilian members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

### **703.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES**

Department vehicles may be assigned to individual members at the discretion of the Chief of Police, and in accordance with the established Take Home Vehicles procedural directive. 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 their regular assignment.

#### 703.4.1 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.

#### 703.4.2 UNSCHEDULED TAKE-HOME USE

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.

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#### 703.4.3 ASSIGNED VEHICLES

Assignment of take-home vehicles shall be based on the current Take Home Vehicles directive, and in accordance with any applicable Collective Bargaining Agreement articles.

Department members shall sign a take-home vehicle agreement that outlines certain standards, including, but not limited to, how the vehicle shall be used, where it shall be parked when the member is not on-duty, vehicle maintenance responsibilities and member enforcement actions.

#### 703.4.4 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Lorain 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.

#### 703.4.5 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 for non take home vehicles. 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) When leaving the vehicle at the maintenance facility, the member will complete a vehicle repair card explaining the service or repair, and leave it on the seat or dash.
- (f) All weapons shall be removed from any vehicle left for maintenance.
- (g) 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.

#### 703.5 UNMARKED VEHICLES

Vehicles are assigned to various divisions and their use is restricted to the respective division and the assigned member, unless otherwise approved by a division supervisor. Any member operating

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an unmarked vehicle shall record vehicle usage on the sign-out log maintained in the division for that purpose. Any use of unmarked vehicles by those who are not assigned to the division to which the vehicle is assigned shall also record the use with the Watch Commander on the shift assignment roster.

#### **703.6 DAMAGE, ABUSE AND MISUSE**

When any department 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 the Traffic Collision Response and Reporting Policy).

Damage to any department 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 Watch Commander. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

#### **703.7 TOLL ROAD ACCESS**

Law enforcement vehicles are exempt from incurring toll road charges while being used in the performance of official duties (ORC § 5537.16; OAC § 5537-4-05).

The administrative person assigned to fleet operations shall maintain a record of all exempt and nonexempt license plates and shall notify the Ohio Turnpike and Infrastructure Commission or other appropriate toll road authority regarding department vehicles that traverse the toll roads while in the performance of their official duties in order to prevent toll charges from occurring (ORC § 5537.16).

To avoid unnecessary toll road charges, all members operating department vehicles on a toll road shall adhere to the following:

- (a) Members operating department vehicles for any reason other than while in the performance of their official duties shall pay the appropriate toll charge or utilize the appropriate personal toll way transponder.
- (b) Members passing through a toll plaza or booth while in the performance of their official duties shall notify, in writing, the appropriate Division Commander within five working days explaining the circumstances.

#### **703.8 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.

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## Cash Handling, Security and Management

### 704.1 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.

### 704.2 POLICY

It is the policy of the Lorain 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.

### 704.3 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.

### 704.4 PETTY CASH TRANSACTIONS

The fund manager shall document all transactions on the ledger and 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.

### 704.5 PETTY CASH AUDITS

The fund manager shall perform an audit no less than once every six months. This audit requires that the manager and at least one other command staff member, selected by the Chief of Police, review the 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 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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#### **704.6 ROUTINE CASH HANDLING**

Those who handle cash as part of their property or Narcotics Bureau 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.

#### **704.7 OTHER CASH HANDLING**

Members of the Department who, within the course of their duties, are in the possession of cash that is not their property or 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 and Informants policies.

Cash in excess of \$1000 requires immediate notification of a supervisor, special handling, verification and accounting by the supervisor. Each member involved in the process shall complete an appropriate report or record entry.

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# Personal Protective Equipment

## 705.1 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.

### 705.1.1 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.

## 705.2 POLICY

The Lorain Police Department endeavors to protect members by supplying certain PPE to members as provided in this policy.

## 705.3 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.

## 705.4 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed the requirements provided in OAC § 4167-3-03 and 29 CFR 1910.95.

## 705.5 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 Training Coordinator shall ensure eye protection meets or exceeds the requirements provided in OAC § 4167-3-03 and 29 CFR 1910.133.

#### **705.6 HEAD AND BODY PROTECTION**

Members who make arrests or control crowds should be provided ballistic head protection with an attachable face shield.

#### **705.7 RESPIRATORY PROTECTION**

The Executive Officer is responsible for ensuring a respiratory protection plan is developed and maintained by a trained and qualified member. The plan shall include procedures for (OAC § 4167-3-03; 29 CFR 1910.134):

- (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.

##### **705.7.1 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, SWAT members).

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 (OAC § 4167-3-03; 29 CFR 1910.134):

- (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.

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- (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.

#### 705.7.2 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 (OAC § 4167-3-03; 29 CFR 1910.134):

- (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.

#### 705.7.3 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 (OAC § 4167-3-03; 29 CFR 1910.134).

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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#### **705.7.4 SELF-CONTAINED BREATHING APPARATUS**

Incident 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 the incident commander.

#### **705.7.5 RESPIRATOR FIT TESTING**

No member shall be issued respiratory PPE until a proper fit testing has been completed by a designated member or contractor (OAC § 4167-3-03; 29 CFR 1910.134):

After initial testing, fit testing for respiratory PPE shall be repeated (OAC § 4167-3-03; 29 CFR 1910.134):

- (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.

#### **705.7.6 RESPIRATORY MEDICAL EVALUATION QUESTIONNAIRE**

No member shall be issued respiratory protection that forms a complete seal around the face until (OAC § 4167-3-03; 29 CFR 1910.134):

- (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.

#### **705.8 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 established records retention schedule, OAC § 4167-3-03 and 29 CFR 1910.134.

#### **705.9 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 (OAC § 4167-3-03; 29 CFR 1910.132).

Members issued respiratory PPE shall attend periodic training on the proper use of respiratory protection devices (OAC § 4167-3-03; 29 CFR 1910.134).

## **Chapter 8 - Support Services**

## Crime Analysis

### 800.1 PURPOSE AND SCOPE

Crime analysis should provide current, useful information to aid operational personnel in meeting its tactical crime control and prevention objectives. Crime Analysis is intended to help identify and analyze the methods of operation of individual criminals, providing crime pattern recognition and analysis of data from field interrogations and arrests. Crime analysis can be useful to the Department's long-range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

### 800.2 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

- Crime reports
- Field Interview cards
- Parole and probation records
- Computer Aided Dispatch data
- Department of Public Safety - Crime Records Service

### 800.3 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for crime analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

### 800.4 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate units or persons on a timely basis. Information that is relevant to the operational and tactical plans of specific line units should be sent directly to those units. Information relevant to the development of the Department's strategic plans should be provided to the appropriate staff units. When information pertains to tactical and strategic plans, it should be provided to all affected units.

## the Communications Center

### 801.1 PURPOSE AND SCOPE

This policy establishes guidelines for the basic functions of the Communications Center. It addresses the immediate information needs of the Department in the course of its normal daily activities and during emergencies.

### 801.2 POLICY

It is the policy of the Lorain Police Department to provide 24-hour telephone service to the public for information and for routine or emergency assistance.

The Department provides two-way radio capability for continuous communication between the Communications Center and department members in the field.

The Communications Center will never be un-staffed during hours of operation unless the center is evacuated due to a threat to the safety of personnel working in the center.

### 801.3 THE COMMUNICATIONS CENTER SECURITY

The communications function is vital and central to all emergency service operations. The safety and security of the Communications Center, its members and its equipment must be a high priority. Special security procedures should be established in a separate operations manual for the Communications Center.

Access to the Communications Center shall be limited to the Communications Center members, the Watch Commander, command staff and department members with a specific business-related purpose.

### 801.4 RESPONSIBILITIES

#### 801.4.1 COMMUNICATIONS SUPERVISOR

The Support Services Commander shall serve as the Communications Supervisor.

The responsibilities of the Communications Supervisor include but are not limited to:

- (a) Overseeing the efficient and effective operation of the Communications Center in coordination with other supervisors.
- (b) Scheduling and maintaining telecommunicator time records.
- (c) Supervising, training, and evaluating telecommunicators.
- (d) Ensuring the radio and telephone recording system is operational.
  1. Recordings shall be maintained in accordance with the established records retention schedule and as required by law.
- (e) Processing requests for copies of the Communications Center information for release.
- (f) Maintaining the Communications Center database systems.
- (g) Maintaining and updating the Communications Center procedures manual.

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### *the Communications Center*

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1. Procedures for specific types of crime reports may be necessary. For example, specific questions and instructions may be necessary when talking with a victim of a sexual assault to ensure that the victim's health and safety needs are met, as well as steps that the victim may take to preserve evidence.
  2. Ensuring telecommunicator compliance with established policies and procedures.
  3. Procedures should be consistent with the requirements of OAC 5507-1-06, including requirements that 9-1-1 calls are always an emergency function and guidelines regarding the transfer of calls (OAC 5507-1-06).
- (h) Handling internal and external inquiries regarding services provided and accepting personnel complaints in accordance with the Personnel Complaints Policy.
- (i) Maintaining a current contact list of City personnel to be notified in the event of a utility service emergency.

#### 801.4.2 ADDITIONAL PROCEDURES

The Communications Supervisor should establish procedures for:

- (a) Recording all telephone and radio communications and playback issues.
- (b) Storage and retention of recordings.
- (c) Security of audio recordings (e.g., passwords, limited access, authorized reviewers, preservation of recordings past normal retention standards).
- (d) Availability of current information for telecommunicators (e.g., Watch Commander contact, rosters, member tracking methods, member contact, maps, emergency providers, tactical dispatch plans).
- (e) Procurement of external services (e.g., fire suppression, ambulances, aircraft, tow trucks, taxis).
- (f) Protection of essential equipment (e.g., surge protectors, gaseous fire suppression systems, uninterruptible power systems, generators).
- (g) Protection of radio transmission lines, antennas and power sources for the Communications Center (e.g., security cameras, fences).
- (h) Handling misdirected, silent and hang-up calls.
- (i) Handling private security alarms, if applicable.
- (j) Radio interoperability issues.

#### 801.4.3 TELECOMMUNICATORS

Telecommunicators report to the Communications Supervisor. The responsibilities of the telecommunicator include, but are not limited to:

- (a) Receiving and handling all incoming and transmitted communications, including:
  1. Emergency 9-1-1 lines.
  2. Business telephone lines.

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3. Telecommunications Device for the Deaf (TDD)/Text Telephone (TTY) equipment.
  4. Radio communications with department members in the field and support resources (e.g., fire department, emergency medical services (EMS), allied agency law enforcement units).
  5. Other electronic sources of information (e.g., text messages, digital photographs, video).
- (b) Documenting the field activities of department members and support resources (e.g., fire department, EMS, allied agency law enforcement units).
  - (c) Inquiry and entry of information through the Communications Center, department and other law enforcement database systems (e.g., Bureau of Motor Vehicles (BMV) records, Ohio Law Enforcement Automated Data System (LEADS) and NCIC).
  - (d) Monitoring department video surveillance systems.
  - (e) Maintaining the current status of members in the field, their locations and the nature of calls for service.
  - (f) Notifying the Watch Commander or field supervisor of emergency activity, including, but not limited to:
    1. Vehicle pursuits.
    2. Foot pursuits.
    3. Assignment of emergency response.

#### **801.5 CALL HANDLING**

This department provides members of the public with access to the 9-1-1 system for a single emergency telephone number.

When a call for services is received, the telecommunicator will reasonably and quickly attempt to determine whether the call is an emergency or non-emergency, and shall quickly ascertain the call type, location and priority by asking four key questions:

- Where?
- What?
- When?
- Who?

If the telecommunicator determines that the caller has a hearing and/or speech impairment or disability, he/she shall immediately initiate a connection with the individual via available TDD/TTY equipment or Telephone Relay Service (TRS), as mandated by the Americans with Disabilities Act (ADA).

If the telecommunicator determines that the caller is a limited English proficiency (LEP) individual, the telecommunicator should quickly determine whether sufficient information can be obtained to

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initiate an appropriate response. If language assistance is still needed, the language is known and a language-appropriate authorized interpreter is available in the Communications Center, the telecommunicator should immediately connect the LEP caller to the authorized interpreter.

If no authorized interpreter is available or the telecommunicator is unable to identify the caller's language, the telecommunicator will contact the contracted telephonic interpretation service and establish a three-party call connecting the telecommunicator, the LEP individual and the interpreter.

Telecommunicators should be courteous, patient and respectful when dealing with the public.

#### **801.5.1 EMERGENCY CALLS**

A call is considered an emergency when there is an immediate or potential threat to life or serious property damage, and the timely arrival of public safety assistance is of the utmost importance. A person reporting an emergency should not be placed on hold until the telecommunicator has obtained all necessary information to ensure the safety of the responding department members and affected individuals.

Emergency calls should be dispatched immediately. The Watch Commander shall be notified of pending emergency calls for service when department members are unavailable for dispatch.

#### **801.5.2 NON-EMERGENCY CALLS**

A call is considered a non-emergency call when there is no immediate or potential threat to life or property. A person reporting a non-emergency may be placed on hold, if necessary, to allow the telecommunicator to handle a higher priority or emergency call.

The reporting person should be advised if there will be a delay in the telecommunicator returning to the telephone line or when there will be a delay in the response for service.

#### **801.6 RADIO COMMUNICATIONS**

The police radio system is for official use only, to be used by telecommunicators to communicate with department members in the field. All transmissions shall be professional and made in a calm, businesslike manner, using proper language and correct procedures. Such transmissions shall include, but are not limited to:

- (a) Members acknowledging the telecommunicator with their radio identification call signs and current location.
- (b) Telecommunicators acknowledging and responding promptly to all radio transmissions.
- (c) Members keeping the telecommunicator advised of their status and location.
- (d) Member and telecommunicator acknowledgements shall be concise and without further comment unless additional information is needed.

The Communications Supervisor shall be notified of radio procedure violations or other causes for complaint. All complaints and violations will be investigated and reported to the complainant's supervisor and processed through the chain of command.

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#### 801.6.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE

Lorain Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and requirements.

#### 801.6.2 RADIO IDENTIFICATION

Radio call signs are assigned to department members based on factors such as duty assignment, uniformed patrol assignment and/or member identification number. Telecommunicators shall identify themselves on the radio with the appropriate station name or number, and identify the department member by his/her call sign. Members should use their call signs when initiating communication with the telecommunicator. The use of the call sign allows for a brief pause so that the telecommunicator can acknowledge the appropriate department member. Members initiating communication with other law enforcement or support agencies shall use their entire radio call sign, which includes the department station name or number.

#### 801.7 DOCUMENTATION

It shall be the responsibility of the Communications Center to document all relevant information on calls for service or self-initiated activity. Telecommunicators shall attempt to elicit, document and relay as much information as possible to enhance the safety of the member and assist in anticipating conditions that may be encountered at the scene. Desirable information would include, at a minimum:

- Incident control number.
- Date and time of request.
- Name and address of the reporting person, if possible.
- Type of incident reported.
- Involvement of weapons, drugs and/or alcohol.
- Location of incident reported.
- Identification of members assigned as primary and backup.
- Time of dispatch.
- Time of the responding member's arrival.
- Time of member's return to service.
- Disposition or status of reported incident.

#### 801.8 CONFIDENTIALITY

Information that becomes available through the Communications Center may be confidential or sensitive in nature. All members of the Communications Center shall treat information that becomes known to them as confidential and release that information in accordance with the Protected Information Policy.

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Automated data, such as BMV records, warrants, criminal history information, records of internal police files or medical information, shall only be made available to authorized law enforcement personnel. Prior to transmitting confidential information via the radio, an admonishment shall be made that confidential information is about to be broadcast.

#### **801.8 TRAINING AND CERTIFICATION**

The Communications Supervisor shall ensure that all telecommunicators receive initial and ongoing training (ORC § 128.021; OAC § 5507-1-07; OAC § 5507-1-08; OAC § 5507-1-09).

## Evidence Room

### 802.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, security and disposition of evidence and other property. This policy also provides for the protection of the chain of custody and those persons authorized to remove and/or destroy property (ORC § 2981.11).

#### 802.1.1 EVIDENCE ROOM SECURITY

The Evidence Room shall maintain secure storage and control of all property necessitating custody by the Department. The Evidence Officer reports to the Criminal Investigations Division supervisor and is responsible for the security of the Evidence Room. Evidence Room keys are maintained only by the Evidence Officer and the Criminal Investigations Division supervisor. An additional key is in a sealed and initialed envelope maintained in the safe in the Chief of Police's office. The Evidence Officer and the Criminal Investigations Division supervisor shall not loan Evidence Room keys to anyone and shall maintain keys in a secure manner.

Any individual entering the Evidence Room other than the Evidence Officer must be accompanied by the Evidence Officer or the Criminal Investigations Division supervisor and must sign in and out on the logbook, giving the date and time of entry and exit, and the purpose, including a specific case or property number. The entry shall be initialed by the accompanying individual.

### 802.2 DEFINITIONS

Definitions related to this policy include:

**Contraband** - Includes property or evidence that is illegal to possess and cannot be returned to the owner.

**Evidence** - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a criminal case. This includes photographs, documents temporary and latent fingerprints.

**Found Property** - Includes property found by an employee or citizen where the owner cannot be readily identified or contacted and has no apparent evidentiary value related to a criminal investigation.

**Property** - Includes all items of evidence, items taken for safekeeping, found property and contraband.

**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

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### *Evidence Room*

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#### **802.3 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 label. Care shall be taken to maintain the chain of custody for all evidence.

Any property seized by an officer with or without a warrant, shall be safely kept for as long as necessary for the purpose of being produced as evidence or for any other lawful purpose (ORC § 2981.11(A)(1)).

Seized property held as evidence shall be returned to its rightful owner unless subject to lawful detention or ordered destroyed or otherwise disposed of by the court (ORC § 2981.12 and ORC § 2981.13).

Where ownership can be established as to found property that has no apparent evidentiary value, excluding contraband, such property may be released to the owner without the need for booking. The property documentation must be completed to document the release of property not booked. The owner shall sign the documentation acknowledging receipt of the item.

##### **802.3.1 PROPERTY BOOKING PROCEDURE**

All property must be booked prior to the employee going off-duty. Employees booking property shall observe the following guidelines:

- (a) Complete the property label describing each item separately, listing all serial numbers, owner's name, finder's name and other identifying information or markings.
- (b) The officer shall mark each item of evidence with initials and date.
- (c) Items too small to mark, or that will be damaged, degraded or devalued by marking, should be individually packaged, labeled and the package marked with initials and date.
- (d) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (e) Place the case number in the upper right corner or in the appropriate field of the evidence/property tag.
- (f) When the property is too large to be placed in a temporary property locker, the item may be temporarily stored in any department supply room or other location that can be secured from unauthorized entry. The location shall be secured to prevent entry and a completed property label placed into a numbered property locker indicating the location of the property.

##### **802.3.2 NARCOTICS AND DANGEROUS DRUGS**

All narcotics and dangerous drugs shall be booked separately using a separate property record. Drug and narcotics paraphernalia shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in the designated temporary property locker.

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#### 802.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify an immediate supervisor or the Watch Commander. 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.

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 Evidence Officer is responsible for disposing of any fireworks or signaling devices that are not retained as evidence according to current procedures for disposing of such materials.

#### 802.3.4 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.
- (b) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property will then be placed in the bicycle storage area.
- (c) All cash shall be counted in the presence of another officer or departmental member, and the envelope initialed by both. A supervisor shall be contacted for cash in excess of \$1,000.
- (d) All evidence collected by personnel processing a crime scene requiring specific storage requirements pursuant to laboratory procedures should clearly indicate storage requirements on the property label.
- (e) Items that are potential biohazards shall be appropriately packaged and marked to reduce the risk of exposure or contamination.

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.

#### 802.3.5 TESTING OF BIOLOGICAL EVIDENCE

The Evidence Room supervisor shall ensure that department records are reviewed and that all biological evidence that relates to specific homicide and sex offenses is sent to the BCI or another crime laboratory for DNA analysis (ORC § 2933.82).

#### **802.4 PACKAGING OF PROPERTY**

Packaging will conform to certain procedures. Certain items require special consideration and shall be booked separately as follows:

- (a) Controlled substances
- (b) Firearms (ensure they are unloaded, rendered safe, and booked separately from ammunition)

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### *Evidence Room*

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- (c) Property with more than one known owner
- (d) Drug paraphernalia
- (e) Fireworks
- (f) Contraband
- (g) Biohazards

#### 802.4.1 PACKAGING CONTAINER

Employees shall package all property, except controlled substances, in a suitable container that is appropriate for its size. Knife boxes should be used to package knives, handgun boxes should be used for handguns and syringe tubes should be used to package syringes and needles when the item is being sent for lab testing.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

#### 802.4.2 PACKAGING CONTROLLED SUBSTANCES

The officer seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged and placed in the designated evidence locker. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected controlled substances. When conducted, the result of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall be double packaged in heat sealed plastic. The booking officer shall date and initial the sealed plastic. Controlled substances shall not be packaged with other property.

The booking officer shall weigh the suspected narcotics or dangerous drugs in the container in which it was seized. A full description of the item, along with packaging and total weight of the item as seized, will be placed in the case report and on the property label. After packaging and sealing as required, the package will be initialed and dated by the packaging officer.

Any change in weight should be immediately reported to the Criminal Investigations supervisor.

A completed property tag shall be attached to the outside of the container.

#### 802.4.3 RIGHT OF REFUSAL

The Evidence Officer has the right to refuse any piece of property that is hazardous or that has not properly documented or packaged. Should the Evidence Officer refuse an item of property, he/she shall maintain secure custody of the item in a temporary property locker or other safe location and inform the Watch Commander or ranking shift supervisor.

### **802.5 RECORDING OF PROPERTY**

The Evidence Officer receiving custody of evidence or property shall create a property control card for each piece of property received. The property control card will be the permanent record of the property in the Evidence Room. The Evidence Officer will record his/her signature, gross package

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weight if it is a controlled substance to be used as evidence, the date and time the property was received and where the property will be stored on the property control card (ORC § 2981.11(B)(1)(a)).

A property logbook in the records management system shall be maintained and a unique property number created for each piece of property received. The logbook shall record by property number, the date received, case number, tag number, item description, item location and date disposed. A unique property number shall be obtained for each item or group of items from the logbook. This number shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the Lorain Police Department shall be noted in the property logbook.

#### **802.6 PROPERTY CONTROL**

Each time the Evidence Officer receives property or releases property to another person, he/she shall enter this information in the evidence records management system. Officers desiring property for court shall contact the Evidence Officer at least one day prior to the court day.

##### **802.6.1 RESPONSIBILITIES OF OTHER PERSONNEL**

Every time property is released or received, an appropriate entry shall be completed to maintain the chain of custody. No property or evidence is to be released without first receiving authorization from a supervisor or investigator.

Request for analysis of items other than controlled substances shall be completed on the appropriate forms and submitted to the Evidence Officer. This request may be filled out anytime after booking of the property or evidence.

##### **802.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY**

The transporting employee will check the evidence out of property.

The Evidence Officer 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 and Information Center for filing with the case.

##### **802.6.3 STATUS OF PROPERTY**

Each person receiving property will make the appropriate entry to document the chain of custody. 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 it was released.

The Evidence Officer shall obtain the signature of the person to whom property was released and the reason for release. Any employee receiving property shall be responsible for such property until it is returned to the Evidence Room or released to another authorized person or entity.

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The return of the property should be recorded on the property control card, indicating date, time and the person who returned it.

#### 802.6.4 AUTHORITY TO RELEASE PROPERTY

The Evidence Officer shall not release any property without authorization from an appropriate supervisor or subpoena. The evidence officer will then retain a copy of the subpoena. The Criminal Investigations Division commander or his/her designee shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

For property in custody of the Department for investigatory or prosecutorial purposes and owned by a victim or witness, an Evidence Officer shall, upon the request of the owner:

- (a) Provide a list describing the property, unless such release would seriously impede an investigation.
- (b) Return the property expeditiously, unless the property is contraband or required as evidence.

Upon the direction of a prosecuting attorney, property held as evidence of a crime may be photographed and released to the owner.

#### 802.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify and locate the rightful owner of found property or evidence not needed for an investigation, either by telephone and/or mail, when sufficient identifying information is available.

Release of property 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 authorizing supervisor or investigator and must conform to the items listed on the property label or must specify the specific item to be released. Release of all property shall be properly documented.

An Evidence Officer shall release the property to the owner or finder upon valid identification and proper documentation presented by the owner or finder for which an authorized release has been received. The owner or finder shall also pay any costs incurred by the agency, including costs for advertising or storage. A signature of the person receiving the property shall be recorded on the original property documentation. After release of all property entered on the property control card, the card shall be forwarded to the Records and Information Center for filing with the case. If some items of property have not been released, the property card will remain with the Evidence Room.

Release of unclaimed or forfeited property to an authorized finder shall be released in compliance with existing laws and as deemed appropriate by a court (ORC § 2981.12(B)).

Upon release or other form of disposal, the proper entry shall be recorded in all property documentation and logs (ORC § 2981.11(B)(1)(b)).

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#### 802.6.6 STOLEN OR EMBEZZLED PROPERTY

Stolen or embezzled property or property believed to be stolen or embezzled that is in the custody of this department shall be restored to the legal owner. Such property may be released from law enforcement custody when the following are satisfied:

- (a) Photographs of the property are filed and retained by the Evidence Room.
- (b) Satisfactory proof of ownership is shown by the owner.
- (c) A declaration of legal ownership is signed under penalty of perjury.
- (d) A receipt for the property is obtained from the owner upon delivery.

#### 802.6.7 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a court order or other proof of the undisputed right to the involved property.

All parties should be advised that their claims are civil. In extreme situations, legal counsel for the Department may be asked to file an interpleader in court to resolve the disputed claim.

#### 802.6.8 RELEASE AND DISPOSAL OF FIREARMS

A firearm may not be released until it has been verified that the person receiving the weapon is not prohibited from receiving or possessing the weapon by 18 USC § 922(d) or ORC § 2923.13.

The Department shall make best efforts to identify the owner and shall retain the firearm for at least 90 days. If the owner cannot be found at the expiration of such period, the firearm or dangerous ordnance suitable for law enforcement work may be retained for that purpose. Firearms suitable for sporting use or as museum pieces or collectors' items may be sold at public auction pursuant to ORC § 2981.12(B). The Department shall properly destroy all other firearms and dangerous ordnance or send them to the Bureau of Criminal Identification and Investigation (BCI) (ORC § 2981.12(A)(2)).

#### 802.6.9 FIREARMS RECEIVED FROM CORONER'S OFFICE

When a firearm is delivered to this department by the coroner, a receipt for the firearm that states the date of delivery and an accurate description of the firearm shall be issued to the coroner. The firearm shall be used for evidentiary purposes only. Once the firearm is no longer needed as evidence, the Chief of Police or the authorized designee shall give the firearm to the person who has been assigned the rights of disposition for the deceased person, upon request, and if the person is lawfully allowed to possess the firearm. The Chief of Police or the authorized designee shall keep a record of the person to whom the firearm is given, the date of delivery, and a description of the firearm. If the person who has been assigned the rights of disposition for the deceased person does not request the firearm, or is prohibited from possessing the firearm, it may be used at the discretion of the Chief of Police (ORC § 313.14).

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#### **802.7 DISPOSITION OF PROPERTY**

The Department shall make a reasonable effort to locate persons entitled to possession of the property, to notify them of when and where it may be claimed, and to return the property to them at the earliest possible time. In the absence of evidence identifying persons entitled to the property, it shall be described in a local newspaper, inviting persons to view and establish their right before final disposition (ORC § 2981.11(C)).

The Evidence Officer shall request a disposition or status on all property which has been held in excess of 120 days and for which no disposition has been received from a supervisor or detective.

All property not held for evidence in a pending criminal investigation or proceeding, and where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws (ORC § 2981.12 and ORC § 2981.13).

Upon any release or disposal of any property, the proper notation shall be made on the property control card and in the property logbook to include the final disposition, date of disposition, financial recordings and expenditures related to the property if it was sold, and the name of any person who received the property. However, the record shall not identify or enable identification of the individual employee who seized any item of property or the specific expenditure related to the property in an ongoing investigation (ORC § 2981.11(B)(1)(b)).

##### **802.7.1 EXCEPTIONAL DISPOSITIONS**

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law or by a court of competent jurisdiction (ORC § 2981.12):

- Firearms and dangerous ordnance
- Obscene materials
- Beer, intoxicating liquor or alcohol
- Vehicles, watercraft, aircraft or parts thereof
- Animals, birds and equipment related to their care and containment that have been ordered forfeited by the court
- Counterfeiting equipment
- Gaming devices
- Computers, computer networks, systems, or software

##### **802.7.2 UNCLAIMED MONEY**

If found or seized money is no longer required as evidence and remains unclaimed after any applicable statutory period, the money is presumed unclaimed property and may be retained as allowed by law (ORC § 2981.12).

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#### 802.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Evidence Room Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable (ORC § 2933.82):

- (a) The defendant
- (b) The defendant's attorney
- (c) The state public defender
- (d) The appropriate prosecutor
- (e) The Attorney General
- (f) Any sexual assault victim
- (g) The Criminal Investigations Division Supervisor

Biological evidence shall be retained for a minimum period established by ORC § 2933.82, the Evidence Room Supervisor or the expiration of any sentence imposed related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail, return receipt requested, and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion for retesting or a written request for retention is filed and served on the Department within one year 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 shall be retained in the appropriate file and a copy forwarded to the Criminal Investigations Division Supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

#### 802.7.4 MARIJUANA

At the first sign of mold growth, stored marijuana shall be photographed showing the mold growth. As soon as practicable, the Evidence Officer shall make efforts to lawfully destroy the contaminated marijuana, in compliance with this policy. The Evidence Officer should consult with the member assigned to the case investigation for authorization to destroy the remaining marijuana, after taking representative samples, and should request assistance from the appropriate prosecutor in obtaining a court order for immediate destruction.

#### 802.7.5 MEDICAL MARIJUANA

The investigating member should advise the Evidence Officer and the prosecutor if the party from whom the marijuana was seized holds a valid medical permit to possess marijuana or claims that the possession of the marijuana is for medical purposes.

The Evidence Officer shall store marijuana, drug paraphernalia, or other related property that is seized from a person engaged in or assisting with the use of medical marijuana in a manner that is consistent with the provisions of the Medical Marijuana Policy.

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Marijuana that is infected with mold shall not be returned. This includes marijuana seized from a person who holds a valid medical permit to possess marijuana or who claims that possession of the marijuana is for medical purposes.

#### **802.8 REPORTS**

If the Department has any seized or forfeited property in its custody, including amounts distributed under ORC § 2981.13, a report covering the calendar year shall be sent to the Attorney General not later than the first day of March in the following calendar year (ORC § 2981.11(B)(2)).

##### **802.8.1 PUBLIC ACCESS**

This policy and records kept under this policy shall be open to public inspection during regular business hours as allowed or required by law (ORC § 2981.11(B)(3)).

#### **802.9 INSPECTIONS OF THE EVIDENCE ROOM**

On a monthly basis, the Criminal Investigations supervisor shall inspect the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

- (a) Unannounced inspections of evidence storage areas shall be conducted annually, as directed by the Chief of Police.
- (b) An annual audit of evidence held by the Department shall be conducted by a Division Commander who is not routinely or directly connected with evidence control, as assigned by the Chief of Police.
- (c) Whenever a change is made in personnel who have access to the Evidence Room, an inventory of all evidence/property shall be made by an individual not associated with the Evidence Room or function to ensure that records are correct and all evidence property is accounted for.
- (d) Periodic inspections of property storage areas may be conducted and documented by the Criminal Investigations Division Commander to ensure compliance with policies and law.

## Records and Information Center

### 803.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Lorain Police Department Records and Information Center. The policy addresses department file access and internal requests for case reports.

#### 803.1.1 NUMERICAL FILING SYSTEM

Case reports are filed numerically by Records and Information Center personnel.

Reports are numbered commencing with the last two digits of the current year followed by a sequential number beginning with 00001 starting at midnight on the first day of January of each year. As an example, case number 11-00001 would be the first new case beginning January 1, 2011.

### 803.2 FILE ACCESS

All reports including, but not limited to, initial, supplemental, follow-up, evidence and all reports related to a case shall be maintained in the Records Management System within the Records and Information Center, accessible only to authorized Records and Information Center personnel.

#### 803.2.1 REQUESTING ORIGINAL REPORTS

Generally, original reports shall not be removed from the Records and Information Center. Should an original report be needed for any reason, the requesting employee shall first obtain authorization from the Support Services Commander. All original reports removed from the Records and Information Center shall be recorded on the report check-out log, which shall constitute the only authorized manner by which an original report may be removed from the Records and Information Center.

### 803.3 RECORDS MANAGER TRAINING

The Support Services Commander shall receive training in records management, including proper maintenance, retention and disposal of records and the proper release of records under state and federal law.

### 803.4 REQUISITION OF SUPPLIES

All personnel in need of supplies shall complete a Requisition of Supplies Form, available in the Records and Information Center. The form shall be approved by a supervisor and submitted to the supply clerk in the Records and Information Center.

Only Records and Information Center personnel shall issue supplies from the supply room. No supplies will be provided without a Requisition of Supplies Form.

### 803.5 POLICY

It is the policy of the Lorain Police Department to maintain department records securely, professionally, and efficiently.

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#### **803.6 RESPONSIBILITIES**

##### **803.6.1 RECORDSHEAD**

The Chief of Police shall appoint and delegate certain responsibilities to a Support Services Commander. The Support Services Commander shall be directly responsible to the Administration Division Commander or the authorized designee.

The responsibilities of the Support Services Commander include but are not limited to:

- (a) Overseeing the efficient and effective operation of the Records and Information Center.
- (b) Scheduling and maintaining Records and Information Center time records.
- (c) Supervising, training, and evaluating Records and Information Center staff.
- (d) Maintaining and updating a Records and Information Center procedure manual.
- (e) Ensuring compliance with established policies and procedures.
- (f) Supervising the access, use, and release of protected 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.
- (h) Establishing and maintaining an index of protection orders and approved consent agreements received by the Lorain Police Department for domestic violence (ORC § 2919.26; ORC § 3113.31), stalking (ORC § 2903.213; ORC § 2903.214), and protective orders issued under ORC § 2151.34.
  1. The index shall include the date and time that the Department received the protection order.

##### **803.6.2 RECORDS AND INFORMATION CENTER**

The responsibilities of the Records and Information Center 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 filing case reports numerically using a unique numbering, identifying, tracking, and retrieving of case reports.
- (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.

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- (d) Maintaining compliance with federal, state, and local regulations regarding reporting requirements of 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 member's supervisor.
- (g) Establishing a process for collecting and submitting data to appropriate federal data collection authorities (e.g., FBI National Use-of-Force Data Collection, U.S. Department of Justice's National Law Enforcement Accountability Database), as applicable, for the following types of occurrences:
  - 1. Officer suicides
  - 2. Officer misconduct
  - 3. Uses of force
  - 4. officer deaths or assaults
  - 5. Crime incidents
  - 6. Deaths in custody
  - 7. Hate crime data

#### **803.6.3 RECORDS AND INFORMATION CENTER PROCEDURE MANUAL**

The Support Services Commander should establish procedures that address:

- (a) Identifying by name persons in reports.
- (b) Classifying reports by type of incident or crime.
- (c) Tracking reports through the approval process.
- (d) Assigning alpha-numerical records to all arrest records.
- (e) Managing a warrant and wanted persons file.

#### **803.7 FILE ACCESS AND SECURITY**

The security of files in the Records and Information Center 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 and Information Center, accessible only by authorized members of the Records and Information Center. Access to case reports or files when Records and Information Center staff is not available may be obtained through the Watch Commander.

The Records and Information Center 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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#### **803.7.1 ORIGINAL CASE REPORTS**

Generally, original case reports shall not be removed from the Records and Information Center. Should an original case report be needed for any reason, the requesting department member shall first obtain authorization from the Support Services Commander. All original case reports removed from the Records and Information Center 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 and Information Center.

All original case reports to be removed from the Records and Information Center shall be photocopied and the photocopy retained in the file location of the original case report until the original is returned to the Records and Information Center. The photocopied report shall be shredded upon return of the original report to the file.

#### **803.8 CONFIDENTIALITY**

Records and Information Center staff has access to information that may be confidential or sensitive in nature. Records and Information Center 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 and Information Center procedure manual.

## Records Maintenance and Release

### 804.1 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.

### 804.2 POLICY

The Lorain Police Department is committed to providing public access to records in a manner that is consistent with the Ohio Public Records Act (ORC § 149.43).

### 804.3 CUSTODIAN OF RECORDS

The Chief of Police shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to (ORC § 149.43):

- (a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records.
- (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.
  3. Making a copy of the current retention schedule readily available to the public.
- (c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records.
  1. The Custodian of Records may limit the number of records requested by a person that the Department will physically deliver via mail or by another delivery service to 10 records per month unless the requester certifies in writing that they do not intend to use or forward the requested records, or information contained in the records, for commercial purposes.
  2. Records in digital format that are publicly available on the internet may be limited as set forth in ORC § 149.43.
- (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.
- (g) Preparing a notice that incorporates this policy and ensuring that it is displayed in conspicuous places in all locations where department records are available to the public.
- (h) Maintaining current information on the department website that relates to public records release.

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- (i) Ensuring that records are organized and maintained in such a manner as to make them available for inspection or copying.
- (j) Selecting appropriate public records, if any, to publish on the department website.
- (k) Establishing records destruction procedures.

#### **804.4 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.

##### **804.4.1 REQUESTS FOR RECORDS**

The processing of requests for any record is subject to the following (ORC § 149.43):

- (a) The Department is not required to create records that do not exist.
- (b) 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.
  - 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 or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
  - 2. The requester shall be notified of any redaction in the public record if the redaction is not plainly visible.
- (c) If a request is ambiguous or overly broad, or if the Custodian of Records cannot reasonably identify what public records are being requested, the request may be denied.
  - 1. The requester shall be provided with an opportunity to revise the request and shall be informed by the Custodian of Records of the manner in which records are maintained by the Department and how the records are accessed in the ordinary course of business.
- (d) A person requesting records may be asked to make a request for records in writing to expedite processing of the request and may be asked for his/her identity. Prior to such a request, the person shall be told that:
  - 1. There is no requirement to provide a written request.
  - 2. There is no requirement to provide his/her identity.
  - 3. There is no requirement to disclose the intended use of the records.
  - 4. The purpose of the written request or disclosure of the person's identity or intended use would benefit the person making the request by enhancing the ability of the Custodian of Records to identify, locate or deliver the records requested.

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- (e) Fees for copies or the cost of delivery of the records to the requester via mail should be paid in advance.
- (f) If a request is denied, either in whole or in part, the Custodian of Records shall provide the requester with an explanation setting forth the reason(s) for the denial, including the legal authority relied upon in making the determination. If the initial request was in writing, the explanation shall also be provided in writing.

#### **804.5 RELEASE RESTRICTIONS**

Examples of release restrictions include:

- (a) Any 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; ORC § 4501.27; ORC § 149.45).
- (b) Victim information that may be protected by statutes, including (ORC § 2930.04):
  - 1. Photographs or images of victims as prohibited by ORC § 149.43 (ORC § 2907.11).
  - 2. Identifying information of victims as provided in ORC § 2930.04 and ORC § 2930.07.
  - 3. Victim's Rights Request Forms.
- (c) Juvenile-related information that may be protected by statutes (ORC § 149.435).
- (d) Confidential investigatory records of the Department that pertain to a law enforcement matter of criminal, quasi-criminal, civil, or administrative nature if release would create a high probability of disclosure of any of the following (ORC § 149.43):
  - 1. Identity of a suspect not yet charged with an offense to which the record pertains
  - 2. Identity of an information source or witness to whom confidentiality has been reasonably assured. This also includes information provided by an information source or witness if the release would tend to disclose the person's identity.
  - 3. Confidential investigatory techniques, procedures, or specific investigatory work product
  - 4. Information that would endanger the life or physical safety of a member, crime victim, witness, or confidential information source
- (e) Certain types of reports involving but not limited to child abuse and molestation (ORC § 2151.421) and adult abuse (ORC § 5101.61).
- (f) Records pertaining to the residential or family information of peace officers and telecommunicators (ORC § 149.43).
- (g) Personally identifiable information of a program participant of the Ohio Secretary of State's address confidentiality program (ORC § 149.43).

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- (h) Restricted portions of recordings made by a dashcam or a member's body-worn camera as provided in ORC § 149.43(A)(1). Certain recordings may be disclosed with the consent of the subject of the recording or the subject's representative pursuant to the requirements of ORC §149.43 (H)(1).
- (i) Any other information that may be appropriately denied by ORC §149.43(A)(1).

#### 804.5.1 ENHANCED RECORDS ACCESS BY JOURNALISTS

- (a) Journalists, as defined in ORC § 149.43, are entitled to enhanced access to certain records not available to the general public provided:
  - 1. The request is in writing.
  - 2. Journalists identify themselves by name, title, and employer's name and address.
  - 3. Journalists establish and sign a request that the information sought is in the public interest.
- (b) Records available to journalists but not the general public include:
  - 1. Personal residential addresses of an officer or telecommunicator of this department (ORC § 149.43).
  - 2. The business name and address of a spouse, former spouse, or child of an officer of this department, only if employed by a public office (ORC § 149.43).
  - 3. Coroner records pursuant to ORC § 313.10.
  - 4. The name, county of residence, and date of birth of a person for whom the sheriff issued, suspended, or revoked a permit for a concealed weapon (ORC § 2923.129).
  - 5. The names, addresses, and telephone numbers of workers' compensation claimants subject to the requirements and restrictions in ORC § 4123.88(D).
  - 6. Limited information about minors involved in a school vehicle accident (ORC § 149.43).

#### 804.6 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 City Prosecutor, Law Director or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to the Legal Liaison or legal counsel for the Department so that a timely response can be prepared.

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#### **804.7 RELEASED RECORDS TO BE MARKED**

Each audio/video recording released should include the department name and to whom the record was released.

#### **804.8 SECURITY BREACHES**

Members who become aware that any Lorain Police Department system containing personal information may have been breached should notify the Support Services Commander as soon as practicable. The Support Services Commander shall ensure the required notice is given to any resident of this state whose unsecured personal information is reasonably believed to have been acquired by an unauthorized person (ORC § 1347.12).

Notice shall be given in the most expedient time possible but not later than 45 days following its discovery or notice of the breach consistent with any measures necessary to determine the scope of the breach, including which residents' personal information was accessed and acquired and to restore the reasonable integrity of the data system. Notice may be delayed if notification will impede a criminal investigation or jeopardize homeland or national security but notice shall be made once it is determined that disclosure or notification will not compromise the investigation or jeopardize homeland or national security (ORC § 1347.12).

For the purposes of the notice requirement, personal information includes an individual's first name or first initial and last name in combination with any one or more of the following (ORC § 1347.12):

- (a) Social Security number
- (b) Driver's license number or Ohio identification card number
- (c) Full account number, credit or debit card number, in combination with and linked to any required security code, access code, or password that would permit access to an individual's financial account

If the breach reasonably appears to have been made to protected information covered in the Protected Information Policy, the Support Services Commander should promptly notify the appropriate member designated to oversee the security of protected information (see the Protected Information Policy).

#### **804.9 SEALED RECORDS OR EXPUNGEMENT**

Expungement orders or an order to seal records received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records or his/her designee shall expunge or 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 expunged or sealed, members shall respond to any inquiry as though the record did not exist.

##### **804.9.1 JUVENILE EXPUNGEMENT ORDERS**

Upon notification by Juvenile Court of any sealing, destruction, or Expungement Order, units will immediately comply by forwarding records to Juvenile Court or otherwise complying with the Court's specifications.

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### *Records Maintenance and Release*

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Failure to comply with the legal reporting and retention requirements is a misdemeanor offense, as well as a violation of policy and procedure.

#### **804.10 TRAINING**

The Custodian of Records and any member who may be responsible for access or release of public records shall attend training approved by the Ohio Attorney General, such as that provided by the Ohio Association of Chiefs of Police (OACP).

The Custodian of Records and all department members shall acknowledge and sign that they have read and received a copy of this policy (ORC § 149.43).

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## Protected Information

### 805.1 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 Lorain 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.

#### 805.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the Lorain 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.

### 805.2 POLICY

Members of the Lorain Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

### 805.3 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, Ohio Law Enforcement Gateway (OHLEG), National Law Enforcement Telecommunications System (NLETS), Bureau of Motor Vehicles (BMV) records and Ohio Law Enforcement Automated Data System (LEADS) (OAC § 4501:2-10-03; OAC § 4501:2-10-06).
- (b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.
- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

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### *Protected Information*

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#### **805.4 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Lorain 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 (OAC § 4501:2-10-03).

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.

#### **805.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION**

Protected information may be released only to authorized recipients who have both a right to know and a need to know (OAC § 4501:2-10-06(C)).

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 Support Services Commander 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 and Information Center 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.

Nothing in this policy is intended to prohibit broadcasting warrant information.

#### **805.6 SECURITY OF PROTECTED INFORMATION**

The Chief of Police will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include, but are not limited to (OAC § 4501:2-10-03):

- (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.

# Lorain Police Department

## Policy Manual

### *Protected Information*

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- (d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

#### **805.6.1 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).

#### **805.7 DEPUTY SUZANNE HOPPER ACT**

The Records and Information Center shall enter into NCIC information provided by a court regarding (ORC § 2929.44):

- (a) The conditional release of a person found incompetent to stand trial or not guilty by reason of insanity.
- (b) An order that a person convicted of an offense of violence receive a mental health evaluation or treatment for a mental illness.

Members of this department who have contact with a person who has such information entered into NCIC shall report the contact to the Department of Mental Health and Addiction Services, and, if the terms of the release require the defendant or person to receive mental health treatment, to the treatment provider.

#### **805.8 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 (OAC § 4501:2-10-03).

## Animal Control

### 806.1 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.

### 806.2 POLICY

It is the policy of the Lorain 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.

### 806.3 HUMANE OFFICER RESPONSIBILITIES

Animal control services are generally the primary responsibility of the Lorain County Dog Warden.

### 806.4 MEMBER RESPONSIBILITIES

Members who respond to or assist with animal-related calls for service should evaluate the situation to determine appropriate actions to control the situation.

Due to the hazards of handling animals without proper training and equipment, responding officers 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 of an animal 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.
  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.

### 806.5 ANIMAL CRUELTY COMPLAINTS

Laws relating to the cruelty to animals should be enforced, including but not limited to animal cruelty and animal fights (ORC § 959.13; ORC § 959.15; ORC § 959.16).

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### *Animal Control*

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- (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.

#### **806.5.1 NOTIFICATION TO SOCIAL SERVICE AGENCY**

Members who have knowledge or reasonable cause to suspect that a violation involving a companion animal (as defined by ORC § 959.131) has occurred or is occurring shall immediately notify the appropriate social service agency of the violation when the member (ORC § 959.08):

- (a) Has knowledge or reasonable cause to suspect that a child or older adult resides with the alleged violator.
  - 1. An older adult is a person age 60 or older who suffers from the infirmities of aging or who has an impairment that prevents the person from protecting the person (ORC § 959.07).
- (b) The violation may have an impact on the child or older adult residing with the alleged violator.

Members who fail to comply with the requirements of ORC § 959.08 shall be subject to discipline (ORC § 959.10).

See the Child Abuse and Adult or Vulnerable Person Abuse policies for additional guidance.

#### **806.5.2 SOCIAL SERVICE AGENCY NOTIFICATION PROCEDURE**

Members may make the notification in writing or orally. Notification should contain the following information if known (ORC § 959.09):

- (a) The name and description of the companion animal involved.
- (b) The address and telephone number of the owner or other person responsible for care of the companion animal.
- (c) The nature and extent of the suspected abuse.
- (d) Any other information that may be useful in establishing the existence of the suspected violation or the identity of the person causing the violation.

Information that is confidential or information that the member reasonably believes would jeopardize a pending criminal investigation may be excluded from the report (ORC § 959.09).

#### **806.6 ANIMAL BITE REPORTS**

Members investigating an animal bite should file a complete case report. Officers should follow current procedures for quarantine of animals.

#### **806.7 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.

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Members shall provide reasonable treatment to animals in their care (e.g., food, water, shelter).

#### **806.8 DANGEROUS ANIMALS**

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, the Lorain County Dog Warden should be contacted.

#### **806.9 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.

#### **806.10 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.

Deceased animals on public property should be removed by the City of Lorain Street Department whenever possible.

Members should not climb onto or under any privately owned structure for the purpose of removing a deceased animal.

#### **806.11 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 may be taken to a designated animal care facility. Officers should follow established procedures for the destruction of injured or sick animals.

## Jeanne Clery Campus Security Act

### 807.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines to ensure this department fulfills its obligation in complying with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

[See attachment: Jeanne Clery Act 34 CFR 668 Federal Register.pdf](#)

### 807.2 POLICY

The Lorain Police Department encourages accurate and prompt reporting of all crimes and takes all such reports seriously (20 USC § 1092(f)(1)(C)(iii)). Reports will be accepted in any manner, including in person or in writing, at any Lorain Police Department facility. Reports will be accepted anonymously, by phone or via email or on the institution's website.

It is the policy of the Lorain Police Department to comply with the Clery Act. Compliance with the Clery Act requires a joint effort between the Lorain Police Department and the administration of the institution.

Supervisors assigned areas of responsibility in the following policy sections are expected to be familiar with the subsections of 20 USC § 1092(f) and 34 CFR 668.46 that are relevant to their responsibilities.

### 807.3 POLICY, PROCEDURE AND PROGRAM DEVELOPMENT

The Chief of Police will:

- (a) Ensure that the Lorain Police Department establishes procedures for immediate emergency response and evacuation, including the use of electronic and cellular communication and testing of these procedures (20 USC § 1092(f)(1)(J)(i); 20 USC § 1092(f)(1)(J)(iii)).
- (b) Enter into agreements as appropriate with local law enforcement agencies to:
  1. Identify roles in the investigation of alleged criminal offenses on campus (20 USC § 1092(f)(1)(C)(ii)).
  2. Assist in the monitoring and reporting of criminal activity at off-campus student organizations that are recognized by the institution and engaged in by students attending the institution, including student organizations with off-campus housing facilities (20 USC § 1092(f)(1)(G)).
  3. Ensure coordination of emergency response and evacuation procedures, including procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation (20 USC § 1092(f)(1)(J)).

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4. Notify the Lorain Police Department of criminal offenses reported to local law enforcement agencies to assist the institution in meeting its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)).
  5. Notify the Lorain Police Department of criminal offenses reported to local law enforcement agencies to assist in making information available to the campus community in a timely manner and to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).
- (c) Appoint a designee to develop programs that are designed to inform students and employees about campus security procedures and practices, and to encourage students and employees to be responsible for their own security and the security of others (20 USC § 1092(f)(1)(D)).
  - (d) Appoint a designee to develop programs to inform students and employees about the prevention of crime (20 USC § 1092(f)(1)(E)).
  - (e) Appoint a designee to develop educational programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking, and what to do if an offense occurs, including, but not limited to, who should be contacted, the importance of preserving evidence and to whom the alleged offense should be reported (20 USC § 1092(f)(8)(B)). The designee shall also develop written materials to be distributed to reporting persons that explains the rights and options provided for under 20 USC § 1092 (20 USC § 1092(f)(8)(C)).
  - (f) Appoint a designee to make the appropriate notifications to institution staff regarding missing person investigations in order to ensure that the institution complies with the requirements of 34 CFR 668.46(h).

#### **807.4 RECORDS COLLECTION AND RETENTION**

The Records and Information Center Supervisor is responsible for maintaining Lorain Police Department statistics and making reasonable good-faith efforts to obtain statistics from other law enforcement agencies as necessary to allow the institution to comply with its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)). The statistics shall be compiled as follows:

- (a) Statistics concerning the occurrence of the following criminal offenses reported to this department or to local police agencies that occurred on campus, in or on non-campus buildings or property, and on public property including streets, sidewalks and parking facilities within the campus or immediately adjacent to and accessible from the campus (20 USC § 1092(f)(1)(F)(i); 34 CFR 668.46(c)):
  1. Murder
  2. Sex offenses, forcible or non-forcible
  3. Robbery

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4. Aggravated assault
  5. Burglary
  6. Motor vehicle theft
  7. Manslaughter
  8. Arson
  9. Arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations and weapons possession
  10. Dating violence, domestic violence and stalking
- (b) Statistics concerning the crimes described in the section above, theft, simple assault, intimidation, destruction, damage or vandalism of property, and other crimes involving bodily injury to any person where the victim was intentionally selected because of his/her actual or perceived race, sex, religion, gender, gender identity, sexual orientation, ethnicity or disability. These statistics should be collected and reported according to the category of prejudice (20 USC § 1092(f)(1)(F)(ii); 34 CFR 668.46(c)).
- (c) The statistics shall be compiled using the definitions in the FBI's Uniform Crime Reporting (UCR) system and modifications made pursuant to the Hate Crime Statistics Act (20 USC § 1092(f)(7); 34 CFR 668.46(c)(9)). For the offenses of domestic violence, dating violence and stalking, such statistics shall be compiled in accordance with the definitions used in the Violence Against Women Act (20 USC § 1092(f)(7); 34 USC § 12291; 34 CFR 668.46(a)). The statistics will be categorized separately as offenses that occur in the following places (20 USC § 1092(f)(12); 34 CFR 668.46(c)(5)):
1. On campus.
  2. In or on a non-campus building or property.
  3. On public property.
  4. In dormitories or other on-campus, residential or student facilities.
- (d) Statistics will be included by the calendar year in which the crime was reported to the Lorain Police Department (34 CFR 668.46(c)(3)).
- (e) Stalking offenses will include a statistic for each year in which the stalking conduct is reported and will be recorded as occurring either at the first location where the stalking occurred or the location where the victim became aware of the conduct (34 CFR 668.46(c)(6)).
- (f) Statistics will include the three most recent calendar years (20 USC § 1092(f)(1)(F); 34 CFR 668.46(c)).
- (g) The statistics shall not identify victims of crimes or persons accused of crimes (20 USC § 1092(f)(7)).

#### 807.4.1 CRIME LOG

The Records and Information Center Supervisor is responsible for ensuring a daily crime log is created and maintained as follows (20 USC § 1092(f)(4) and 34 CFR 668.46(f)):

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- (a) The daily crime log will record all crimes reported to the Lorain Police Department, including the nature, date, time and general location of each crime, and the disposition, if known.
- (b) All log entries shall be made within two business days of the initial report being made to the Department.
- (c) If new information about an entry becomes available, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police department or security department.
- (d) The daily crime log for the most recent 60-day period shall be open to the public for inspection at all times during normal business hours. Any portion of the log that is older than 60 days must be made available within two business days of a request for public inspection. Information in the log is not required to be disclosed when:
  - 1. Disclosure of the information is prohibited by law.
  - 2. Disclosure would jeopardize the confidentiality of the victim.
  - 3. There is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, may cause a suspect to flee or evade detection, or could result in the destruction of evidence. In any of these cases, the information may be withheld until that damage is no longer likely to occur from the release of such information.

#### **807.5 INFORMATION DISSEMINATION**

It is the responsibility of the Chief of Police or his/her appointed designee to ensure that the required Clery Act disclosures are properly forwarded to campus administration and community members in accordance with the institution's procedures. This includes:

- (a) Procedures for providing emergency notification of crimes or other incidents and evacuations that might represent an imminent threat to the safety of students or employees (20 USC § 1092(f)(3) and 34 CFR 668.46(e) and (g)).
- (b) Procedures for notifying the campus community about crimes considered to be a threat to other students and employees in order to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).
- (c) Information necessary for the institution to prepare its annual security report (20 USC § 1092(f)(1); 34 CFR 668.46(b)). This report will include, but is not limited to, the following:
  - 1. Crime statistics
  - 2. Crime and emergency reporting procedures
  - 3. Policies concerning security of and access to campus facilities
  - 4. Crime and sexual assault prevention programs
  - 5. Enforcement policies related to alcohol and illegal drugs

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6. Locations where the campus community can obtain information about registered sex offenders
7. Emergency response and evacuation procedures
8. Missing student notification procedures

## **Chapter 9 - Custody**

## Temporary Custody of Adults

### 900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Lorain 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.

#### 900.1.1 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 Lorain Police Department prior to being released or transported to a housing or other type of facility.

### 900.2 POLICY

The Lorain 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.

### 900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than twelve hours (OAC § 5120:1-7-02(A)(3)).

#### 900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Lorain Police Department, but should be transported to a county 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.
- (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).

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### *Temporary Custody of Adults*

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1. If the officer taking custody of an individual believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release or a transfer to an appropriate facility is completed.
  - (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
  - (f) Individuals who are under the influence of alcohol, a controlled substance or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
  - (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.

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

#### 900.3.2 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. 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. In the event that none is 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.

#### 900.3.3 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 Watch Commander.

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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.

#### **900.4 INITIATING TEMPORARY CUSTODY**

The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The receiving officer should ask the arresting officer if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the City jail or the appropriate mental health facility.

The officer should promptly notify the Watch Commander of any conditions that may warrant immediate medical attention or other appropriate action. The Watch Commander shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

#### **900.4.1 SCREENING AND PLACEMENT**

The officer responsible for an individual in custody shall:

- (a) Advise the Watch Commander of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).
- (b) Evaluate the following issues against the stated risks in (a) to determine the need for placing the individual in a single cell:
  1. Consider whether the individual may be at a high risk of being sexually abused based on all available known information (28 CFR 115.141), or whether the person is facing any other identified risk.
  2. Provide any individual identified as being at a high risk for sexual or other victimization with heightened protection. This may include (28 CFR 115.113; 28 CFR 115.141):
    - (a) Continuous, direct sight and sound supervision.
    - (b) Single-cell placement in a cell that is actively monitored on video by a member who is available to immediately intervene.
  3. Ensure individuals are separated according to severity of the crime (e.g., felony or misdemeanor).
  4. Ensure males and females are separated by sight and sound when in cells.
  5. Ensure restrained individuals are not placed in cells with unrestrained individuals.
- (c) Ensure that those confined under civil process or for civil causes are kept separate from those who are in temporary custody pending criminal charges.

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- (d) Ensure separation, as appropriate, based on other factors, such as age, criminal sophistication, assaultive/non-assaultive behavior, mental state, disabilities and sexual orientation.

#### 900.4.2 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Patrol Operations Division Commander will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to department members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for documentation. Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

Department members assigned to process a foreign national shall:

- (a) Inform the individual, without delay, that he/she may have his/her consular officers notified of the arrest or detention and may communicate with them.
  - 1. This notification should be documented.
- (b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
  - 1. If the country is on the mandatory notification list, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Tell the individual that this notification has been made and inform him/her without delay that he/she may communicate with consular officers.
    - (c) Forward any communication from the individual to his/her consular officers without delay.
    - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
  - 2. If the country is not on the mandatory notification list and the individual requests that his/her consular officers be notified, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Forward any communication from the individual to his/her consular officers without delay.

#### 900.5 SAFETY, HEALTH AND OTHER PROVISIONS

##### 900.5.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the Lorain 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.

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- (b) Date and time of arrival at the Department.
- (c) Any charges for which the individual is in temporary custody and any case number.
- (d) Time of all safety checks.
- (e) Any medical and other screening requested and completed.
- (f) Any emergency situations or unusual incidents.
- (g) Any other information that may be required by other authorities, such as compliance inspectors.
- (h) Date and time of release from the Lorain Police Department.

Detention Officers will maintain a jail log in accordance with state requirements.

#### 900.5.2 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.
- (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) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
  - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- (i) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (j) Adequate furnishings are available, including suitable chairs or benches.

#### 900.5.3 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.

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Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should 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, generally should not be at the Lorain Police Department. They should be released or transferred to another facility as appropriate.

#### 900.5.4 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.

Whenever a prosthetic or orthopedic appliance is removed, the Watch Commander shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists.

#### 900.5.5 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.
  - 1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).
- (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.

#### 900.5.6 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.

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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.

#### **900.5.7 FIREARMS AND OTHER SECURITY MEASURES**

Firearms shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor. Other control devices or CEDs may be used by certified trained members, upon approval of the Chief of Police while on duty in the Lorain City Jail.

All perimeter doors to secure areas shall be kept locked at all times, except during routine cleaning, when no individuals in custody are present or in the event of an emergency, such as an evacuation.

#### **900.6 USE OF RESTRAINT DEVICES**

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Lorain Police Department unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

##### **900.6.1 PREGNANT ADULTS**

Women who are known to be pregnant or in any period of postpartum recovery (which can be up to six weeks after delivery) may only be restrained in accordance with the Handcuffing and Restraints Policy (ORC § 2901.10).

#### **900.7 PERSONAL PROPERTY**

The personal property of an individual in temporary custody should be removed, inventoried and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (i.e., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient's signature on the appropriate form.

Upon release of an individual from temporary custody, his/her items of personal property shall be compared with the inventory, and he/she shall sign a receipt for the property's return. If the individual is transferred to another facility or court, the member transporting the individual is

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required to obtain the receiving person's signature as notice of receipt. The Department shall maintain a copy of the property receipt.

The Watch Commander shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Watch Commander shall attempt to prove or disprove the claim.

#### **900.8 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.
- (e) Safety checks by department members shall occur no less than every 15 minutes.
  1. Safety checks should be at varying times.
  2. All safety checks shall be logged.
  3. The safety check should involve questioning the individual as to his/her well-being.
  4. Individuals who are sleeping or apparently sleeping should be awakened.
  5. Requests or concerns of the individual should be logged.

#### **900.9 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY**

The Patrol Operations Division Commander will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the Lorain Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate.
- (b) Immediate notification of the Watch Commander, Chief of Police and Division Commander.
- (c) Notification of the spouse, next of kin or other appropriate person.
- (d) Notification of the appropriate prosecutor.
- (e) Notification of the Law Director.

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- (f) Notification of the Coroner.
- (g) Evidence preservation.

A suicide or suicide attempt by a detainee while housed in the temporary holding facility shall be documented on the appropriate report and forwarded to the facility manager. If the incident involves a completed suicide, the facility manager shall ensure that a copy of the report is forwarded to the Division of Parole and Community Services within 30 days (OAC § 5120:1-12-09).

#### **900.10 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 Lorain 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.
- (h) Generally, persons of the opposite sex 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. Juveniles shall not be transported with adults.
- (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.

#### **900.11 ASSIGNED ADMINISTRATOR**

The Executive Officer will ensure any reasonably necessary supplemental procedures are in place to address the following issues:

- (a) General security
- (b) Key control
- (c) Sanitation and maintenance

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- (d) Emergency medical treatment
- (e) Escapes
- (f) Evacuation plans
- (g) Fire- and life-safety
- (h) Disaster plans
- (i) Building and safety code compliance

**900.12 TRAINING**

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

# Custodial Searches

## 901.1 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 Lorain 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 evidence from an individual in custody.

### 901.1.1 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.

## 901.2 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.

## 901.3 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.

## 901.4 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the Lorain Police Department facilities. Except in exigent circumstances, the search should be conducted by a

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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.

#### **901.4.1 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 Lorain Police Department identification number and information regarding how and when the property may be released.

#### **901.4.2 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.

#### **901.5 STRIP SEARCHES**

No individual in temporary custody at any Lorain Police Department facility shall be subjected to a strip search unless there is probable cause based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining probable cause include, but are not limited to:

- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

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- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
  - 1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex detainee shall be searched or examined for the sole purpose of determining the detainee's genital status. If the detainee's genital status is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, as part of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

#### 901.5.1 STRIP SEARCH PROCEDURES

Strip searches at Lorain Police Department facilities shall be conducted as follows (28 CFR 115.115):

- (a) Written authorization from the Watch Commander shall be obtained prior to the strip search unless there is a legitimate medical reason or medical emergency (ORC § 2933.32(5)).
- (b) All members involved with the strip search shall be of the same sex as the individual being searched (ORC § 2933.32(B)(6)).
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.
- (e) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.
- (f) The primary member conducting the search shall prepare a written report to include (ORC § 2933.32):
  - 1. The facts that led to the decision to perform a strip search.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.

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3. The written authorization for the search, obtained from the Watch Commander. If the strip search was conducted before or without the granting of written authorization by the Watch Commander, the legitimate medical reason or medical emergency that made obtaining written authorization impracticable.
  4. The name of the individual who was searched.
  5. The name and sex of the members who conducted the search.
  6. The name, sex and role of any person present during the search.
  7. The time and date of the search.
  8. The place at which the search was conducted.
  9. A list of the items, if any, that were recovered.
  10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.
- (h) A copy of the written report shall be retained and a copy shall be provided to the individual searched (ORC § 2933.32(C)(2)).

#### **901.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES**

A strip search may be conducted in the field only with Watch Commander authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Watch Commander authorization does not need to be in writing.

#### **901.6 BODY CAVITY SEARCH**

Physical body cavity searches shall be subject to the following:

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- (a) No individual shall be subjected to a physical body cavity search without written approval of the Watch Commander and only upon a search warrant or approval of legal 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, registered nurse or licensed practical nurse who is registered or licensed to practice in Ohio who is of the same sex as the individual to be searched may conduct a physical body cavity search (ORC § 2933.32(B)(4)).
- (c) All 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 (ORC § 2933.32(B)(6)).
- (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search (ORC § 2933.32(B)(4); ORC § 2933.32(B)(6)).
- (e) All such searches shall be documented in a written report, including (ORC § 2933.32):
  - 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 Watch Commander's written approval.
  - 4. Legal counsel approval if the search was conducted for a legitimate medical reason or medical emergency without a warrant.
  - 5. A copy of the search warrant.
  - 6. The name of the individual searched.
  - 7. The time, date and location of the search.
  - 8. The medical personnel present.
  - 9. The names, sex and roles of any department members present.
  - 10. Any contraband or weapons discovered by the search.
- (f) A copy of the written report shall be retained and shall be provided to the individual who was searched or other authorized representative (ORC § 2933.32(C)(2)).

#### **901.7 TRAINING**

The Training Coordinator shall ensure members have training that includes (28 CFR 115.115):

- (a) Conducting searches of cross-gender individuals.

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- (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.

#### **901.8 JUVENILES**

No juvenile should be subjected to a strip search or a physical body cavity search at the Department.

The Lorain Police Department or the authorized designee should establish procedures for the following:

- (a) Safely transporting a juvenile who is suspected of concealing a weapon or contraband, or who may be experiencing a medical issue related to such concealment, to a medical facility or juvenile detention facility as appropriate in the given circumstances.
  - 1. Procedures should include keeping a juvenile suspected of concealing a weapon under constant and direct supervision until custody is transferred to the receiving facility.
- (b) Providing officers with information identifying appropriate medical and juvenile detention facilities to which a juvenile should be transported for a strip or body cavity search.

Nothing in this section is intended to prevent an officer from rendering medical aid to a juvenile in emergency circumstances (see the Medical Aid and Response Policy for additional guidance).

## Prison Rape Elimination

### 902.1 PURPOSE AND SCOPE

This policy provides guidance for complying with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect and respond to sexual abuse, harassment and retaliation against detainees in the Lorain Police Department Temporary Holding Facilities (28 CFR 115.111).

#### 902.1.1 DEFINITIONS

Definitions related to this policy include:

**Intersex** - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

**Sexual abuse** - Any of the following acts, if the detainee does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or the buttocks of another person, excluding contact incidental to a physical altercation (28 CFR 115.6)

Sexual abuse also includes abuse by a staff member, contractor or volunteer as follows, with or without consent of the detainee or resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Contact between the mouth and any body part where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object or other instrument, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or the buttocks, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire

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- Any attempt, threat or request by a staff member, contractor or volunteer to engage in the activities described above
- Any display by a staff member, contractor or volunteer of his/her uncovered genitalia, buttocks or breast in the presence of a detainee or resident
- Voyeurism by a staff member, contractor or volunteer (28 CFR 115.6)

**Sexual harassment** - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures or actions of a derogatory or offensive sexual nature by one detainee or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to a detainee or resident by a staff member, contractor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6).

**Transgender** - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

#### **902.2 POLICY**

The Lorain Police Department has zero tolerance toward all forms of sexual abuse and sexual harassment (28 CFR 115.111). The Department will not tolerate retaliation against any person who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

The Lorain Police Department will take immediate action to protect detainees who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162).

#### **902.3 PREA COORDINATOR**

The Chief of Police shall appoint an upper-level manager with sufficient time and authority to develop, implement and oversee department efforts to comply with PREA standards in the Lorain Police Department Temporary Holding Facilities (28 CFR 115.111). The PREA Coordinator's responsibilities shall include:

- (a) Developing and maintaining procedures to comply with the PREA Rule.
- (b) Ensuring that any contract for the confinement of Lorain Police Department detainees includes the requirement to adopt and comply with applicable PREA and the PREA Rule, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).
- (c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect detainees from sexual abuse (28 CFR 115.113). This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.
- (d) Developing methods for staff to privately report sexual abuse and sexual harassment of detainees (28 CFR 115.151).

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- (e) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators and department leadership to an incident of sexual abuse (28 CFR 115.165).
- (f) Ensuring a protocol is developed for investigating allegations of sexual abuse in the Temporary Holding Facility. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):
  - 1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents" or a similarly comprehensive and authoritative protocol.
  - 2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.
  - 3. A process to document all referrals to other law enforcement agencies.
  - 4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.
  - 5. In accordance with security needs, provisions to permit, to the extent available, detainee access to victim advocacy services if the detainee is transported for a forensic examination to an outside hospital that offers such services.
- (g) Ensuring that detainees with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect and respond to sexual abuse and sexual harassment. This includes, as appropriate, access to interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills, intellectual, hearing or vision disabilities) (28 CFR 115.116).
  - 1. The agency shall not rely on other detainees for assistance except in limited circumstances where an extended delay in obtaining an interpreter could compromise the detainee's safety, the performance of first-response duties under this policy, or the investigation of a detainee's allegations of sexual abuse, harassment or retaliation.
- (h) Publishing on the department's website:
  - 1. Information on how to report sexual abuse and sexual harassment on behalf of a detainee (28 CFR 115.154).

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2. A protocol describing the responsibilities of the Department and any other investigating agency that will be responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).
- (i) Establishing a process that includes the use of a standardized form and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under this agency's direct control (28 CFR 115.187).
  1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.
  2. The data shall be aggregated at least annually.
- (j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all Temporary Holding Facilities used to house detainees overnight (28 CFR 115.193).
- (k) Ensuring contractors or others who work in the Temporary Holding Facility are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment (28 CFR 115.132).

#### **902.4 REPORTING SEXUAL ABUSE AND HARASSMENT**

Detainees may make reports verbally, in writing, privately or anonymously of any of the following (28 CFR 115.151):

- Sexual abuse
- Sexual harassment
- Retaliation by other detainees or staff for reporting sexual abuse or sexual harassment
- Staff neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

During intake the Department shall notify all detainees of the zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the Department and that is able to receive and immediately forward detainee reports of sexual abuse and sexual harassment to agency officials. This allows the detainee to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

##### **902.4.1 MEMBER RESPONSIBILITIES**

Department members shall accept reports from detainees and third parties and shall promptly document all reports (28 CFR 115.151).

All members shall report immediately to the Watch Commander any knowledge, suspicion or information regarding:

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- (a) An incident of sexual abuse or sexual harassment that occurs in the Temporary Holding Facility.
- (b) Retaliation against detainees or the member who reports any such incident.
- (c) Any neglect or violation of responsibilities on the part of any department member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

#### **902.4.2 WATCH COMMANDER RESPONSIBILITIES**

The Watch Commander or shift OIC shall report to the department's designated investigators all allegations of sexual abuse, harassment, retaliation, neglect or violations leading to sexual abuse, harassment or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a vulnerable adult, the Watch Commander shall also report the allegation as required under mandatory reporting laws and department policy.

Upon receiving an allegation that a detainee was sexually abused while confined at another facility, the Watch Commander shall notify the head of the facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible but no later than 72 hours after receiving the allegation. The Watch Commander shall document such notification (28 CFR 115.163).

If an alleged detainee victim is transferred from the Temporary Holding Facility to a jail, prison or medical facility, the Department shall, as permitted by law, inform the receiving facility of the incident and the detainee's potential need for medical or social services, unless the detainee requests otherwise (28 CFR 115.165).

#### **902.5 INVESTIGATIONS**

The Department shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received department-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

##### **902.5.1 FIRST RESPONDERS**

The first officer to respond to a report of sexual abuse or sexual assault shall (28 CFR 115.164):

- (a) Separate the parties.
- (b) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.
- (c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

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- (d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first responder is not an officer the responder shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify a law enforcement staff member (28 CFR 115.164).

#### 902.5.2 INVESTIGATOR RESPONSIBILITIES

Investigators shall (28 CFR 115.171):

- (a) Gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.
- (b) Interview alleged victims, suspects and witnesses.
- (c) Review any prior complaints and reports of sexual abuse involving the suspect.
- (d) Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (e) Assess the credibility of the alleged victim, suspect or witness on an individual basis and not by the person's status as a detainee or a member of the Lorain Police Department.
- (f) Document in written reports a description of physical, testimonial, documentary and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.
- (g) Refer allegations of conduct that may be criminal to the City Prosecutor for possible prosecution, including any time there is probable cause to believe a detainee sexually abused another detainee in the Temporary Holding Facility (28 CFR 115.178).
- (h) Cooperate with outside investigators and remain informed about the progress of any outside investigation.

#### 902.5.3 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment or control of this department shall not be used as a basis for terminating an investigation (28 CFR 115.171).

#### 902.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS

No detainee who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

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Detainee victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

#### **902.5.5 CONCLUSIONS AND FINDINGS**

All completed investigations shall be forwarded to the Chief of Police, or if the allegations may reasonably involve the Chief of Police, to the Safety Director. The Chief of Police or Safety Director shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for department members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees and reported to any relevant licensing bodies (28 CFR 115.177). The Chief of Police shall take appropriate remedial measures and consider whether to prohibit further contact with detainees by a contractor or volunteer.

#### **902.6 RETALIATION PROHIBITED**

All detainees and members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual.

The Watch Commander or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for detainee victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for detainees or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

The Watch Commander or the authorized designee shall identify a staff member to monitor the conduct and treatment of detainees or members who have reported sexual abuse and of detainees who were reported to have suffered sexual abuse. The staff member shall act promptly to remedy any such retaliation. In the case of detainees, such monitoring shall also include periodic status checks.

#### **902.7 REVIEWS AND AUDITS**

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#### 902.7.1 INCIDENT REVIEWS

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials and seek input from line supervisors and investigators (28 CFR 115.186).

The review shall (28 CFR 115.186):

- (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.
- (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
- (d) Assess the adequacy of staffing levels in that area during different shifts.
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief of Police and the PREA Coordinator. The Chief of Police or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

#### 902.7.2 DATA REVIEWS

The facility shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

- (a) Identification of any potential problem areas.
- (b) Identification of any corrective actions taken.
- (c) Recommendations for any additional corrective actions.
- (d) A comparison of the current year's data and corrective actions with those from prior years.
- (e) An assessment of the department's progress in addressing sexual abuse.

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The report shall be approved by the Chief of Police and made readily available to the public through the department website or, if it does not have one, through other means. Material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the Temporary Holding Facility. However, the nature of the redacted material shall be indicated.

All aggregated sexual abuse data from Lorain Police Department facilities and private facilities with which it contracts shall be made readily available to the public at least annually through the department website or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

#### **902.8 RECORDS**

The Department shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Department, plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

#### **902.9 TRAINING**

All employees, volunteers and contractors who may have contact with detainees shall receive department-approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The Training Coordinator shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):

- The Department's zero-tolerance policy and detainees' right to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- The dynamics of sexual abuse and harassment in confinement settings, including which detainees are most vulnerable.
- The right of detainees and staff members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- Detecting and responding to signs of threatened and actual abuse.
- Communicating effectively and professionally with all detainees.
- Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):

- Techniques for interviewing sexual abuse victims.
- Proper use of *Miranda* and *Garrity* warnings.

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- Sexual abuse evidence collection in confinement settings.
- Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Training Coordinator shall maintain documentation that employees, volunteers, contractors and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current employees and volunteers who may have contact with detainees shall be trained within one year of the effective date of the PREA standards. The agency shall provide annual refresher information to all such employees and volunteers to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

## **Chapter 10 - Personnel**

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## Recruitment and Selection

### 1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Lorain Police Department and that are promulgated and maintained by the Human Resources.

### 1000.2 POLICY

In accordance with applicable federal, state, and local law, the Lorain Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. 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.

### 1000.3 RECRUITMENT

The Administration Division Commander shall employ a comprehensive recruitment and selection strategy/plan to recruit and select employees from a qualified and diverse pool of candidates.

The strategy/plan may include but is not limited to the following activities:

- (a) Identification of racially and culturally diverse target markets
- (b) Use of marketing strategies to target diverse applicant pools (e.g., distributing informational brochures)
- (c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.
- (d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military
- (e) Employee referral and recruitment incentive programs
- (f) Consideration of shared or collaborative regional testing processes

The Administration Division Commander shall avoid advertising, recruiting, and screening practices that tend to stereotype, focus on homogeneous applicant pools, or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of their status in the recruiting process.

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#### **1000.4 SELECTION PROCESS**

The Department shall actively strive to identify a diverse group of candidates that have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department shall employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
- (b) Driving record
- (c) Personal and professional reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
  1. This review should include the identification of any activity that promotes or supports unlawful violence or unlawful bias against persons based on protected characteristics (e.g., race, ethnicity, national origin, religion, gender, gender identity, sexual orientation, disability).
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks
- (h) Polygraph or voice stress analyzer examination (when legally permissible)
- (i) Medical and psychological examination (may only be given after a conditional offer of employment)
- (j) Review board or selection committee assessment
- (k) Relevant national and state decertification records, if available
- (l) Any relevant information in the National Law Enforcement Accountability Database

#### **1000.4.1 VETERAN PREFERENCE**

Veterans or reservists of the United States Armed Forces who are residents of Ohio, separated from the armed forces under honorable conditions following more than six months of active duty and are candidates for job openings shall receive preference as applicable (ORC § 124.23(C)).

In the event that ratings are equal, candidates who are eligible for veteran's preference shall receive priority in rank on eligibility lists and in original appointments over non-veterans on the list. Ties among veterans or reservists shall be decided by priority of filing the application. A tie between a veteran and a reservist shall be decided in favor of the veteran (ORC § 124.26).

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#### 1000.4.2 APPLICATION PROCESS

The Office of Professional Standards Commander shall maintain documentation defining a fair and impartial application process.

- (a) All elements of the process, including physical ability testing, shall be job-related and nondiscriminatory.
- (b) All elements of the process shall be administered, scored and interpreted in a uniform manner.

#### **1000.5 BACKGROUND INVESTIGATION**

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Lorain Police Department.

##### 1000.5.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA (15 USC § 1681d).

##### 1000.5.2 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private or protected information, the Background Investigators should not require candidates to provide passwords, account information or access to password-protected social media accounts.

Investigators should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches and/or review information from social media sites to ensure that:

- (a) The legal rights of candidates are protected.
- (b) Material and information to be considered are verified, accurate and validated.
- (c) The Department fully complies with applicable privacy protections and local, state and federal law.

Regardless of whether a third party is used, potentially impermissible information should not be available to any person involved in the candidate selection process.

##### 1000.5.3 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file.

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#### 1000.5.4 RECORDS RETENTION

The background report and all supporting documentation shall be maintained in accordance with the established records retention schedule.

#### **1000.6 DISQUALIFICATION GUIDELINES**

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

#### **1000.7 EMPLOYMENT STANDARDS**

All candidates shall meet the minimum standards required by state law. Candidates will be evaluated based on merit, ability, competence and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community.

Validated, job-related and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Human Resources Director should maintain validated standards for all positions.

##### 1000.7.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards for training and certification established by the Ohio Peace Officer Training Commission (OPOTC) prior to permanent employment as a peace officer (ORC § 109.73).

#### **1000.8 PROBATIONARY PERIODS**

The Chief of Police should coordinate with the Lorain Human Resources Department to identify positions subject to probationary periods and procedures for:

- (a) Appraising performance during probation.

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- (b) Assessing the level of performance required to complete probation.
- (c) Extending probation.
- (d) Documenting successful or unsuccessful completion of probation.

#### **1000.9 ANNUAL REVIEW**

The Employee Review Board should review the personnel recruitment and hiring process annually. This review will be documented.

#### **1000.10 TRAINING**

Annual recruitment and hiring training should be provided for those members involved in recruitment and hiring activities. Training should include, but is not limited to, the recruitment and hiring plan, the department's equal employment opportunity plan, recruitment and hiring qualifications, the department's application and selection processes, and the department's annual review/analysis of the recruitment and hiring process.

##### **1000.10.1 POLICY ACKNOWLEDGEMENT**

Applicable department members shall initially and at least annually read and sign that they understand this policy, the recruitment plan, and the equal employment opportunity plan.

## Evaluation of Employees

### 1001.1 PURPOSE AND SCOPE

The Department's 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.

### 1001.2 POLICY

The Lorain Police Department utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to special unit assignment, 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.

### 1001.3 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 his/her input.

All sworn and civilian 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 annual 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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#### **1001.4 FULL-TIME PROBATIONARY PERSONNEL**

Personnel must successfully complete the probationary period before being eligible for certification as regular employees. Probationary personnel are also evaluated prior to the end of their probation period to determine suitability for retained employment.

#### **1001.5 FULL-TIME REGULAR STATUS PERSONNEL**

##### 1001.5.1 RATINGS

The definition of each rating category is as follows:

**Outstanding** - Actual performance that is 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** - Performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

**Needs improvement** - A level of performance less than that expected of a fully competent employee and less than the standards required of the position. A needs-improvement rating must be thoroughly discussed with the employee.

**Unsatisfactory** - Performance is inferior to the standards required of the position. It is very inadequate or undesirable performance that cannot be tolerated.

Space for written comments is provided at the end of the evaluation in the rater comments section. This section allows the rater to document the employee's strengths, weaknesses and suggestions for improvement. Any rating under any job dimension marked unsatisfactory or outstanding shall be substantiated in the rater comments section.

#### **1001.6 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 recently 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. Employees may also write comments in the employee comments section of the performance evaluation report.

#### **1001.7 EVALUATION REVIEW**

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded to the Division Commander. The Division Commander shall review the evaluation for fairness, impartiality, uniformity and consistency. The Division Commander shall use the quality of performance ratings prepared as a factor to evaluate the supervisor.

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#### **1001.8 EVALUATION DISTRIBUTION**

The original performance evaluation shall be maintained in the employee's personnel file in the Human Resources Department.

#### **1001.9 ADDITIONAL CONSIDERATIONS**

Each evaluation shall include an assessment of the member's adherence to department policies.

## Special Assignments and Promotions

### 1002.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Lorain Police Department.

### 1002.2 POLICY

The Lorain Police Department determines assignments and promotions in a non-discriminatory manner based upon job-related factors and candidate skills and qualifications and in accordance with applicable collective bargaining agreement sections.

### 1002.3 SPECIAL ASSIGNMENT POSITIONS

The following positions are considered special assignments and not promotions:

- (a) Special Weapons and Tactics member
- (b) Criminal Investigations Division
- (c) Motorcycle officer
- (d) Bicycle Patrol officer
- (e) Canine handler
- (f) Traffic Commissioner/Investigators
- (g) Field Training Officer
- (h) Community Relations/Community Resource Officer
- (i) Training Coordinator
- (j) All other specialized assignments

#### 1002.3.1 GENERAL REQUIREMENTS

The following requirements while not mandatory should be considered when selecting a candidate for a special assignment:

- (a) Three years of relevant experience
- (b) Off probation
- (c) Possession of or ability to obtain any certification required by the Ohio Peace Officer Training Commission (OPOTC) or law
- (d) Exceptional skills, experience, or abilities related to the special assignment

#### 1002.3.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignment:

- (a) Presents a professional, neat appearance.
- (b) Maintains a physical condition that aids in his/her performance.
- (c) Expressed an interest in the assignment.

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- (d) Demonstrates 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 skills
  - 6. Initiative
  - 7. Adaptability and flexibility
  - 8. Ability to conform to department goals and objectives in a positive manner

#### **1002.3.3 SELECTION PROCESS**

The selection process for special assignments will include an administrative evaluation as determined by the Chief of Police to include:

- (a) Supervisor recommendations - Each supervisor who has supervised or otherwise been involved with the candidate will submit a recommendation.
  - 1. The supervisor recommendations will be submitted to the Division Commander for whom the candidate will work.
- (b) Board interview - The Division Commander will schedule interviews with each candidate.
  - 1. Based on supervisor recommendations and those of the Division Commander after the interview, the Division Commander will submit his/her recommendations to the Chief of Police.
- (c) Assignment by the Chief of Police.

The selection process for all special assignment positions may be waived for temporary assignments, emergency situations, training, and at the discretion of the Chief of Police.

#### **1002.4 PROMOTIONAL REQUIREMENTS**

Requirements and information regarding any promotional process are available in the current collective bargaining agreement, and promotions are conducted through the Civil Service Commission.

## Grievance Procedures

### 1003.1 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. The Department's philosophy is to promote free verbal communication between employees and supervisors.

#### 1003.1.1 GRIEVANCE DEFINED

The term "grievance" shall mean an allegation by a bargaining unit employee, group of employees, or the Employer that there has been a breach, misinterpretation, or improper application of the applicable Collective Bargaining Agreement. It is not intended that the grievance procedure be used to effect changes in the agreement, nor these matters not otherwise covered by, superseded by, or in conflict with the agreement, which are controlled by Federal, State, or local laws.

Specifically excluded from the category of grievances are:

- (a) Complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy.
- (b) Complaints related to state workers' compensation.
- (c) 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 as set forth in the Personnel Complaint Procedure Policy.

### 1003.2 PROCEDURE

Except as otherwise required under a collective bargaining agreement, if an employee believes that he/she has a grievance as defined above, the employee shall observe the following procedure:

- (a) The employee may attempt to resolve the issue through informal discussion with his/her immediate supervisor, Division Commander, or the Chief of Police. This informal attempt at resolution is not required before progressing to the formal Grievance Procedure.
- (b) If the issue cannot be settled by the immediate supervisor, Division Commander, or the Chief of Police, the formal Grievance Procedure in the respective employee's Collective Bargaining Agreement should be followed. The employee must ensure the appropriate Grievance Officer is contacted prior to the expiration of the time frame specified in the Grievance Procedure of the appropriate bargaining agreement.

### 1003.3 PUNITIVE ACTION

At no time will punitive action be taken against an employee for exercising any rights during the grievance procedure.

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#### **1003.4 GRIEVANCE RECORDS**

At the conclusion of the grievance process, all documents pertaining to the process shall be kept by the respective employee's union. A second copy of the written grievance will be maintained by the Safety Director's office to monitor the grievance process.

#### **1003.5 JUDICIAL RELIEF**

Any employee or representative may, after exhausting the internal grievance procedure, and, if applicable, arbitration, apply to the proper court for judicial relief as allowed by contract or law.

## Anti-Retaliation

### 1004.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or collective bargaining agreement.

### 1004.2 POLICY

The Lorain Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

### 1004.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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### *Anti-Retaliation*

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#### **1004.4 COMPLAINTS OF RETALIATION**

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the City Human Resources Director.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

#### **1004.5 SUPERVISOR RESPONSIBILITIES**

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

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### *Anti-Retaliation*

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#### **1004.6 COMMAND STAFF RESPONSIBILITIES**

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

#### **1004.7 WHISTLE-BLOWING**

Ohio law protects employees who report violations of a state or federal statute, an ordinance or regulation of the City, or department policy when there is a reasonable belief that the violation is one of the following (ORC § 4113.52):

- (a) A criminal offense that is likely to create an imminent risk of physical harm to persons or a hazard to public health or safety
- (b) A felony
- (c) An improper solicitation for contribution
- (d) Fraud or misuse of public resources (ORC § 124.341)

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Office of Professional Standards for investigation pursuant to the Personnel Complaints Policy.

#### **1004.8 RECORDS RETENTION AND RELEASE**

The Support Services Commander shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

#### **1004.9 TRAINING**

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

## Reporting of Employee Convictions

### 1005.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

### 1005.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

Ohio and federal law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from 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).

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.

### 1005.3 CRIMINAL ARRESTS

Any sworn employee shall promptly notify his/her immediate supervisor in writing if a firearm used by the employee as part of his/her assigned duties has been confiscated as a result of involvement in a crime and/or domestic violence incident (see Domestic Violence Policy Firearms section).

### 1005.4 CRIMINAL CONVICTIONS

Any person convicted of a felony is prohibited from being a peace officer in the State of Ohio (see generally ORC § 737.052 and ORC § 737.162).

Even when legal restrictions are not imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by a member of this department may prohibit him/her from carrying out law enforcement duties.

- (a) State law prohibits any person convicted of a felony, a fugitive from justice, an unlawful user or addict of any controlled substance, a person who is mentally ill or illegally in the United States from possessing a firearm.
- (b) If a person is convicted of a crime involving family violence or stalking or is currently subject to a restraining order, injunction or other order for protection against domestic violence, it may be unlawful for the person to carry a concealed weapon.

#### 1005.4.1 COURT ORDERS

All employees shall promptly notify the department if they are part of any court order. Court orders or failure to comply with certain subpoenas or warrants may require suspension of their peace officer certification.

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### *Reporting of Employee Convictions*

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#### **1005.5 REPORTING PROCEDURE**

All members of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing of any past or current criminal arrest or conviction regardless of whether the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on paid or unpaid administrative leave, reassignment and/or termination.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

## Drug- and Alcohol-Free Workplace

### 1006.1 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).

### 1006.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

### 1006.3 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 Watch Commander 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).

#### 1006.3.1 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.

#### 1006.3.2 USE OF CANNABIS

Possession, use, or being under the influence of cannabis, medical or recreational, whether on-duty or off-duty is prohibited and may lead to disciplinary action up to and including termination.

### 1006.4 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.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member is impaired due to drug or alcohol use.

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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).

#### **1006.5 EMPLOYEE ASSISTANCE PROGRAM**

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

#### **1006.6 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.

#### **1006.7 SCREENING TESTS**

A supervisor may require an employee to submit to a screening test under any of 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) The employee drives a motor vehicle in the performance of the employee's duties and becomes involved in an incident that results in bodily injury, death, or substantial damage to property.

##### **1006.7.1 SUPERVISOR RESPONSIBILITIES**

The supervisor shall prepare a written record documenting the specific facts that led to the decision to require 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.

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- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

#### 1006.7.2 DISCIPLINE

An employee may be subject to disciplinary action if the employee:

- (a) Fails or refuses to submit to a screening test.
- (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 controlled substance as directed, pursuant to a current and lawful prescription issued in the employee's name.

#### **1006.8 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).

#### **1006.9 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

### 1007.1 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.

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 state law (29 USC § 2601 et seq.; ORC § 124.38 et seq.).

### 1007.2 POLICY

It is the policy of the Lorain Police Department to provide eligible employees with a sick leave benefit.

### 1007.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences. 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).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

#### 1007.3.1 NOTIFICATION

All members should notify the Communications Center 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. 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.

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 30 days' notice of the impending absence.

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.

### 1007.4 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. 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.

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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.

#### **1007.5 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) 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.
- (c) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (d) Referring eligible members to an available employee assistance program when appropriate.

# Communicable Diseases

## 1008.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

### 1008.1.1 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 (i.e., 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 Lorain Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred).

## 1008.2 POLICY

The Lorain 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.

## 1008.3 EXPOSURE CONTROL

The Chief of Police or his/her designee 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) that is appropriate 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. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff 136).
  2. Employment risk standards (OAC § 4167-3-03 et seq.).
  3. Emergency temporary employment risk standards (OAC § 4167-3-02).
  4. Bloodborne pathogen precautions (OAC § 4167-3-05).

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The ECO should also act as the liaison with the Ohio Public Employment Risk Reduction Program (PERRP) and may request voluntary compliance inspections. The ECO should periodically review and update the exposure control plan and review implementation of the plan.

#### **1008.4 EXPOSURE PREVENTION AND MITIGATION**

##### 1008.4.1 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:

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area of 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 a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (f) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing, 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.
- (g) 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.
- (h) Avoiding eating, drinking, or smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (i) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

##### 1008.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost.

#### **1008.5 POST EXPOSURE**

##### 1008.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

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- (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 practical.

#### 1008.5.2 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:

- (a) Name of the member exposed
- (b) Date and time of incident
- (c) Location of incident
- (d) The 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., cleanup and 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 Illness and Injury Reporting and the Illness and Injury Prevention policies).

#### 1008.5.3 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.

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

- (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.

#### 1008.5.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure.

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#### 1008.5.5 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) Submitting a complaint to compel testing under ORC § 3701.247.
- (c) Requesting notification from a medical facility under ORC § 3701.248.

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 Law Director to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

#### **1008.6 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.

#### **1008.7 TRAINING**

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training:

- (a) Should 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) Should 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 and Tobacco Use

### 1009.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Lorain Police Department facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

### 1009.2 POLICY

The Lorain Police Department recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy (ORC § 3794.02).

### 1009.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Lorain Police Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

### 1009.4 ADDITIONAL PROHIBITIONS

Members shall not be allowed to smoke in areas of ingress or egress to any department facility (ORC § 3794.02).

#### 1009.4.1 NOTICE

The Chief of Police or the authorized designee shall ensure that proper signage is in place to provide notice of restricted tobacco use areas (ORC § 3794.06).

## Personnel Complaints

### 1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Lorain Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

### 1010.2 POLICY

The Lorain Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

### 1010.3 DEFINITIONS

**EMPLOYEE REVIEW BOARD (ERB)** – The employee review board will consist of three Division Commanders or Captains. An alternate designee may serve on the ERB in place of a Captain if a Captain is unavailable. The ERB will be convened in all cases where discipline will be a Written Reprimand or higher.

### 1010.4 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

#### 1010.4.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

**Informal** - A matter in which the Office of Professional Standards commander is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member. Also referred to internally as an Inquiry, sometimes resulting from an allegation that is actually a question of procedure or law. An informal complaint may not require a complete Internal Affairs Investigation.

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**Formal** - A matter in which the Office of Professional Standards determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Office of Professional Standards, depending on the seriousness and complexity of the investigation. A Formal Complaint requires a complete Internal Affairs investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Office of Professional Standards, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

#### 1010.4.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

Types of sources of internal affairs complaints, include, but are not limited to the following examples:

- (a) Citizens
- (b) Department supervisors, command officers or other members of the Department. c. The Office of the Mayor or Safety Director
- (c) Other law enforcement agencies.
- (d) Anonymous NOTE: When an allegation of employee misconduct is made anonymously, the employee shall be apprised of the circumstance, as much as practicable, without compromising the integrity of a possible investigation.
- (e) Confidential NOTE: A confidential allegation shall not be considered as an anonymous complaint, except in the instance in which the person making the allegation is unwilling to testify in any subsequent hearing.

#### 1010.5 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

##### 1010.5.1 COMPLAINT FORMS

Standardized public complaint packages (both in English & Spanish) may be obtained by those wishing to file a written allegation against a Police Department employee at the following locations:

- (a) Records/Information window of the Police Station, 1st Floor, Justice Center

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- (b) Safety/Service Director's Office, 7th Floor, City Hall.
- (c) From any Police Department Supervisor
- (d) They can also be obtained on line at [www.lorainpolice.com](http://www.lorainpolice.com)

#### 1010.5.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

#### 1010.6 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the log and send an audit report to the Chief of Police or the authorized designee.

#### 1010.7 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

##### 1010.7.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the Office of Professional Standards. The Office of Professional Standards Division Commander may assign the investigation to the member's Watch Commander or supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
  1. The original complaint form will be directed to the Office of Professional Standards Commander, who will take appropriate action and/or determine who will have responsibility for the investigation.

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2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Division Commander or the Chief of Police, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
  - (c) Resolving those personnel complaints that can be resolved immediately.
    1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
  - (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Division Commander and Chief of Police are notified via the chain of command as soon as practicable.
  - (e) Promptly contacting the Office of Professional Standards Commander or Chief of Police for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
  - (f) Forwarding unresolved personnel complaints to the Office of Professional Standards Commander, who will determine whether to contact the complainant or assign the complaint for investigation.
  - (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
  - (h) Investigating a complaint as follows:
    1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
    2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
  - (i) Ensuring that the procedural rights of the accused member are followed.
  - (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

#### 1010.7.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Office of Professional Standards, the following applies to employees:

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Lorain Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee should be informed of the nature of the investigation.

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- (e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  - 1. An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
  - 2. No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview.
- (i) All employees subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation.
- (l) Employees who withhold information from, or fail to cooperate fully with internal investigations, or who fail to report misconduct of employees are subject to disciplinary action up to and including termination in addition to any other disciplinary action that may result from the investigations.

#### 1010.7.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

**Introduction** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

**Synopsis** - Provide a brief summary of the facts giving rise to the investigation.

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**Summary** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Evidence** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

#### 1010.7.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve department members, or there is no credible evidence to support the complaint. Complaints that are determined to be frivolous will fall within the classification of unfounded.

**Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct. If the incident has two or more allegations and at least one of the allegations is sustained it may be classified as "partially sustained."

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

When a complainant withdraws a complaint prior to the completion of the investigation, the complaint shall be reviewed by the Office of Professional Standards Commander. A determination will then be made as to whether the complaint merits a continued investigation.

#### 1010.7.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation. The investigation of Formal Complaints will be completed within thirty (30) calendar days once assigned. An extension of time may be granted by the Chief of Police or Division Commander upon request. Criminal complaints involving felony investigations shall be investigated and completed in accordance with the statute of limitations as set by law. Informal Complaints will be investigated within fifteen (15) days.

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#### 1010.7.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

#### 1010.8 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

#### 1010.9 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave in accordance with Civil Service law. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

#### 1010.10 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Lorain Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

#### 1010.11 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review and include their

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comments in writing before forwarding the report. The Chief of Police may accept or modify any classification, refer back to the member's Division Commander, or for any disciplinary action of a Written Reprimand or higher forward to the Employee Review Board.

#### 1010.11.1 DIVISION COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Commander of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Division Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Division Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Division Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

#### 1010.11.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Division Commander for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
  - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
  - 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

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#### 1010.11.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Office of Professional Standards should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

#### **1010.12 PRE-DISCIPLINE EMPLOYEE RESPONSE**

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police or designee after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police or his/her designee to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

#### **1010.13 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

#### **1010.14 POST-DISCIPLINE APPEAL RIGHTS**

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement and/or personnel rules.

#### **1010.15 PROBATIONARY EMPLOYEES AND OTHER MEMBERS**

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

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Any probationary period may be extended at the discretion of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate (see also the Temporary Modified-Duty Assignments Policy).

#### **1010.16 RETENTION OF PERSONNEL INVESTIGATION FILES**

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

#### **1010.17 SUSPENDED PERSONNEL**

No Department personnel shall wear the Lorain Police Department uniform, carry a Lorain Police badge or ID, carry Departmental firearms, operate Department vehicles, or enter any Department facility without a supervisor's escort while under suspension.

#### **1010.18 STATE REPORTING REQUIREMENT FOR SUSPENSIONS**

The Chief of Police or the authorized designee shall notify the Director of Public Safety in writing of an officer's suspension and the cause of the suspension (ORC § 737.12).

## Seat Belts

### 1011.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in Department vehicles.

#### 1011.1.1 DEFINITIONS

Definitions related to this policy include:

**Child Restraint System** - An infant or child passenger restraint system that meets federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

### 1011.2 POLICY

It is the policy of the Lorain Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

### 1011.3 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 those who are not members of the Department, are properly restrained (ORC § 4513.263B3).

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 department member or the public. Members must be prepared to justify any deviation from this requirement.

### 1011.4 TRANSPORTING CHILDREN

A child restraint system should be used for all children of an age, height or weight for which such restraints are required by law (ORC § 4511.81).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible.

### 1011.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

When practical, suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

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#### **1011.6 INOPERABLE SEAT BELTS**

Department vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members 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.

#### **1011.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS**

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operating requirements for safe use.

#### **1011.8 VEHICLE AIRBAGS**

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

## Body Armor

### 1012.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

### 1012.2 POLICY

It is the policy of the Lorain 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.

### 1012.3 ISSUANCE OF BODY ARMOR

The Office of Professional Standards shall ensure that body armor is issued to all officers when the officer begins service at the Lorain Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The department 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.

#### 1012.3.1 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 is required to be worn when an officer is working in uniform and or taking part in Department firearms 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.

#### 1012.3.2 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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#### 1012.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

#### **1012.4 EXTERNAL VEST CARRIERS**

Authorized external bulletproof vest carriers, designed to hold bulletproof vest panels over the uniform shirt of the Field Uniform, optionally may be worn by road patrol officers as follows: (no rifle magazines or rifle magazine holders will be worn on the external vest carrier)

- (a) External vest carriers designed to look like a uniform shirt manufactured by JG Uniforms, in dark navy, set up with metal or embroidered badge and name tag.
- (b) GH Armor Systems APB external carrier in black, set up with metal or embroidered badge and name tag featuring MOLLE attachments.
- (c) Safariland Oregon City vest carrier in black, set up with metal or embroidered badge and name tag featuring MOLLS attachments.

Tactical external vest carriers are authorized for use by Criminal Investigations Division personnel, and other non patrol division officers. The types will be as follows:

- (a) The tactical-type issued black vest with "POLICE" on front and back. (Point Blank or Second Chance)
- (b) Tactical-type external vest carriers may be worn by officers assigned to plain clothes or staff positions as specified by this policy, or by officers assigned to the K9 Unit, or other specialized unit, as approved by the Chief of Police.

Officers are prohibited from wearing an unsecured/unfastened vest while in view of the general public. When worn, any external vest carrier will be completely secured by all straps provided by the manufacturer when assigned to a uniform function and engaged in field activities.

#### **1012.5 FIREARMS TRAINING SUPERVISOR RESPONSIBILITIES**

The Firearms Training Supervisor should:

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- (a) Monitor technological advances in the body armor industry for any appropriate changes to Department-approved body armor.
- (b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
- (c) Provide training that educates officers about the safety benefits of wearing body armor.

## Personnel Records

### 1013.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

### 1013.2 POLICY

It is the policy of this department that the City of Lorain Human Resources Department maintains official personnel records and preserves the confidentiality of personnel records pursuant to the Constitution and the laws of Ohio.

### 1013.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational and employment history or similar information. A photograph of the member should be permanently retained.
- (b) Personnel action reports reflecting assignments, promotions and other changes in employment/appointment status. These should be permanently retained.
- (c) Copies of discipline records, including copies of sustained personnel complaints.
- (d) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment.
  - 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment.
  - 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. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file.
- (e) Commendations and awards.
- (f) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

### 1013.4 DIVISION FILE

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

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#### **1013.5 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; and 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.

#### **1013.6 INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the Office of Professional Standards in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Office of Professional Standards supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition. Investigations of complaints that result in the following findings shall not be placed in the member's department file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

#### **1013.7 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 only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the Safety Director, Law Director or other attorneys or representatives of the City in connection with official business.

##### **1013.7.1 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.

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.

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All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

#### 1013.7.2 RELEASE OF PERSONNEL INFORMATION

Residential and familial information including the home address and telephone number of an officer and any photograph of an officer who holds a position that may include undercover or plain clothes assignment that is in the possession of the Department is not a matter of public record and shall not be disclosed without a court order (ORC § 149.43(A)).

#### **1013.8 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS**

Any member may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from his/her personnel records shall file a written request to the Director of Human Resources. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Department shall be retained with the contested item in the member's corresponding personnel record.

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) Ongoing 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.
- (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.

#### **1013.9 RETENTION AND PURGING**

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

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- (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, or non-disciplinary counseling, should be retained beyond the required period, approval for such retention should be obtained through the Human Resources Department.
- (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.

## Request for Change of Assignment

### 1014.1 PURPOSE AND SCOPE

It is the intent of the Department that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

### 1014.2 REQUEST FOR CHANGE OF ASSIGNMENT

Personnel wishing a change of assignment are to make the request in writing on a standardized departmental memorandum form. The form should then be forwarded through the chain of command to the Division Commander. If no immediate vacancy or movement takes place, forms should be routed to the Executive Officer.

#### 1014.2.1 PURPOSE OF FORM

The request should include their qualifications for specific assignments. All relevant experience, education and training should be included when completing this form.

All assignments an employee is interested in should be listed on the form.

The form will remain in effect until the end of the calendar year in which it was submitted. Effective January 1 of each year, employees still interested in new positions will need to submit a new request.

### 1014.3 SUPERVISOR'S COMMENTARY

The officer's immediate supervisor may make appropriate comments to the Division Commander of the employee involved. Completed requests for changes in assignment should then be reviewed by the Division Commander or Employee Review Board as needed, to determine if such a change is warranted. The Chief of Police may make final determination as to the movement of personnel.

## Commendations and Awards

### 1015.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Lorain Police Department and individuals from the community.

### 1015.2 POLICY

It is the policy of the Lorain 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.

### 1015.3 COMMENDATIONS

Commendations for members of the Department or for individuals from the community may be initiated by any department member or by any person from the community.

### 1015.4 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- A highly credible accomplishment.

#### 1015.4.1 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.

#### 1015.4.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted through the department's community relations program, social media, or forms maintained in a clearly visible location in the public area of the police facility. Written documentation is preferred. Department members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

- (a) Identifying information:

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### *Commendations and Awards*

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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 person submitting the documentation.

#### 1015.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the Department should be forwarded to the appropriate Division Commander for his/her review. The Division Commander should sign and forward the documentation to the Chief of Police for his/her review.

The Chief of Police will determine whether the act merits a commendation. This process may include referral to the Awards Committee if the Chief believes the act merit's a higher award. Procedures and specifications for current department awards are listed and updated in the Lorain Police Department's Awards Recognition Procedures directive.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Chief of Police. An appropriate venue or ceremony to acknowledge the individual's actions may arranged through the Community Outreach Unit or the Chief of Police's office. Documentation of the commendation shall be maintained in a file designated for such records in the Department's Power DMS.

#### **1015.5 AWARDS**

Awards may be bestowed upon members of the Department for outstanding performance in the line of duty.

Criteria for each award and the selection, presentation and display of any award are determined by the Chief of Police, and listed in the current Lorain Police Department's Awards Recognition Procedures directive.

##### 1015.5.1 AWARDS COMMITTEE

An awards committee will be established annually by the Chief of Police. Recommendations for awards should be routed to the awards committee on a standardized Awards Nomination Form. The awards committee may meet as needed based on nominations received.

##### 1015.5.2 REVIEW

Upon appointment by the Chief of Police, the designated Chairman for the Awards Committee should review current policy and awards recognition procedures to determine if modifications are needed. Any recommendations for modifications should be made in writing to the Chief of Police.

## **Fitness for Duty**

### **1016.1 PURPOSE AND SCOPE**

All officers are required to be free from any physical, emotional or mental condition that might adversely affect the exercise of peace officer duties. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions.

### **1016.2 EMPLOYEE RESPONSIBILITIES**

- (a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of the position.
- (b) Each member of this department shall perform his/her respective duties without physical, emotional and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive and capable of performing assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

### **1016.3 SUPERVISOR RESPONSIBILITIES**

- (a) A supervisor observing an employee, or receiving a report of an employee, who is perceived to be unable to safely perform his/her duties due to a physical, medical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Watch Commander or the employee's Division Commander, a determination should be made whether the employee should be temporarily relieved from his/her duties.
- (e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

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## Policy Manual

### *Fitness for Duty*

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#### **1016.4 NON-WORK RELATED CONDITIONS**

Any employee suffering from a non-work related condition that warrants a temporary relief from duty may be required to use sick leave or other paid time off in order to obtain medical treatment or other reasonable rest period.

#### **1016.5 WORK-RELATED CONDITIONS**

Any employee suffering from a work-related condition that warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Division Commander or unit supervisor and concurrence of the Chief of Police, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the well-being of the employee and until such time as the following may be completed:

- (a) A preliminary determination that the employee's conduct appears to be in compliance with policy and law.
- (b) If appropriate, the employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

#### **1016.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS**

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with the Human Resources to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, list any functional limitations that limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action or grievance, the examining physician or therapist may be required to disclose any and all information that is relevant to such proceeding.
- (c) To facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the examination, evaluation and/or treatment.
- (d) All reports and examinations or evaluations submitted by the treating physician or therapist shall be part of the employee's private medical file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the

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### *Fitness for Duty*

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examining physician or therapist may be deemed insubordination and may subject the employee to discipline up to and including termination.

- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.
- (g) If an employee is deemed unfit for duty by the Department, the employee may submit a report from his/her personal physician, psychiatrist, psychologist or other health care provider that will be taken into consideration.

#### **1016.7 LIMITATION ON HOURS WORKED**

Absent emergency operations, members should not work more than:

- 16 hours in one day (24-hour period)
- 30 hours in any two day (48-hour period)
- 84 hours in any seven day (168-hour period)

Except in very limited circumstances members should have a minimum of eight hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, special events, contract work, general overtime and any other work assignments.

#### **1016.8 APPEALS**

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness-for-duty examination shall be entitled to an appeal as outlined in the Collective Bargaining Agreement.

## Meal Periods and Breaks

### 1017.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as reasonably possible, shall conform to the policy governing all City employees.

#### 1017.1.1 MEAL PERIODS

Sworn employees and dispatchers shall remain on-duty subject to call during meal breaks. All other employees are not on-call during meal breaks unless directed otherwise by a supervisor.

Uniformed officers shall request clearance from the Communications Center prior to taking a meal period. Uniformed officers shall take their breaks within their respective districts unless on assignment outside of the City.

The time spent for the meal period shall not exceed the authorized time allowed.

The Uniform Patrol Division is responsible for providing direct police services to the public. The Uniform Patrol Division has the primary responsibility for providing continuous patrol coverage and traffic control. With necessary patrol coverage in mind, some restrictions must be applied.

- (a) Only one on-duty shift unit will be permitted to take a lunch break at any given time. Additional units requesting to take a lunch break at the same time will have to receive approval from the on-duty patrol supervisor.
- (b)
- (c) Lunch break will be no longer than 30 minutes and may be canceled at any time due to Lorain Police response requirements. Officers shall monitor their radios while on break.
- (d) Units will request permission for lunch breaks from the dispatcher via radio, who will coordinate all of the shift's and unit's lunch breaks with guidance from the supervisor.
- (e) Once permission is received, units will advise dispatch via radio, when they go out of service, their location and when they return to service.
- (f) Unless approved by the on-duty patrol supervisor, no more than one on-duty shift unit will be parked at the same location. This excludes other marked units who may not be on-duty or may be at training.

## Lactation Breaks

### 1018.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding reasonable accommodations for lactating members.

### 1018.2 POLICY

It is the policy of the Lorain Police Department to provide, in compliance with federal law, reasonable accommodations for lactating members. This includes break time and appropriate facilities to accommodate any member desiring to express breast milk for the member's nursing child for up to one year after the child's birth (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3).

### 1018.3 LACTATION BREAK TIME

A rest period should be permitted each time the member requires a lactation break (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time.

Lactation breaks, if feasible, should be taken at the same time as the member's regularly scheduled rest or meal periods. While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid.

Members desiring to take a lactation break shall notify the telecommunicator or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations.

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

#### 1018.3.1 ADDITIONAL TIME CONSIDERATIONS

Nursing mothers who have a need to express breast milk throughout the work day shall provide the Support Services supervisor, or his/her designee with the date of the child's birth, the approximate times during the workday when the nursing mother anticipates needing to express breast milk, and the method by which the nursing mother prefers to account for the time used.

Nursing mothers who wish to use time other than their paid break times to express breast milk, shall notify their immediate supervisor prior to, and at the conclusion of each session.

- (a) The nursing mother will advise from which time bank they elect to be charged for time used.

Employees will not leave their work station until properly relieved, or approved from the officer in charge.

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## Policy Manual

### *Lactation Breaks*

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#### **1018.4 PRIVATE LOCATION**

The Department will make reasonable efforts to accommodate members with the use of an appropriate room or other location to express milk in private. Such room or place should be in proximity to the member's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view, free from intrusion from coworkers and the public, and otherwise satisfy the requirements of federal law (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3).

Members occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other members should avoid interrupting a member during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

#### **1018.5 STORAGE OF EXPRESSED MILK**

Any member storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the member's shift ends.

## Payroll Record Procedures

### 1019.1 PURPOSE AND SCOPE

Payroll records are submitted to Administration on a biweekly basis for the payment of wages.

#### 1019.1.1 RESPONSIBILITY FOR COMPLETION OF PAYROLL RECORDS

Employees are responsible for the accurate and timely submission of payroll records for the payment of wages.

#### 1019.1.2 TIME REQUIREMENTS

All employees are paid on a biweekly basis usually on Friday with certain exceptions, such as holidays. Payroll records shall be completed and submitted to Administration no later than 8:00 a.m. on the Wednesday morning before the end of the pay period, unless specified otherwise.

## Overtime Compensation Requests

### 1020.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate nonexempt employees who work authorized overtime either by payment of wages as agreed and in effect through the collective bargaining agreement, 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 practicable after overtime is worked.

#### 1020.1.1 DEPARTMENT POLICY

All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, approval shall be sought as soon as practicable during the overtime shift and in no case later than the end of shift in which the overtime is worked.

The individual employee may request compensatory time in lieu of receiving overtime payment. The employee may not exceed the number of hours identified in the collective bargaining agreement.

### 1020.2 REQUEST FOR OVERTIME COMPENSATION

Employees shall submit all overtime compensation requests in the Department's Schedule Tracking System as practicable for verification and approval by their OIC. Failure to submit a request for overtime compensation in a timely manner may result in discipline.

#### 1020.2.1 EMPLOYEE RESPONSIBILITY

Employees shall complete the requests immediately after working the overtime. All overtime compensation requests will be required to include information in the note section of the request, as to the reason the compensation is owed.

#### 1020.2.2 SUPERVISOR RESPONSIBILITIES

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

### 1020.3 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the collective bargaining agreement provides that a minimum number of hours will be paid, (e.g., 2.66 hours for court, four hours for outside overtime).

#### 1020.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour.

#### 1020.3.2 VARIATION IN TIME REPORTED

Where two or more employees are assigned to the same activity, case or court trial, and the amount of time for which payment is requested varies between the two, the Watch Commander

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### *Overtime Compensation Requests*

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or other approving supervisor may require each employee to include the reason for the variation on the back of the overtime payment request.

## Outside Employment

### 1021.1 PURPOSE AND SCOPE

Full-time employees are required to treat this Department as their primary employer. To avoid actual or perceived conflicts of interest for Department employees engaging in outside employment, all employees shall initially 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. Service in the United States Military is exempt from this requirement.

Additional guidance, provisions, changes or additions may be contained in the employee Collective Bargaining Agreement.

#### 1021.1.1 DEFINITIONS

Definitions related to this policy include:

**Outside Employment** - The employment of 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, products 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, products or benefits rendered.

**Outside Overtime** - Overtime involving any member of this department who performs duties or services on behalf of an outside organization, company or individual within this jurisdiction on behalf of the Department. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

**Police-Type Employment** - Any employment that is conditioned on the actual or potential use of law enforcement powers by the police officer employee. Police officers may engage in off duty police-type duty employment, only upon approval from the Operations Bureau Commander and after a completed Off-Duty Employment Form is submitted.

### 1021.2 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 is grounds for disciplinary action.

To obtain approval for outside employment, the employee must complete an application that shall be submitted to the employee's Division Commander. The application will then be forwarded through to the Chief of Police for consideration.

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Any off-duty outside employment must not interfere with the efficient and effective performance of the member's assigned duties, operations of the Department, create a conflict of interest for the member or the Department, or impugn on the integrity and public image of the Department.

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 and within 30 days of the application.

#### 1021.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's application is denied or rescinded by the Department, the employee may file a written notice of appeal to the Chief of Police within 10 days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current collective bargaining agreement.

#### 1021.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended after the employee has received written notification of the reasons for revocation or suspension. Additionally, revocation or suspension will only be implemented after the employee has exhausted the appeal process.

The outside employment may be revoked:

- (a) If an employee's performance declines to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of minimum acceptable competency, and the outside employment may be related to the employee's performance. The Chief of Police may, at his/her discretion, notify the employee of the intent to revoke any previously approved outside employment permits. After the appeal process has concluded, the revocation will remain in force until the employee's performance directly related to the outside employment has been reestablished to the minimum level of acceptable competency.
- (b) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of Department policy, or any law.
- (c) The outside employment creates an actual or apparent conflict of interest with the Department or City.

#### 1021.2.3 SUSPENSION OF SPECIAL DETAILS AND OFF DUTY POLICE EMPLOYMENT

Cause for progressive corrective/disciplinary action and/or suspension from all special detail assignments and off duty police employment includes, but is not limited to:

- (a) Violation of any provisions for assignment of details, or failing to comply with policies and procedures for special details or off duty police employment.
- (b) Failure to report for an assigned or volunteered for special detail or off duty police employment.
- (c) Tardiness.
- (d) Lack of proper equipment.

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### *Outside Employment*

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- (e) Unacceptable appearance, performance, or conduct.

#### **1021.3 OUTSIDE EMPLOYMENT PROHIBITIONS AND REQUIREMENTS**

The following is not an all inclusive list. The Department expressly reserves the right to deny any application submitted by an employee seeking to engage in any activity that:

- (a) Involves the employee's use of Department 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 that 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 below minimum standards or would render the employee unavailable for reasonably anticipated overtime assignments and other job-related demands that occur outside regular working hours.
- (e) Members are not permitted to sign up for, or otherwise indicate they are available to work, off-duty employment details if the working hours of the details overlap their regularly assigned duties.
- (f) Members, whether on duty or working a detail, may not handle currency or deposit bags. Members are limited to escorting a responsible business member.
- (g) Employment of sworn or non-sworn personnel by a business to investigate or collect accounts, including repossession of automobiles and collection of debts.
- (h) Pre-employment investigations by sworn and non-sworn personnel for private industry. For purposes here, pre-employment polygraph examinations are not considered pre-employment investigations.
- (i) Any type of work by sworn or non-sworn personnel related to bail bonding.
- (j) Any employment of sworn or non-sworn personnel assisting in any manner, case preparation for the defense in any criminal or civil proceeding, other than a case involving that member or another member of the Department. The Chief of Police must be notified and give approval prior to any such involvement.
- (k) Any type of work by sworn personnel for interest in, or ownership of, a liquor permit premise where the primary business is selling alcoholic beverages by the glass. Exceptions are: large scale public safety details at festivals parking lot details of liquor permit premises, and the like.
- (l) Plainclothes shoplifting details by sworn personnel. Exceptions may be made on a case- by-case basis.

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- (m) Any employment that advertises, promotes, sells, distributes, or publishes pornographic materials.
- (n) Process server, repossession, towing of vehicles, or in any other employment in which police authority might tend to be used to collect money or merchandise for private purposes.
- (o) In uniform in the performance of tasks other than that of a police nature.
- (p) For a business or labor group that is on strike.

#### 1021.3.1 OUTSIDE SECURITY AND POLICE-TYPE EMPLOYMENT

Any private organization, entity or individual seeking special services for security or traffic control, crowd control, security and protection of life and property, and routine law enforcement for public authorities from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such outside employment will be monitored by the patrol supervisor.

- (a) The applicant will be required to enter into a written indemnification agreement prior to approval.
- (b) The applicant will be required to provide for the compensation of all employees requested for such outside security services.
- (c) If such a request is approved, any employee working outside employment shall be subject to the following conditions:
  1. The officer shall wear the Department uniform/identification.
  2. The officer shall be subject to all the rules and regulations of this department, state laws, and is responsible for reporting to the job and performing the required duties.
  3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket or other physical demonstration of a labor dispute.
  4. No officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief of Police.

#### 1021.3.2 OUTSIDE EMPLOYMENT ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official law enforcement action while working in an approved outside employment assignment shall be required to complete all related reports in a timely manner pursuant to Department policy. Time spent on the completion of such reports shall be considered incidental to the assignment.

#### 1021.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Division Commander, undercover officers or officers assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity that might reasonably disclose the officer's law enforcement status. Those officers who have not completed step four of the Field Training

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Program or are in the remedial training program, shall not be eligible to engage in off-duty police-type employment.

One supervisor must be hired for details where five or more officers are working an off duty police-type employment. In the event that the supervisor's position cannot be filled, the on duty patrol division Officer In Charge will be responsible for all matters of police supervision. Supervisors who are working off duty police-type employment are responsible for all matters of police supervision at the off duty police-type employment location.

#### 1021.3.4 LIMITATIONS AND REQUIREMENTS

The following is not all inclusive of the limitations and special requirements of off duty police-type employment. The Chief of Police may at his/her discretion cancel off duty jobs if there is a conflict between the outside employment and the police department's mission statement.

- (a) A police officer engaged in any off duty police-type employment is subject to call-out in case of an emergency, and may be expected to leave his off duty police-type employment in such situations.
- (b) Officers will complete all paperwork normally required when enforcement action has been taken while working off duty police-type employment. In the event an arrest is made by the off duty officer, the Communications Center will be notified immediately and an on-duty unit shall be contacted for transport.
- (c) Officers working off duty police-type employment will notify the Communications Center of their location, hours working and will have their portable or cruiser radio on with the volume adjusted to permit the officer to effectively monitor Lorain Police Department radio traffic.
- (d) Officers will not serve as body guards, private investigators, process servers, bouncers, ID checker.
- (e) Officers shall not physically remove guests from private establishments unless an arrest is made.
- (f) Officers are prohibited from using their law enforcement authority (i.e. wearing uniform, showing badge, or revealing police identity) in civil situations such as evictions, auto repossessions, or collection of rents or damage fees in landlord-tenant situations.
- (g) Officers are prohibited from working off duty police-type employment at any establishment or business that sells alcoholic beverages for consumption on the premises, unless authorized by the Operations Bureau Commander, and in such case will require a minimum of two officers.
- (h) Officers are prohibited from working off duty police-type employment outside the City of Lorain, unless authorized by the Operations Bureau Commander.
- (i) Permission for a police employee to engage in off duty police-type employment may be revoked, where it is determined pursuant to agency procedure that such employment is not in the best interests of the agency.
- (j) Officers injured working off duty police-type employment, while exercising powers they have only as a result of their status as a peace officer, will likely be seen as having been

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in the course and scope of their employment, insofar as Ohio Worker's Compensation benefits are concerned. However, if the officer is not injured exercising powers they hold by virtue of their status as a police officer, there's a great likelihood that the City of Lorain would not be found responsible for providing workers' compensation benefits to that officer. Officers should discuss this matter with their off duty police-type duty employer.

- (k) Department employees must notify their supervisor immediately when they sustain any injury that could affect their duties with the Lorain Police Department.
- (l) Officers are expressly prohibited from playing any role in the operation of the event or game, and shall not engage in betting or playing any scheme of chance while working security.
- (m) Officers may escort an event employee in order to deposit the cash receipts, however must never handle the money itself.
- (n) Officers shall inspect any required permit while working these events. Officers are required to enforce all State and City laws relative to the operation of the game, including gambling laws, and shall only work at those events that have obtained the appropriate permit(s).
- (o) Officers may run records checks for subjects creating suspicious circumstances. If a records check is run the Narcotics/Vice Unit will be contacted and advised.

#### **1021.3.5 DISTRIBUTION OF OFF DUTY POLICE-TYPE EMPLOYMENT**

All side jobs will be distributed through telestaff. If there are multiple job vacancies for a specific job, officers may sign up for multiple vacancies, however, they will only be granted one of the choices in the first 48 hours to ensure everyone has an opportunity to sign up. After 48 hours, officers will be assigned the remaining vacancies. Jobs awarded will be determined by telestaff timestamp. Once a job has been awarded it shall be considered an assignment subject to all provisions set forth in Attendance and Attention to Duty related duties. All established side jobs are grandfathered into this policy.

- (a) Officers assigned to work an off duty police-type side job who are unable to do so, shall make such notification to the on duty officer in charge as soon as possible and in any case, no later than 24 hours prior to the scheduled event.
- (b) In the event that the off duty police-type side job cannot be filled, the officer in charge will make notification to the side job employer advising them.

#### **1021.3.6 COMPENSATION FOR OFF DUTY POLICE-TYPE EMPLOYMENT**

Compensation for such approved outside security services shall be clearly identified in the indemnification agreement prior to the outside job being posted for officer sign ups. Typically this rate will not be less than 90% of the class A patrolman's overtime rate without consent of the Chief of Police or his/her designee. Special functions and holidays may draw a higher rate of pay.

#### **1021.4 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

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records or databases of this department or other agencies through the use of the employee's position with this department.

#### **1021.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

If an employee terminates his/her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police through the appropriate chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material shall report the change.

#### **1021.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY OR ADMINISTRATIVE LEAVE**

Department members engaged in outside employment who are placed on disability or administrative leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether they intend to continue to engage in outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any work-related doctor's orders and make a recommendation to the Chief of Police whether such outside employment should continue or the permit be suspended or revoked.

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 the work permit, a notice of intent to revoke the employee's permit will be forwarded to the involved employee and a copy attached to the original work permit. The revocation process outlined in this policy shall be followed.

Criteria for revoking or suspending the outside employment permit while on disability status or administrative leave include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled employee, as indicated by the City's professional medical advisers.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty employee.
- (c) The employee's failure to make timely notice of his/her intentions to his/her supervisor.
- (d) The outside employment is not compatible with the reason the employee is on administrative leave.

## Illness and Injury Reporting

### 1022.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding timely reporting of occupational illnesses and work-related injuries.

#### 1022.1.1 DEFINITIONS

Definitions related to this policy include:

**Work-related illness or injury** - Any occupational illness or work-related injury received or contracted in the course of the employee's employment. This may include a psychiatric condition arising from an occupational illness or work-related injury, or from being the victim of sexual abuse/misconduct while at work (ORC § 4123.01).

### 1022.2 POLICY

The Lorain Police Department will address occupational illnesses and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (ORC § 4123.01 et seq.; OAC § 4123-3-01 et seq.).

### 1022.3 RESPONSIBILITIES

#### 1022.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational illness 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.

#### 1022.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational illness or work-related injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related City-wide illness- or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

#### 1022.3.3 DIVISION COMMANDER RESPONSIBILITIES

The Division Commander who receives a report of an occupational illness or work-related injury should review the reports for accuracy and determine what additional action should be taken. The reports shall then be forwarded to the Chief of Police to ensure any required Public Employer Risk Reduction Program (PERRP) reporting is made as required in the Illness and Injury Prevention Policy (OAC § 4167-6-01).

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### *Illness and Injury Reporting*

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#### 1022.3.4 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police shall review and forward copies of the report to the Human Resources. The Chief of Police should ensure that incidents involving seven days or more of total disability or death are immediately forwarded to the Human Resources so that timely reporting to the Ohio Bureau of Workers' Compensation may be accomplished (ORC § 4123.28; OAC § 4123-3-03).

Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

#### **1022.4 OTHER ILLNESS OR INJURY**

Illnesses 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 Commander through the chain of command and a copy sent to the Chief of Police.

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.

[See attachment: City of Lorain Workers Comp Injury forms](#)

[See attachment: First Report of Injury Occupational Disease or Death FROI-20020723](#)

[See attachment: Salary Continuation Agreement C-55](#)

[See attachment: Physicians Report of Work Ability MEDCO-14](#)

#### **1022.5 SETTLEMENT OFFERS**

When a member sustains an occupational illness 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 Division Commander as soon as possible.

##### 1022.5.1 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 illness 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 illness or injury, and to protect the City's right of subrogation, while ensuring that the member's right to receive compensation for the illness or injury is not affected.

## Personal Appearance Standards

### 1023.1 PURPOSE AND SCOPE

To project uniformity and neutrality toward the public and other members of the Department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment. Good hygiene includes, but is not limited to, bathing regularly, wearing clean and pressed clothes, and using body deodorant on a regular basis.

### 1023.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards to ensure employees shall be clean and well-groomed when on-duty, shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

#### 1023.2.1 TEETH AND BREATH

Members are expected to maintain good dental hygiene care. This includes cleaning them on a regular basis, replacing missing or broken teeth, repairing visible cavities, and using mouthwash to control unpleasant breath odors as needed.

#### 1023.2.2 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, and worn up or in a tightly wrapped braid or ponytail. Hair holding ornaments, if used, must be plain and inconspicuously placed.

Extreme or fad style haircuts or hairstyles are not authorized. If dyes, tints, or bleaches are used, colors used must be natural to human hair and not present an extreme appearance. No hair style may interfere with the use of headgear or any form of PPE.

#### 1023.2.3 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.

#### 1023.2.4 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

#### 1023.2.5 FACIAL HAIR

The face will be clean-shaven. Facial hair other than sideburns, mustaches and eyebrows shall not be worn, unless authorized by the Chief of Police or a designee.

# Lorain Police Department

## Policy Manual

### *Personal Appearance Standards*

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#### 1023.2.6 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 more than one half inch (1/2") beyond the tip of the finger and no portion of the member's work responsibilities are interfered with due to nail styles. Any nail polish colors will not excessively contrast with the prescribed uniform colors. Bright fluorescent colors are prohibited unless specifically authorized by the Chief of Police.

#### 1023.2.7 COSMETICS

Members are authorized to wear cosmetics applied conservatively and in good taste. Exaggerated or faddish cosmetic styles are inappropriate with the uniform and will not be worn. Extreme shades of lipstick and nail polish will not be worn.

#### 1023.2.8 JEWELRY

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety concern for the department member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

- (a) Necklaces shall not be visible above the shirt collar.
- (b) Earrings shall be small and worn only one in each ear 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.

#### 1023.3 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, or any tattoo or body art that detracts from a member's professional appearance 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, anti-government organizations, or other obscene material. Tattoos on the face are prohibited.

#### 1023.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body that is visible in any authorized uniform or attire, and is a deviation from normal anatomical features and that is not medically required is prohibited on duty. Such body alteration includes, but is not limited to, the following:

# Lorain Police Department

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### *Personal Appearance Standards*

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- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement or breast augmentation.
- (c) Abnormal shaping of the ears, eyes, nose or teeth.
- (d) Branding or scarification.
- (e) No facial piercings.

## Police Uniform Regulations

### 1024.1 PURPOSE AND SCOPE

The uniform policy of the Lorain Police Department is established to ensure that uniformed officers, special assignment personnel and civilian employees will be readily identifiable to the public through the proper use and wearing of Department uniforms. Employees should also refer to the following associated policies:

- Firearms Policy
- Department-Owned and Personal Property Policy
- Body Armor Policy
- Personal Appearance Standards Policy

The uniform and equipment specifications procedure directive is maintained and periodically updated by the Chief of Police or the authorized designee. The procedure directive should be consulted regarding up to date authorized equipment and uniform specifications.

The Lorain Police Department will provide uniforms for all employees who are required to wear them in the manner, quantity and frequency agreed upon in the respective employee group's collective bargaining agreement.

### 1024.2 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, which is 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 peace 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) Employees shall not loan any portion of the uniform to others.
- (e) Employees shall not permit the uniform to be reproduced or duplicated.
- (f) The uniform is to be worn in compliance with the specifications set forth in the Department's uniform specifications and procedures, which are maintained separately from this policy.
- (g) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.
- (h) Civilian attire shall not be worn in combination with any distinguishable part of the uniform while on duty.

# Lorain Police Department

## Policy Manual

### *Police Uniform Regulations*

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- (i) 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.
- (j) If the uniform is worn while in transit an outer garment may be worn over the uniform shirt so as not to bring attention to the employee while off-duty.
- (k) Employees are not to purchase or drink alcoholic beverages while wearing any part of the Department uniform, including the uniform pants.
- (l) Visible jewelry will be in compliance with the Department's Personal Appearance Standards policy.

#### 1024.2.1 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 practicable.
- (b) Officers working specialized assignments may be excused from the requirements regarding the possession and display of identification when directed by their Division Commander.

#### 1024.3 UNIFORM CLASSES

The various uniform specification classes are those identified in this policy.

##### 1024.3.1 FORMAL UNIFORM

The formal uniform is to be worn on special occasions, such as funerals, graduations, promotions, ceremonies or as directed. The formal uniform is required for all sworn personnel.

The 8 point winter uniform hat may be worn for events held outdoors.

##### 1024.3.2 SEMI-FORMAL UNIFORM

All officers will possess and maintain a serviceable semi-formal uniform at all times. The semi-formal uniform will be worn for county and other jurisdictional court appearances when members are not on duty. The semi-formal uniform may also be prescribed as a uniform of the day by the Chief of Police for holidays or other events where a more formal appearance may be desired, but less formal than the formal dress uniform.

##### 1024.3.3 FIELD UNIFORM

The field uniform may be established to allow field personnel cooler clothing during the summer months, and more streamlined individual equipment selections for the officers, to allow for modern or for special duty assignments. The Chief of Police will establish the regulations and conditions for wearing the field uniform and its specifications.

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### *Police Uniform Regulations*

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#### 1024.3.4 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 and other specialized assignments.

#### 1024.3.5 FOUL WEATHER GEAR

The uniform and equipment specifications procedure directive lists the authorized uniform jacket and rain gear.

#### 1024.4 INSIGNIA AND PATCHES

- (a) The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets, approximately one inch below the shoulder seam of the shirt, and be bisected by the crease in the sleeve.
- (b) The regulation nameplate, or an authorized sewn-on cloth nameplate, shall be worn at all times while in uniform. 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.
- (c) When a jacket is worn, the nameplate or an authorized style embroidered name shall be affixed to the jacket in the same manner as the uniform.
- (d) Assignment insignias, (e.g., SWAT, FTO or similar) may be worn as designated by the Chief of Police or a designee.
- (e) The Department-issued badge, or an authorized sewn-on cloth replica, must be worn and be visible at all times while in uniform. Sworn non-uniform personnel will wear or carry their badge in a manner that the badge is in reasonable proximity to their firearm and able to be displayed whenever appropriate.
- (f) The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief of Police or a designee may authorize exceptions.

#### 1024.4.1 MOURNING BADGE BAND

Uniformed employees may wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

- (a) An officer of this department - From the time of death until midnight on the 14th day after the death.
- (b) A peace officer from this state - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of a fallen peace officer.
- (d) National Peace Officers Memorial Day (May 15) - From midnight through the following midnight.
- (e) As directed by the Chief of Police or a designee.

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### *Police Uniform Regulations*

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#### **1024.5 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 wearing civilian attire is necessary.

- (a) All employees shall wear clothing that fits properly, is clean and free of stains and not damaged or excessively worn.
- (b) All male administrative, investigative and support personnel who elect to wear civilian clothing to work shall wear button-style shirts with a collar, slacks or suits that are moderate in style.
- (c) All female administrative, investigative and support personnel who elect to wear civilian clothes to work shall wear dresses, slacks, shirts, blouses or suits that are moderate in style.
- (d) The following items shall not be worn on-duty:
  - 1. T-shirt alone.
  - 2. Open-toed sandals or thongs.
  - 3. Swimsuit, tube tops or halter tops.
  - 4. Spandex type pants or leggings, tights or see-through clothing.
  - 5. Distasteful printed slogans, buttons or pins.
  - 6. Shorts.
  - 7. Sweatshirts, sweatpants or similar exercise clothing.
- (e) Variations from this order are allowed at the discretion of the Chief of Police or a designee when the employee's assignment or current task is not conducive to wearing such clothing.
- (f) No item of civilian attire may be worn on-duty that would adversely affect the reputation of the Lorain Police Department or the morale of the employees.
- (g) Sworn employees carrying firearms while wearing civilian attire should wear clothing that effectively conceals the firearm when outside a controlled law enforcement facility or work area.

#### **1024.6 POLITICAL ACTIVITIES, ENDORSEMENTS, ADVERTISEMENTS OR OTHER APPEARANCES IN UNIFORM**

Unless specifically authorized by the Chief of Police, Lorain Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a Department badge, patch or other official insignia, or cause to be posted, published or displayed, the image of another employee, or identify him/herself as an employee of the Lorain 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.

# Lorain Police Department

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### *Police Uniform Regulations*

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- (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, photo, any website or any other visual depiction.

#### **1024.7 OPTIONAL EQUIPMENT - MAINTENANCE AND REPLACEMENT**

- (a) Any of the items listed in the uniform and equipment specifications procedure directive as optional shall be purchased at the expense of the employee.
- (b) Maintenance of optional items shall be the financial responsibility of the purchasing employee (e.g., 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 may be replaced following the procedures for the replacement of damaged personal property outlined in the Department-Owned and Personal Property Policy.

#### **1024.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES**

Lorain Police Department employees may not wear any uniform item, accessory or attachment unless specifically authorized in the uniform and equipment specifications procedure directive or by the Chief of Police or a designee.

Lorain Police Department employees may not use or carry any tool or other piece of equipment unless specifically authorized in the uniform and equipment specifications procedure directive or by the Chief of Police or a designee.

## **Police Cadets and Explorers**

### **1025.1 PURPOSE AND SCOPE**

Cadets and explorers work under direct supervision and perform a variety of routine and progressively advanced tasks in an apprenticeship program in preparation for a career in law enforcement. Cadets will be at least 18 years of age and no older than 21 years of age (ORC § 124.41).

### **1025.2 EDUCATION REQUIREMENTS**

Cadets and explorers are required to maintain a minimum grade point average of 2.0 ("C" grade) for all courses taken. Cadets shall complete six semester units of college course work per semester and senior cadets shall complete 12 units per semester. High school age students shall continue to be enrolled in high school and maintain at least a 2.0 grade point average.

### **1025.3 PROGRAM COORDINATOR**

The Chief of Police shall designate the Program Coordinator. The program coordinator will be responsible for tracking the educational and job performance of cadets and explorers as well as making their individual assignments throughout the Department. The program coordinator will also monitor the training provided for all cadets and explorers and review all decisions affecting job assignments, status for compensation, school attendance and performance evaluations.

#### **1025.3.1 PROGRAM ADVISORS**

The program coordinator may select individual officers to serve as advisors for the Cadet and Explorer Program. These officers will serve as mentors for each cadet and explorer. Cadets and explorers will bring special requests, concerns and suggestions to their program adviser for advice or direction before contacting the program coordinator. One adviser may be designated as the coordinator's assistant to lead scheduled meetings and training sessions involving the cadets and explorers. Multiple cadets and explorers may be assigned to each program adviser. Program advisors are not intended to circumvent the established chain of command. Any issues that may be a concern of the individual's supervisor should be referred back to the program coordinator.

### **1025.4 ORIENTATION AND TRAINING**

Newly appointed cadets and explorers will receive an orientation of the organization and facilities before reporting to their first assignment. On-the-job training will be conducted in compliance with the Cadet and Explorer Training Manual. Training sessions will be scheduled as needed to train cadets and explorers for as many assignments as possible. In addition to job-specific training, information will be offered to prepare cadets and explorers to compete successfully in the police officer selection process, as well as the academy training. All training will focus on improving job performance, as well as preparation to become police officers. These meetings will also offer an opportunity to receive continuous feedback regarding progress of the program.

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## Policy Manual

### *Police Cadets and Explorers*

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#### **1025.5 CADET AND EXPLORER UNIFORMS**

Each cadet and explorer will be provided two uniforms meeting the specifications described by the Chief of Police for civilian employees.

#### **1025.6 ROTATION OF ASSIGNMENTS**

Rotating job assignments should occur on a regular basis to enhance the career development for each cadet and explorer. Department needs and concerns will take precedence over individual cadet or explorer considerations, with the final decision resting with the Training Coordinator.

In general, senior cadets and explorers will be assigned to positions requiring more technical skill or responsibility, including training other cadets and explorers for new assignments.

#### **1025.7 RIDE-ALONG PROCEDURES**

All cadets and explorers are authorized to participate in the Ride-Along Program, provided ride-along standards are met, on their own time and as approved by their immediate supervisor and the appropriate Watch Commander. Applicable waivers must be signed in advance of the ride-along. Cadets and explorers shall wear their uniform while participating in a ride-along.

#### **1025.8 PERFORMANCE EVALUATIONS**

Performance evaluations for all cadets and explorers shall be completed monthly during their first year. After the first year, cadets, senior cadets, explorers and senior explorers will be evaluated annually to assess their current job performance and their potential as police officers.

## Nepotism and Conflicting Relationships

### 1026.1 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.

#### 1026.1.1 DEFINITIONS

Definitions related to this policy include:

**Relative** - An employee's parent, stepparent, 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.

### 1026.2 RESTRICTED DUTIES AND ASSIGNMENTS

While the Department will not prohibit personal or business relationships between employees, the following restrictions apply:

- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision 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 exist 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 reserves the right to transfer 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.

# Lorain Police Department

## Policy Manual

### *Nepotism and Conflicting Relationships*

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- (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 reasonably possible Field Training Officers (FTOs) and other trainers will not be assigned to train relatives. FTOs 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) 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 they know or reasonably should know is under criminal investigation, or is a convicted felon, parolee, fugitive, registered offender or who engages in intentional violations of state or federal laws.
- (f) Generally, employees who are involved in a personal relationship will not be assigned to the same shift or unit on a permanent basis.

#### 1026.2.1 EMPLOYEES RESPONSIBILITIES

Prior to entering into any personal or business relationship or other circumstance that 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 uninvolved, immediate supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide other official information or services to any relative or other individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify the Communications Center to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

#### 1026.2.2 SUPERVISOR RESPONSIBILITIES

Upon being notified of or becoming aware of any circumstance that 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 reasonably possible. Supervisors shall also promptly notify the Chief of Police or a designee of such actual or potential violations through the chain of command.

## Department Badges

### 1027.1 PURPOSE AND SCOPE

A Lorain Police Department badge and uniform patch as well as the likeness of these items and the name of the Lorain Police Department are property of the Department and their use shall be restricted as set forth in this policy.

### 1027.2 POLICY

The uniform badge shall be issued to Department members as a symbol of authority. The use and display of Department 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. All Department badges will be issued through and controlled by the Chief of Police's office.

#### 1027.2.1 FLAT BADGE/FLEX BADGE

Certified officers, with the written approval of the Chief of Police or a designee, may purchase at their own expense a flat or flex badge that can be carried in a wallet. The use of the flat badge is subject to all the same provisions of Department policy as the uniform badge.

- (a) An officer may sell, exchange or transfer the flat badge he/she purchased to another officer within the Lorain Police Department with the written approval of the Chief of Police or a designee.
- (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 Department-Owned and Personal Property Policy.
- (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 civilian personnel.

#### 1027.2.2 CIVILIAN PERSONNEL

Badges and Department identification cards issued to civilian personnel shall be clearly marked to reflect the position of the assigned employee (e.g., dispatcher, detention officer).

- (a) Civilian 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) Civilian 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 officer.

#### 1027.2.3 RETIREE UNIFORM BADGE

Retirement badges will be provided to members in accordance with current applicable Collective Bargaining Agreement articles.

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### *Department Badges*

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#### 1027.2.4 BADGE ONE

The issuance of Badge One is a distinction and those who wear it will be looked to for guidance, knowledge and as an example for their fellow officers to follow. The officer receiving Badge One must be in good standing as described below:

- (a) An employee is considered in "good standing" if not under any internal investigation, or investigation by any other law enforcement agency.
- (b) The employee has continuously demonstrated conscientious adherence to department rules, regulations, guidelines, and policies. The officer must have no suspension days and no letters of reprimands within the previous 3 years.

The Chief of Police reserves the right to revoke Badge One from the issued officer, if the Officer's behavior or job performance results in disciplinary action, or reflects negatively upon their fellow officers.

Those patrol officers who attain Badge One, and are assigned Badge One for a period of not less than one year, shall receive a Lorain Police Department Retirement "Badge One" as a symbol of their dedicated service.

- (a) In addition to receiving a Lorain Police Department Retirement Badge One, those officers who are assigned Badge One for a period of not less than one year shall have their name engraved on the Lorain Police Department Badge One Plaque, also as a symbol of their dedicated service to the City of Lorain, The Lorain Police Department and their fellow officers.
- (b) Officers who do not hold the rank of "Badge One" for one year shall not be entitled to receive a "Badge One" retirement badge. In those cases, the Officer will receive the appropriate Department issued retirement badge.

#### **1027.3 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 certified employees and civilian 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 websites and web pages.

The use of the badge, uniform patch and Department name for all material (e.g., printed matter, products or other items) developed for Department use shall be subject to approval by the Chief of Police or a designee.

Employees shall not loan the badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

# Lorain Police Department

## Policy Manual

### *Department Badges*

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#### **1027.4 PERMITTED USE BY EMPLOYEE GROUPS**

The likeness of the Department badge and uniform patch shall not be used without the express authorization of the Chief of Police or a designee 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 it is used in a clear representation of the association and not the Lorain 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 acronym of the employee association.
- (b) The likeness of the Department badge for endorsement of political candidates shall not be used without the express approval of the Chief of Police or a designee.

## Temporary Modified-Duty Assignments

### 1028.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules, or current collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability or limitation that is protected under federal or state law.

### 1028.2 POLICY

Subject to operational considerations, the Lorain Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

### 1028.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the Ohio Civil Rights Act shall be treated equally, without regard to any preference for a work-related injury (ORC § 4112.01 et. seq.).

No position in the Lorain Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle or engaging in outside employment, or may otherwise limit them in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

### 1028.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

# Lorain Police Department

## Policy Manual

### *Temporary Modified-Duty Assignments*

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Employees seeking a temporary modified-duty assignment should submit a written request to their Division Commanders or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Division Commander will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Human Resources or the Law Director as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Watch Commander or Division Commander, with notice to the Chief of Police.

#### **1028.5 ACCOUNTABILITY**

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Division Commander.

##### **1028.5.1 EMPLOYEE RESPONSIBILITIES**

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Division Commander that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

# Lorain Police Department

## Policy Manual

### *Temporary Modified-Duty Assignments*

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#### 1028.5.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

- (a) Periodically apprising the Division Commander of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Division Commander and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

#### 1028.6 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations, however the employer reserves the right to send the employee to Occupational Health for a second opinion should it be deemed appropriate.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

#### 1028.7 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth, or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment.

If notified by an employee or the employee's representative regarding limitations related to pregnancy, childbirth, or related medical conditions, the Department should make reasonable efforts to provide an accommodation for the employee in accordance with federal law. The accommodation should be provided without unnecessary delay, as appropriate (42 USC § 2000gg-1; 29 CFR 1636.3; 29 CFR 1636.4).

##### 1028.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

#### 1028.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment may have their probation extended by a period of time equal to their assignment to temporary modified duty.

# Lorain Police Department

## Policy Manual

### *Temporary Modified-Duty Assignments*

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#### **1028.9 MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

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# Employee Speech, Expression and Social Networking

## 1029.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balance of employee speech and expression with the needs of the Department. By virtue of your position as an employee, you are held to a higher standard than the general public, and your online activities should reflect such professional expectations and standards. Any online actions taken that detract from the mission of the department, or reflect negatively on your position as an employee or the department, will be viewed as a direct violation of this policy.

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, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

### 1029.1.1 APPLICABILITY

This policy applies to all forms of communication including, but not limited to film, video, print media or public speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, wikis, video and other file sharing sites.

## 1029.2 POLICY

Because public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and negatively impact the 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 Lorain Police Department will carefully balance the individual employee's rights against the organization's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

## 1029.3 SAFETY

Employees should carefully consider the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of Lorain 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

# Lorain Police Department

## Policy Manual

### *Employee Speech, Expression and Social Networking*

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therefore not disseminate or post any information on any forum or medium that could reasonably be expected to compromise the safety of any employee, employee's family or associates or persons that this department has had professional contact with, such as crime victims or the staff of other organizations. 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.

#### **1029.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the department's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Lorain Police Department or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Lorain Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Lorain Police Department or its employees. Examples may include:
  1. Statements that indicate disregard for the law of the state or U.S. Constitution.
  2. Expression that demonstrates support for criminal activity.
  3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Lorain Police Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, data classified as confidential by state or federal law

# Lorain Police Department

## Policy Manual

### *Employee Speech, Expression and Social Networking*

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or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.

- (g) Employees are prohibited from using their title/position in private correspondence, whether electronic or hard copied. This includes, but is not limited to, signature lines in a personal e-mail account.
- (h) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment, or videos of official agency training activities or work-related assignments, or other material that specifically identifies the Lorain Police Department on any personal or social networking or other website or web page without the express authorization of the Chief of Police.
  - 1. The exceptions to this Policy are portraits, photographs, or any video recordings taken during Agency-sanctioned, official ceremonies such as OPOTA graduation, promotional ceremonies, Honor Guard ceremonies, etc. These photographs and/or recordings shall not disgrace or disparage employees or the Agency in any manner, nor shall said items be placed on any webpage or other electronic media or in hard copy media material that in any way brings discredit to the Agency or the profession.
- (i) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:
  - 1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
  - 2. 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.

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 web page or website maintained by the employee (e.g., social or personal website).

#### 1029.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Lorain Police Department or identify themselves in any way that could be reasonably perceived as representing the Lorain Police Department in order to do any of the following, unless specifically authorized by the Chief of Police:

- (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.

# Lorain Police Department

## Policy Manual

### *Employee Speech, Expression and Social Networking*

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- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or 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 Lorain Police Department. Employees retain their right to vote as they choose, 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).

#### **1029.5 PARTISAN POLITICAL ACTIVITY**

Employees are restricted in partisan political activity based on the following (ORC § 124.57):

- (a) Classified employees are prohibited from engaging in political activity, directly or indirectly, orally or by letter, soliciting or receiving any assessment, subscription or contribution for any political party or for any candidate for public office. In addition, they may not solicit or receive any assessment, subscription, or contribution for any political party or for any candidate for public office.
- (b) Unclassified service employees are prohibited from participating in any political activity during duty time and from soliciting political contributions from any state employee.

#### **1029.6 PRIVACY EXPECTATION**

Members forfeit any expectation of privacy with regard to emails, texts or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

#### **1029.7 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.

# Lorain Police Department

## Policy Manual

### *Employee Speech, Expression and Social Networking*

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- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

#### **1029.8 TRAINING**

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

## Illness and Injury Prevention

### 1030.1 PURPOSE AND SCOPE

The purpose of this policy is to establish an ongoing and effective plan to reduce the incidence of illness and injury for members of the Lorain Police Department, in accordance with the requirements of the Ohio Public Employment Risk Reduction Program (PERRP) (ORC § 4167.01 et seq.).

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces illness and injury, it may be supplemented by procedures outside the Policy Manual.

This policy does not supersede, but supplements any related Citywide safety efforts.

### 1030.2 POLICY

The Lorain Police Department is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injuries. The Department will establish and maintain an illness and injury prevention plan and will provide tools, training and safeguards designed to reduce the potential for accidents, illness and injuries. It is the intent of the Department to comply with all laws and regulations related to occupational safety.

### 1030.3 ILLNESS AND INJURY PREVENTION PLAN

The Chief of Police will designate an Injury Prevention Plan Coordinator who will be responsible for developing an illness and injury prevention plan that shall include:

- (a) Workplace safety and health training programs.
- (b) Regularly scheduled safety meetings.
- (c) Posted or distributed safety information.
- (d) A system for members to anonymously inform management about workplace hazards.
- (e) Establishment of a safety and health committee that will be comprised of the Employee Review Board and a member of each bargaining unit:
  1. Meet periodically.
  2. Prepare a written record of safety and health committee meetings.
  3. Review the results of periodic scheduled inspections.
  4. Review investigations of accidents and exposures.
  5. Make suggestions to command staff for the prevention of future incidents.
  6. Review investigations of alleged hazardous conditions.
  7. Submit recommendations to assist in the evaluation of member safety suggestions.
  8. Assess the effectiveness of efforts made by the Department to meet applicable standards.

# Lorain Police Department

## Policy Manual

### *Illness and Injury Prevention*

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- (f) Establishing a process to ensure illnesses and injuries are reported as required under PERRP (OAC § 4167-6-01).

#### **1030.4 INJURY PREVENTION PLAN COORDINATOR RESPONSIBILITIES**

The responsibilities of the Injury Plan Prevention Coordinator include but are not limited to:

- (a) Managing and implementing a plan to reduce the incidence of member illness and injury.
- (b) Ensuring that a system of communication is in place that facilitates a continuous flow of safety and health information between supervisors and members. This system shall include:
  - 1. New member orientation that includes a discussion of safety and health policies and procedures.
  - 2. Regular member review of the illness and injury prevention plan.
- (c) Ensuring that all safety and health policies and procedures are clearly communicated and understood by all members.
- (d) Taking reasonable steps to ensure that all members comply with safety rules in order to maintain a safe work environment. This includes but is not limited to:
  - 1. Informing members of the illness and injury prevention guidelines.
  - 2. Recognizing members who perform safe work practices.
  - 3. Ensuring that the member evaluation process includes member safety performance.
  - 4. Ensuring department compliance to meet standards regarding the following:
    - (a) Communicable diseases (OAC § 4167-3-05; 29 CFR 1910.1030)
    - (b) Heat and cold stress
    - (c) Personal Protective Equipment (PPE) (See the Personal Protective Equipment Policy)
    - (d) Emergency Action Plan (OAC § 4167-3-05; 29 CFR 1910.38)
    - (e) Employment risk reduction standards (ORC § 4167.07)
- (e) Making available the hazards and correction record to document inspections, any unsafe condition or work practice, and actions taken to correct unsafe conditions and work practices.
- (f) Making available the investigation/corrective action report to document individual incidents or accidents.
- (g) Making available a form to document the safety and health training of each member. This form will include the member's name or other identifier, training dates, type of training, and training providers.
- (h) Preparing the annual summary of work-related illnesses and injuries by January 15 of each year and forwarding the report to the Chief of Police for approval. Once approved,

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## Policy Manual

### *Illness and Injury Prevention*

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the report shall be sent to PERRP no later than February 1 for the previous year (OAC § 4167-6-01).

- (i) Conducting and documenting a regular review of the illness and injury prevention plan.

#### **1030.5 SUPERVISOR RESPONSIBILITIES**

Supervisor responsibilities include but are not limited to:

- (a) Ensuring member compliance with illness and injury prevention guidelines and answering questions from members about this policy.
- (b) Training, counseling, instructing, or making informal verbal admonishments any time safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Standards of Conduct Policy.
- (c) Establishing and maintaining communication with members on health and safety issues. This is essential for an injury-free, productive workplace.
- (d) Completing required forms and reports relating to illness and injury prevention, including injury and illness reports (OAC § 4167-6-01); such forms and reports shall be submitted to the Injury Plan Prevention Coordinator.
- (e) Notifying the Injury Plan Prevention Coordinator when:
  - 1. New substances, processes, procedures, or equipment that present potential new hazards are introduced into the work environment.
  - 2. New, previously unidentified hazards are recognized.
  - 3. Occupational illnesses and injuries occur.
  - 4. New and/or permanent or intermittent members are hired or reassigned to processes, operations, or tasks for which a hazard evaluation has not been previously conducted.
  - 5. Workplace conditions warrant an inspection.
- (f) Reporting incidents to the Ohio Bureau of Workers' Compensation - Division of Safety and Hygiene that involve the death of a member, the hospitalization of one or more employees, an employee's amputation, or an employee's loss of an eye (OAC § 4167-6-10).

[See attachment: First Report of Injury and City Forms](#)

#### **1030.6 HAZARDS**

All members should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Members should make their reports to a supervisor (as a general rule, their own supervisors).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner, based on the severity of the hazard. These hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering members or property, supervisors should protect or

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## Policy Manual

### *Illness and Injury Prevention*

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remove all exposed members from the area or item, except those necessary to correct the existing condition.

Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

All significant actions taken and dates they are completed shall be documented on a hazards and correction record form. This form should be forwarded to the Injury Plan Prevention Coordinator via the chain of command.

The Injury Plan Prevention Coordinator will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

#### **1030.7 INSPECTIONS**

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards and permit mitigation of those hazards.

The Injury Plan Prevention Coordinator shall ensure that the appropriate documentation is completed for each inspection.

##### **1030.7.1 EQUIPMENT**

Members are charged with daily vehicle inspections of their assigned vehicles and of their PPE prior to working in the field. Members shall complete a hazards and correction record form if an unsafe condition cannot be immediately corrected. Members should forward this form to their supervisors.

#### **1030.8 INVESTIGATIONS**

Any member sustaining any work-related illness or injury, as well as any member who is involved in any accident or hazardous substance exposure while on-duty shall report such event as soon as practicable to a supervisor. Members observing or learning of a potentially hazardous condition are to promptly report the condition to their immediate supervisors.

A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

- (a) A visit to the accident scene as soon as possible.
- (b) An interview of the injured member and witnesses.
- (c) An examination of the workplace for factors associated with the accident/exposure.
- (d) Determination of the cause of the accident/exposure.
- (e) Corrective action to prevent the accident/exposure from reoccurring.
- (f) Documentation of the findings and corrective actions taken.
- (g) Completion of an investigation/corrective action report.
- (h) Completion of a hazards and correction record form.

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## Policy Manual

### *Illness and Injury Prevention*

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Additionally, the supervisor should proceed with the steps to report an on-duty injury, as required under the Injury and Illness Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting.

#### **1030.9 TRAINING**

The Injury Plan Prevention Coordinator should work with the Training Coordinator to provide all members, including supervisors, with training on general and job-specific workplace safety and health practices. Training shall be provided:

- (a) To supervisors to familiarize them with the safety and health hazards to which members under their immediate direction and control may be exposed.
- (b) To all members with respect to hazards specific to each member's job assignment.
- (c) To all members given new job assignments for which training has not previously been provided.
- (d) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.
- (e) Whenever the Department is made aware of a new or previously unrecognized hazard.

##### **1030.9.1 TRAINING TOPICS**

The Training Coordinator shall ensure that training includes:

- (a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.
- (b) Use of appropriate clothing, including gloves and footwear.
- (c) Use of respiratory equipment.
- (d) Availability of toilet, hand-washing and drinking-water facilities.
- (e) Provisions for medical services and first aid.
- (f) Handling of bloodborne pathogens and other biological hazards.
- (g) Prevention of heat and cold stress.
- (h) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).
- (i) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.
- (j) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.
- (k) Back exercises/stretchers and proper lifting techniques.
- (l) Avoidance of slips and falls.
- (m) Good housekeeping and fire prevention.
- (n) Other job-specific safety concerns.

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### *Illness and Injury Prevention*

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#### **1030.10 RECORDS**

Records and training documentation relating to illness and injury prevention will be maintained in accordance with this policy and state law (OAC § 4167-6-01; OAC § 4167-6-09).

##### **1030.10.1 MONITORING AND MEASURING**

The Department shall maintain accurate records of employee exposure to potentially toxic materials, carcinogenic materials and harmful physical agents that are required to be monitored or measured under any Ohio PERRP standard (OAC § 4167-6-09).

Each affected employee or employee representative shall have the opportunity to observe and/or participate in any monitoring or measuring of such regulated exposures and may undertake his/her own monitoring or measuring of such regulated exposures (OAC § 4167-6-09).

##### **1030.10.2 RETENTION OF RECORDS**

All records and reports required to be maintained in accordance with the Ohio PERRP shall be retained per records retention schedule.

##### **1030.10.3 ACCESS TO RECORDS**

The Department shall provide, upon request, records for inspection and copying by any state or county representative as allowed by law. In addition, the Department shall post a copy of the annual summary report as required by OAC § 4167-6-01.

Current or former employees may review records regarding the individual employee's exposure as well as the required log and summary of all recordable occupational injuries and illnesses (OAC § 4167-6-01; OAC § 4167-6-09).

## Line-of-Duty Deaths

### 1031.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Lorain Police Department in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's survivors.

The Chief of Police may also apply some or all of this policy for a non-line-of-duty member death, or in situations where members are injured in the line of duty and the injuries are life-threatening.

#### 1031.1.1 DEFINITIONS

Definitions related to this policy include:

**Line-of-duty death** - The death of an officer during the course of performing law enforcement-related functions while on- or off-duty, or a civilian member during the course of performing assigned duties.

For an officer, a line-of-duty death includes death that is the direct and proximate result of a personal injury sustained in the line of duty (34 USC § 10281).

**Survivors** - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin, or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

### 1031.2 POLICY

It is the policy of the Lorain Police Department to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this department to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

### 1031.3 INITIAL ACTIONS BY COMMAND STAFF

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Watch Commander and the Communications Center.
  1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).
- (b) The Watch Commander should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.

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- (c) If the member has been transported to the hospital, the Watch Commander or the authorized designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.
- (d) The Chief of Police or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

#### **1031.4 NOTIFYING SURVIVORS**

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Chief of Police or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief of Police, Watch Commander or the authorized designee should select at least two members to conduct notification of survivors, one of which may be the Department chaplain.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity, and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.
- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in department vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital. Notifying members should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities, and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.

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- (g) Offer to call other survivors, friends, or clergy to support the survivors and to avoid leaving survivors alone after notification.
- (h) Assist the survivors with meeting child care or other immediate needs.
- (i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes, and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.
- (j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Department Liaison.
- (k) Provide their contact information to the survivors before departing.
- (l) Document the survivors' names and contact information, as well as the time and location of notification. This information should be forwarded to the Department Liaison.
- (m) Inform the Chief of Police or the authorized designee once survivor notifications have been made so that other Lorain Police Department members may be apprised that survivor notifications are complete.

#### 1031.4.1 OUT-OF-AREA NOTIFICATIONS

The Department Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- (a) The Department Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the department member that the survivors can call for more information following the notification by the assisting agency.
- (b) The Department Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Department to pay travel expenses without the authorization of the Chief of Police.

#### 1031.5 NOTIFYING DEPARTMENT MEMBERS

Supervisors or members designated by the Chief of Police are responsible for notifying department members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shifts. Members reporting for duty from their residences should be instructed to contact their supervisors as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

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Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

#### **1031.6 LIAISONS AND COORDINATORS**

The Chief of Police or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including, but not limited to:

- (a) Department Liaison.
- (b) Hospital Liaison.
- (c) Survivor Support Liaison (Human Resources).
- (d) Critical Incident Stress Management (CISM) coordinator.
- (e) Honor Guard Representative.
- (f) Mutual aid coordinator.
- (g) Human Resources.

Liaisons and coordinators will be directed by the Department Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

##### **1031.6.1 DEPARTMENT LIAISON**

The Department Liaison should be a Division Commander or of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the deceased member's survivors and the Department. The Department Liaison reports directly to the Chief of Police. The Department Liaison's responsibilities include but are not limited to:

- (a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System.
- (b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.
- (c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.
- (d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.
- (e) Coordinating all official law enforcement notifications and arrangements.
- (f) Making necessary contacts for authorization to display flags at half-staff.

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- (g) Reminding department members of appropriate information-sharing restrictions regarding the release of information that could undermine future legal proceedings.
- (h) Coordinating security checks of the member's residence as necessary and reasonable.
- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

#### 1031.6.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

- (a) Arrange for appropriate and separate waiting areas for:
  - 1. The survivors and others whose presence is requested by the survivors.
  - 2. Department members and friends of the deceased member.
  - 3. Media personnel.
- (b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member's survivors or Lorain Police Department members (except for members who may be guarding the suspect).
- (c) Ensure that survivors receive timely updates regarding the member before information is released to others.
- (d) Arrange for survivors to have private time with the member, if requested.
  - 1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
  - 2. The Hospital Liaison should accompany the survivors into the room, if requested.
- (e) Stay with survivors and ensure that they are provided with other assistance as needed at the hospital.
- (f) If applicable, explain to the survivors why an autopsy may be needed.
- (g) Ensure hospital bills are directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment and that the member's residence address, insurance information and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include, but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting his/her actions at the conclusion of his/her duties.

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#### 1031.6.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Department Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term department contact for survivors.

The Survivor Support Liaison should be selected by the deceased member's Division Commander. The following should be considered when selecting the Survivor Support Liaison:

- The liaison should be an individual the survivors know and with whom they are comfortable working.
- The selection may be made from names recommended by the deceased member's supervisor and/or coworkers. The deceased member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.
- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include but are not limited to:

- (a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes, and other locations, as appropriate.
- (b) Communicating with the Department Liaison regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (d) Providing assistance with travel and lodging arrangements for out-of-town survivors.
- (e) Returning the deceased member's personal effects from the Department and the hospital to the survivors. The following should be considered when returning the personal effects:
  1. Items should not be delivered to the survivors until they are ready to receive the items.
  2. Items not retained as evidence should be delivered in a clean, unmarked box.
  3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
  4. The return of some personal effects may be delayed due to ongoing investigations.
- (f) Assisting with the return of department-issued equipment that may be at the deceased member's residence.
  1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.
- (g) Working with the Wellness Support Liaison for survivors to have access to available counseling services.

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- (h) Coordinating with the department's Public Information Officer (PIO) to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the Public Information Officer section of this policy).
- (i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal, and administrative investigations.
- (j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.
- (k) Introducing survivors to prosecutors, victim's assistance personnel, and other involved personnel as appropriate.
- (l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).
- (m) Inviting survivors to department activities, memorial services (e.g., as applicable, the Annual Candlelight Vigil at the National Law Enforcement Officers Memorial), or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the Department to facilitate communications necessary to the assignment. The department-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

#### 1031.6.4 WELLNESS SUPPORT LIAISON

The Wellness Support Liaison should work with the department wellness coordinator or the authorized designee and other liaisons and coordinators to make wellness support and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the Wellness Support Liaison include but are not limited to:

- (a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for wellness support and counseling services, including:
  - 1. Members involved in the incident.
  - 2. Members who witnessed the incident.
  - 3. Members who worked closely with the deceased member but were not involved in the incident.
- (b) Making arrangements for members who were involved in or witnessed the incident to be relieved of department responsibilities until they can receive wellness support.

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- (c) Making wellness support and counseling resources (e.g., peer support, Critical Incident Stress Debriefing) available to members as soon as reasonably practicable following the line-of-duty death.
- (d) Coordinating with the Survivor Support Liaison to inform survivors of available wellness support and counseling services and assisting with arrangements as needed.
- (e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional wellness support or counseling services are needed.

#### 1031.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the Department Liaison, Survivor Support Liaison, and survivors to coordinate funeral arrangements to the extent the survivors wish. The Funeral Liaison's responsibilities include but are not limited to:

- (a) Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.
- (b) Completing funeral notification to other law enforcement agencies.
- (c) Coordinating the funeral activities of the Department, including but not limited to the following:
  - 1. Honor Guard
    - (a) Casket watch
    - (b) Color guard
    - (c) Pallbearers
    - (d) Bell/rifle salute
  - 2. Bagpipers/bugler
  - 3. Uniform for burial
  - 4. Flag presentation
  - 5. Last radio call
- (d) Briefing the Chief of Police and command staff concerning funeral arrangements.
- (e) Assigning an officer to remain at the family home during the viewing and funeral.
- (f) Arranging for transportation of the survivors to and from the funeral home and interment site using department vehicles and drivers.
- (g) Addressing event-related logistical matters (e.g., parking, visitor overflow, public assembly areas).

#### 1031.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Department Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for, but not limited to:

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- (a) Traffic control during the deceased member's funeral.
- (b) Area coverage so that as many Lorain Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform duties in accordance with the Outside Agency Assistance Policy.

Where practicable, the Chief of Police should appoint a mutual aid coordinator to identify external resources in advance of any need (e.g., regional honor guard teams, county- or state-wide resources).

#### 1031.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and will assist them in applying for benefits. Responsibilities of the Benefits Liaison include but are not limited to:

- (a) Confirming the filing of workers' compensation claims and related paperwork (see the Illness and Injury Reporting Policy).
- (b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the following:
  - 1. Public Safety Officers' Benefits Program, including financial assistance available through the Public Safety Officers' Educational Assistance (PSOEA) Program, as applicable (34 USC § 10281 et seq.).
  - 2. Social Security Administration.
  - 3. Department of Veterans Affairs.
- (c) Researching and assisting survivors with application for state and local government survivor benefits.
  - 1. Survivor's benefit (ORC § 145.45)
  - 2. Death benefit (ORC § 742.63; ORC § 742.446)
  - 3. Education benefit (ORC § 3333.26)
  - 4. Volunteer Peace Officers' Dependents Fund (ORC § 143.09)
- (d) Researching and assisting survivors with application for other survivor benefits such as:
  - 1. Private foundation survivor benefits programs.
  - 2. Survivor scholarship programs.
- (e) Researching and informing survivors of support programs sponsored by police associations and other organizations.
- (f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.
  - 1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.

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- (g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.
- (h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

#### 1031.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief of Police and the Department Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

- (a) Establishing methods for purchasing and monitoring costs related to the incident.
- (b) Providing information on finance-related issues, such as:
  1. Paying survivors' travel costs if authorized.
  2. Transportation costs for the deceased.
  3. Funeral and memorial costs.
  4. Related funding or accounting questions and issues.
- (c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.
- (d) Providing accounting and cost information as needed.

#### 1031.7 HONOR GUARD

With the permission of the fallen member's family, it will be the policy of the Lorain Police Department to provide funeral services designed to honor the fallen member, for their service to the City of Lorain and the Lorain Police Department.

Although the Department is sensitive to the emotions of friends and coworkers of a deceased officer, it is necessary to maintain appropriate staffing levels to provide service to the citizens of Lorain and backup for remaining officers. Commanders will make the final decisions regarding the attendance of on-duty personnel and the temporary reassignment of personnel to maintain appropriate staffing throughout their Division. Attendance at funerals outside of Lorain in an on-duty status will require the prior approval of the Chief of Police.

#### PROCEDURES

The Honor Guard may represent the Lorain Police Department at funerals of law enforcement officers from within the State of Ohio, who are killed in the line of duty. Other department personnel are encouraged to attend on a personal basis. When unique circumstances occur which are not covered by this Directive, the Chief of the Police will determine the appropriate response of the Honor Guard at a funeral service.

The department will provide one marked police vehicle for each group of two honor guard members attending the funeral services. The department will also provide one marked police vehicle for each

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additional group of other authorized uniformed personnel, to participate in the funeral procession. The Honor Guard Supervisor or his designee will be responsible for the coordination of all police vehicles participating in the funeral procession as well as the formation of uniformed officers at the funeral home and cemetery.

#### NOTIFICATION

- (a) Due to time constraints involved, it is important for department Command Personnel to receive timely notification upon the death of an active or retired officer. The following guidelines are established to assure Honor Guard participation at the funeral services.

#### DEPARTMENT PERSONNEL

- (a) Upon becoming aware of the death of an active or retired officer, the on-duty Patrol Supervisor will be notified. It will be the responsibility of the on-duty Patrol Supervisor to ensure that the appropriate departmental personnel are notified as soon as possible. Once notified, the OPERATIONS BUREAU COMMANDER WILL;
  - 1. Make notification to the Honor Guard Supervisor.
  - 2. Honor Guard Supervisor will make arrangements for Honor Guard involvement according to the below established guidelines.

#### OFFICERS KILLED IN LINE OF DUTY ARE ENTITLED TO:

- (a) Escort for the family to vigil, visitation, and funeral.
- (b) 24 Hour Guard at deceased officer's home.
- (c) A full complement of the Honor Guard to participate.
- (d) A minimum of two members of the Honor Guard will participate as casket guards during any viewing hours of the deceased and during funeral services. Additional department personnel may be required and solicited, to assist in the casket guarding detail.
- (e) Department will enter the funeral service as 1, led by Chief of Police.
- (f) Flag detail -- presentation of U.S. flag to next of kin.
- (g) Firing squad.
- (h) Taps.
- (i) The black band displayed over badges.

#### OFFICERS WHO DIE WHILE IN THE PERFORMANCE OF POLICE DUTY ARE ENTITLED TO:

- (a) A full complement of the Honor Guard to participate.
- (b) Honor Guard will participate as casket guards during the actual funeral services.
- (c) Flag detail -- presentation of U.S. flag to next of kin.
- (d) Firing squad.
- (e) Taps.
- (f) The black band displayed over badges.

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ACTIVE OFFICER'S DEATH AS A RESULT OF NATURAL OR ACCIDENTAL CAUSES ARE ENTITLED TO:

- (a) A full complement of the Honor Guard to participate.
- (b) Casket guard during actual funeral services.
- (c) Flag detail -- presentation of U.S. flag to next of kin.

RETIRED OFFICERS ARE ENTITLED TO:

- (a) A full complement of the Honor Guard to participate. B. Flag detail -- presentation of U.S. flag to next of kin. DEATH UNDER DISHONORABLE CONDITIONS.
- (b) The Honor Guard will not participate in the funeral service of any Department personnel if death occurred under dishonorable conditions to be determined by the Chief of Police.

FUNERAL POSSESSIONS

- (a) When the Honor Guard participates, Honor Guard members will go directly to the interment site after the service to prepare for the procession's arrival.
  - 1. At funeral services for retired officers, the Honor Guard will lead the procession behind the traffic escort.

GUIDELINES FOR OTHER OHIO LAW ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY

- (a) Officers from another law enforcement agency in Lorain or adjoining counties
  - 1. Two Honor Guard members to attend the funeral services.
- (b) Officers from all other law enforcement agencies in Ohio will be at the discretion of the Chief of Police.

### **1031.8 PUBLIC INFORMATION OFFICER**

In the event of a line-of-duty death, the department's PIO should be the department's contact point for the media. As such, the PIO should coordinate with the Department Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Instruct department members to direct any media inquiries to the PIO.
- (c) Prepare necessary press releases.
  - 1. Coordinate with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
  - 2. Disseminate important public information, such as information on how the public can show support for the Department and deceased member's survivors.
- (d) Arrange for community and media briefings by the Chief of Police or the authorized designee as appropriate.
- (e) Respond, or coordinate the response, to media inquiries.

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- (f) If requested, assist the member's survivors with media inquiries.
  - 1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.
- (g) Release information regarding memorial services and funeral arrangements to department members, other agencies, and the media as appropriate.
- (h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member's survivors have been notified. If the media have obtained identifying information for the deceased member prior to survivor notification, the PIO should request that the media withhold the information from release until proper notification can be made to survivors. The PIO should notify media when survivor notifications have been made.

#### **1031.9 DEPARTMENT CHAPLAIN**

The Department chaplain may serve a significant role in line-of-duty deaths. Chaplain duties may include but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support, or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting department members with counseling or emotional support, as requested and appropriate.

Further information on the potential roles and responsibilities of the chaplain is in the Chaplains Policy.

#### **1031.10 INVESTIGATION OF THE INCIDENT**

The Chief of Police should make necessary assignments to conduct thorough investigations of any line-of-duty death and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends, or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

#### **1031.11 LINE-OF-DUTY DEATH OF A LAW ENFORCEMENT ANIMAL**

The Chief of Police may authorize appropriate memorial and funeral services for law enforcement animals killed in the line of duty.

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#### **1031.12 NON-LINE-OF-DUTY DEATH**

The Chief of Police may authorize certain support services for the death of a member not occurring in the line of duty.

## Department Review Board

### 1032.1 PURPOSE AND SCOPE

An employee Review Board has been adopted by the Lorain Police Department to provide the Department with review and advice on issues concerning police officers.

### 1032.2 APPOINTMENT OF REVIEW PANEL

The Employee Review Board will be appointed by the Chief of Police. One of the members shall be assigned as the chairperson. Another supervisor may serve on the Employee Review Board at the discretion of the Chief of Police should the situation dictate.

### 1032.3 EMPLOYEE REVIEW BOARD DUTIES

Review panels are provided specific duties and responsibilities, including that the panel:

- (a) May review an internal investigation of an officer and make recommendations regarding any disciplinary action against the officer.
- (b) Shall be provided any personnel file or other material necessary for the panel to conduct a review.
- (c) Shall provide an officer who is the subject of a review with reasonable notice and an opportunity to be heard.
- (d) Shall provide a report from the chairperson of the findings and recommendation of the panel regarding disciplinary action to the Chief of Police.

#### 1032.3.1 SPECIFIC FUNCTION REVIEW BOARD

Annually, the Chief of Police will assign board members to review boards that serve a specific function. Among these are the Use of Force Review Board, Civilian Use of Force Advisory, Pursuit Review Board, and the Accident Review Board.

### 1032.4 PROCEEDINGS

Proceedings of the review panel are closed to the public, as allowed by law.

Should any incident related to Use of Force Policies, Pursuit Policy, or duty related accidents be found to possibly violate department policy by the officer's chain of command prior to the convening of the related Review Board, the officer may appear during that board's next meeting when the incident is scheduled for review, to be available to answer questions about the matter.

Any officer whose incident is going before a review board can exercise the option to appear before the board to clarify any questions about the details in the report. This appearance is strictly voluntary and occurs on the officer's own time. This voluntary appearance should be used to clarify questions about details in the report and the incident.

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#### **1032.5 REVIEW PANEL RECORDS**

The findings and recommendations of a review panel are public records, unless otherwise declared confidential by state or federal law, and shall be retained in compliance with the organization's records retention schedule.

## Wellness Program

### 1033.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance on establishing and maintaining a proactive wellness program for department members.

The wellness program is intended to be a holistic approach to a member's well-being and encompasses aspects such as physical fitness, mental health, and overall wellness.

Additional information on member wellness is provided in the:

- Chaplains Policy.
- Line-of-Duty Deaths Policy.
- Drug- and Alcohol-Free Workplace Policy.

#### 1033.1.1 DEFINITIONS

Definitions related to this policy include:

**Critical incident** – An event or situation that may cause a strong emotional, cognitive, or physical reaction that has the potential to interfere with daily life.

**Critical Incident Stress Debriefing (CISD)** – A standardized approach using a discussion format to provide education, support, and emotional release opportunities for members involved in work-related critical incidents.

**Peer support member** – An active or retired officer, telecommunicator, or civilian employee of the Department who has received the required basic peer support training and who provides support to individuals with similar life experiences (ORC § 2317.023).

**Peer support services** – Consultation, risk assessment, referral, or on-site intervention services provided by a peer support member to an individual experiencing psychological or physical symptoms caused by exposure to acute or chronic high stress incidents in the course of the individual's employment (ORC § 2317.023).

### 1033.2 POLICY

It is the policy of the Lorain 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.

### 1033.3 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, legal counsel, licensed psychotherapist, qualified health professionals), as appropriate, to fulfill the responsibilities of the position, including but not limited to:

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- (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.
  - 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.

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- (g) Maintaining a roster of the names and training status of each peer support member consistent with the requirements of ORC § 4113.42.
- (h) 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).

#### **1033.4 DEPARTMENT PEER SUPPORT**

##### 1033.4.1 PEER SUPPORT MEMBER SELECTION CRITERIA

The selection of a department peer support member will be at the discretion of the coordinator. Selection should be based on the member's:

- Desire to be a peer support member.
- Experience or tenure.
- Demonstrated ability as a positive role model.
- Ability to communicate and interact effectively.
- Evaluation by supervisors and any current peer support members.

##### 1033.4.2 PEER SUPPORT MEMBER RESPONSIBILITIES

The responsibilities of department peer support members include (ORC § 2317.023):

- (a) Providing pre- and post-critical incident support.
- (b) Presenting department members with periodic training on wellness topics, including but not limited to:
  - 1. Stress management.
  - 2. Suicide prevention.
  - 3. How to access support resources.
- (c) Providing referrals to licensed psychotherapists and other resources, where appropriate.
  - 1. Referrals should be made to department-designated resources in situations that are beyond the scope of the peer support member's training.
- (d) Providing access to multiple resources for mental and physical support for officers and their families.

##### 1033.4.3 PEER SUPPORT MEMBER TRAINING

A department peer support member shall complete department-approved initial and refresher training as required by ORC § 2317.023.

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#### **1033.5 CRITICAL INCIDENT STRESS DEBRIEFINGS**

A Critical Incident Stress Debriefing should occur as soon as practicable following a critical incident. The coordinator is responsible for organizing the debriefing. Notes and recorded statements shall not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a critical incident.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law, or a valid court order.

Attendance at the debriefing should only include peer support members and/or critical incident stress management team members and those directly involved in the incident (ORC § 2317.02).

##### **1033.5.1 CRITICAL INCIDENT STRESS MANAGEMENT TEAM MEMBER COMMUNICATIONS**

Communications with a critical incident stress management team member made from a member receiving crisis response services or during a debriefing session are confidential and may not be disclosed except as allowed by ORC § 2317.02.

A critical incident stress management team member is an individual specially trained to provide crisis response services as a member of an organized community or local crisis response team that holds membership in the Ohio critical incident stress management network. Crisis response services are consultation, risk assessment, referral, and on-site crisis intervention services to members affected by a crisis or disaster (ORC § 2317.02).

#### **1033.6 PEER SUPPORT COMMUNICATIONS**

Communications between a peer support team member and a person receiving peer support services are confidential and may not be disclosed except as provided in ORC § 2317.023.

#### **1033.7 PHYSICAL WELLNESS PROGRAM**

The coordinator is responsible for establishing guidelines for any on-duty physical wellness program, including the following:

- (a) Voluntary participation by members
- (b) Allowable physical fitness activities
- (c) Permitted times and locations for physical fitness activities
- (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)

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- (i) Ongoing support and evaluation

#### **1033.8 WELLNESS PROGRAM REVIEW**

At least annually, the coordinator or the authorized designee shall conduct an administrative review of 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 administrative review to the Chief of Police for review and consideration of updates to improve program effectiveness.

#### **1033.9 MEMBER FAMILY SUPPORT**

Subject to available resources, the Department shall provide mental and physical support to members' families.

#### **1033.10 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.
- 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

## **Procedure 200 Critical Incident Plan.pdf**

## Critical Incidents Plan

### 200.1 PURPOSE AND SCOPE

The City has prepared, in compliance with State of Ohio requirements, an Emergency Management Plan (ORC § 5502.26, ORC § 5502.27 and ORC § 5502.271). This plan is for the guidance and use by all employees in the event of a major disaster, civil disturbance, mass arrest or other emergency event. The plan provides for a strategic response by all employees and assigns specific responsibilities in the event the plan is activated, in support of the Emergency Management Plan Policy.

### 200.2 PROCEDURE

#### 200.2.1 CRITICAL INCIDENTS PLAN

As used in this document a “critical incident” means an occurrence or event, natural or manmade, that requires a response to protect life or property, and that exceed the scope of normal operations. Critical incidents can, for example include major disasters, emergencies, terrorist attacks, civil unrest, fires, floods, pandemic, hazardous materials spills, aircraft accidents, railroad accidents, tornadoes, public health and medical emergencies, and other occurrences requiring an emergency response.

The purpose of the Critical Incidents Plan is to define, to the extent possible, the roles and actions to be taken by the Lorain Police Department to respond quickly and adequately to natural and man-made emergencies with an overall coordinated approach. Large-scale emergencies and disasters often generate situations that require planned, coordinated responses by multiple agencies and jurisdictions. Such disasters and emergencies pose major threats to life and property and have long-term economic, political, and/or environmental implications.

These incidents may occur without warning. As such, there is a need for prior planning and training. This planning and training is designed to enable a rapid call up, operation plan development, implementation and deployment to meet the needs of the incident.

The Lorain Police Department Critical Incident SOPP provides the minimum procedures for responding to natural and man-made disasters or critical incidents.

The plan adheres to standard Incident Command System (ICS) protocols. ICS is designed to be used wholly or in part, depending on the scale of the situation, to efficiently and effectively address planned or unplanned critical incidents that exceed the scope of normal operations. ICS provides for a clear point of control and can be expanded or contracted according to the situation.

Incidents may expand requiring significant additional resources and operational support. As an incident expands in size, or changes in nature, the initial Incident Commander may pass off incident command to another authority, as required by law, or due to experience, training, knowledge and/or expertise.

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#### 200.2.2 PLANNING RESPONSIBILITY

The Police Department shall designate a Captain to be responsible for planning responses to critical incidents, special operations, and serve as the Department's liaison with State of Ohio Homeland Security, Emergency Management Agency Office.

The designated Captain will be the principal advisor to the Chief of Police on these situations.

#### 200.2.3 INCIDENT COMMAND SYSTEM (ICS)

The basic Incident Command System includes five major management functions: Command (directed by the Incident Commander), Operations, Planning, Logistics, Finance/Administration. An ICS organizational chart is depicted below.

#### 200.2.4 ACTIVATION OF INCIDENT COMMAND SYSTEM

The Incident Command System may be activated by the first arriving LPD supervisor or senior officer when a critical incident occurs, and:

- (a) An incident is beyond the scope of the Lorain Police Department.
- (b) Substantive assistance from outside agencies or groups is required.
- (c) The totality of the circumstances dictates that activation is needed.
- (d) A request from another agency for Lorain Police Department assistance.

Advanced approval for activation of ICS shall be obtained from the Chief of Police or designee if the situation permits.

An ICS may also be activated by LFD in situations where they are the lead agency. If this occurs a representative from LPD will check-in with the IC and remain at the Command Post or other assigned location.

#### 200.2.5 INCIDENT COMMAND (IC)

- (a) The Incident Commander is responsible for overall incident management, developing strategies, and managing resources. Basic actions include:
  1. Establishing an Incident Command Post (ICP).
    - (a) The command post should be located in an area of safety but close enough to the scene to monitor and direct operations. It must be large enough to accommodate the command staff and general staff that must work with the Incident Commander to manage the incident.
    - (b) There will be only ONE Incident Command Post for each incident.
    - (c) Announce the location of the Incident Command Post (ICP) over police radio.
  2. Obtaining a briefing from prior Incident Commander and/or situation assessment.
  3. Establishing immediate priorities.

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4. Initiating the notification and mobilization of necessary additional personnel from within the agency or outside the agency (Mutual Aid, Fire, Rescue, Lorain County EMA, Governmental Leaders, Health Department, Red Cross, etc.).
  - (a) Upon assessing the situation, the Incident Commander will notify communications of the need for additional resources and what additional staff will be needed to conduct operations. Due to their ability to respond rapidly the first mobilizations will be for SWAT call-out; and Traffic Bureau call out.
  - (b) Assign the position of Administration/Finance (A/F) Section.
  - (c) Advise Communications Center where and to whom (A/F assigned personnel) additional responding personnel and resources are to report.
5. Establishing staging areas if necessary.
  - (a) Primary Staging Area – ALL personnel must report in/check in at the Staging Area with the Staging Manager, UNLESS specifically directed by the CP to report elsewhere.
  - (b) Alternate Staging Area – An Alternate Staging Area will be designated if necessary. If needed the staging areas will be designated as Staging Area 1, 2, 3, etc.
  - (c) Assign the duty of Staging Manager to each staging area.
  - (d) Staging Areas are used for report-in and assembly of all responding personnel and equipment.
  - (e) A Staging Manager will record information on arriving employees and provide them with a briefing on the incident.
6. Establishing the level of organization needed, and continuously monitoring the operation and effectiveness of the organization.
  - (a) The organizational structure is based on the size and complexity of the incident. The incident commander is responsible for the duties of any section that the commander decides are not necessary and does not assign.
7. Providing public information and maintaining media relations.
  - (a) Review and approve of information to be given out as public information.
8. Maintaining the safety of all affected personnel.
  - (a) Assign Safety Officer- As soon as practical after responding personnel have established the necessary perimeters and/or taken action to stabilize the situation, the Incident Commander will appoint a Safety Officer as part of his staff. (See Section M, for specific duties of Safety Officer)
9. Arrange for Relief of Personnel
  - (a) As soon as practical after the initial call-in of personnel, arrange for personnel and equipment relief.

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10. Transfer of Command
  - (a) Transfer of command will take place in person.
  - (b) The Incident Commander that is relieved will thoroughly brief the new IC of the activities and circumstances related to the incident.
  - (c) Transfer of command will be announced over the radio frequency being used for the incident.
11. Ensuring an after action report is completed. See section M.

#### 200.2.6 OPERATIONS SECTION

The Operations Section Chief is responsible to Incident Command for the direct management of all incident-related tactical activities. The Operations Section is responsible for all tactical activities focused on reducing the immediate hazard, saving lives and property, establishing situational control, and restoring normal operations, identifies, assigns and supervises the resources, in addition to the following.

- (a) Establishing perimeters.
  1. Two types of perimeters need to be established as soon as practical during an incident. Inner perimeter will contain only that area necessary to conduct tactical operations. Outer perimeter is the boundary for civilian and non-essential personnel.
- (b) Establishes tactical objectives.
- (c) Conducting evacuations.
  1. Evacuations will be determined upon tactical considerations and the nature of the event. In cases of hazardous materials (including weapons of mass destruction), sheltering in place may be the recommended course of action by the incident commander upon advice of subject matter experts. Incidents involving gunfire must be carefully weighed regarding evacuations and the use of armored vehicles (if available) for shielding should be considered.
- (d) Maintaining Command post and scene security.
  1. Assign specific personnel to remain at the Command Post to provide security, and prevent unauthorized persons from entering.
  2. Assign specific personnel to provide security for any staging or down time locations.
  3. Determine the nature of identification or credentials that must be worn within the Command Post.
- (e) Providing for detainee transportation, processing, and confinement.
  1. This may involve transporting directly to a detention facility, or the use of a temporary booking area in the area of the holding facility/vehicle.

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2. Standard booking procedures will be followed. Additional personnel may need to be assigned for security, taking into consideration the number of prisoners and location.
  3. Juveniles will be separated from adults. Upon approval of the Operations Officer juveniles may be transported directly to the Detention Home from the point of arrest. Any juvenile transported will be placed in a separate holding area until transportation is available to the Detention Home.
  4. If the number of prisoners exceeds the ability of LPD to handle, assistance will be sought from other law enforcement agencies to provide temporary incarceration facilities.
- (f) Directing and controlling traffic.
1. Assess the incident for traffic flow issues. Consideration should be made for assigning an officer to manage all traffic matters.
- (g) Conducting post-incident investigation.
1. A post-incident investigation will be conducted to determine agency response and actions taken and the resulting conclusion of the incident.
  2. Establishes staging areas, as needed for specialized groups, e.g. SWAT, Bomb Squads.

#### 200.2.7 LOGISTICS SECTION

- (a) The Logistics Section Chief is the supervisor of and responsible for all tasks listed in this directive for the Logistics Section. The Logistics Section is responsible for all service support requirements needed to facilitate effective and efficient incident management, including ordering resources from off-incident locations. This section also provides facilities, security (of Incident Command facilities), transportation, supplies, equipment maintenance and fuel, food services communications, IT support, and several portions of the written Incident Action plans, in addition to the following.
1. Provide effective radio and telephone communications by acquiring, setting up, maintaining and accounting for communications equipment.
  2. Transfer of command will be announced over the radio frequency being used for the incident, and recorded by radio personnel on the radio log.
  3. In the event that the Communications Center and the Emergency Operations Room (Kirk Room) become unavailable, the communications function can be moved to the Lorain County EMA Command Vehicle, or Lorain County 911 as deemed appropriate by the command staff.
  4. Provide for transportation needs of personnel and equipment involved in the incident.
  5. The Ground Support Unit is responsible for supporting out-of-service resources, transporting personnel, supplies, food and equipment; fueling, service, maintenance and repair of vehicles and other ground support equipment; and implementing the Traffic Plan for an incident.

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6. In critical incidents where large numbers of persons (responding personnel or evacuees) may be anticipated, the Logistics Section will make contact with local bus services and will arrange for vehicles to be standing by in a designated area.
7. Provide medical support for the effective and efficient provision of medical services to incident personnel.
  - (a) In any critical incident, the local hospitals and paramedics will be notified of the situation and properly advised of the scope or potential scope of problems involving the need for medical attention.
  - (b) A representative of the hospital and paramedic services will be requested to come to the command post to maintain ongoing input with the Logistics Section personnel.
8. Provide for necessary supplies as needed by ordering, receiving, storing and processing all incident related resources, personnel and supplies. This includes procurement of food and water for incident personnel.
  - (a) Provisions for food and water will be begun immediately by the Logistic Section personnel. The food and water supplies must be ample to supply responding personnel.
9. Provide for specialized team and equipment needs.
10. Contact the Lorain Municipal Court Judge(s) and Prosecutors to ask for assistance in arraigning prisoners on an emergency basis.
11. Coordinate with the Finance/ Administration Section for inventory and tracking of vehicles and equipment utilized from other departments and agencies including: rental costs, fuel requirements, liability, damage costs incurred to the vehicle, pick-up/delivery of the vehicles, any pertinent instructions on their use, transportation expenditures, and costs incurred of all vehicles. Costs may be tallied and submitted to the Federal Emergency Management Agency (FEMA) for reimbursement.

#### 200.2.8 PLANNING SECTION

- (a) The planning Section Chief is responsible for providing planning services for the incident, and for large incidents and when the Incident Commander has directed will the Planning Chief shall develop a written Incident Action Plan. The Planning Section collects situation and resource status information, evaluates it, and processes the information for use in developing action plans including:
  1. Gathering collecting, managing and disseminating information and intelligence.
  2. Compile and display incident status information.
  3. Maintain a list of all personnel arriving to the incident. The list will include as a minimum:
    - (a) Name, agency affiliation, method of contacting them, i.e. cell phone, radio frequency.

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- (b) The date and time of the arrival of the responding personnel.
- (c) Police, Fire or other emergency vehicle the responding personnel brought.
- 4. Preparing a documented incident action plan.
- 5. Planning post incident demobilization.

#### 200.2.9 ADMINISTRATION FINANCE SECTION (A/F)

- (a) The Administration/Finance Section Chief is the supervisor of and responsible for, all tasks listed in this directive for the Administration/Finance Section. The Administration/Finance Section manages all financial aspects of an incident, in addition to the following.
  - 1. Recording personnel time.
    - (a) Recording the work time of Department personnel involved in the critical incident.
  - 2. Procuring additional resources.
    - (a) Determine and list all additional resources that may be needed.
  - 3. Recording expenses.
    - (a) All purchases will be recorded during the incident.
  - 4. Documenting injuries and liability issues.
  - 5. Coordinate with the Logistics Section for tracking of vehicles and equipment utilized from other departments and agencies including: rental costs, fuel requirements, liability, damage costs incurred to the vehicle, pick-up/delivery of the vehicles, any pertinent instructions on their use, transportation expenditures, and costs incurred of all vehicles. Costs may be tallied and submitted to the Federal Emergency Management Agency (FEMA) for reimbursement.

#### 200.2.10 PUBLIC INFORMATION

The Public Information Officer (PIO) gathers, verifies, coordinates and disseminates accurate, accessible and timely information on the incident.

- (a) The PIO is an additional duty assigned by the IC. All information will be released through that office concerning police activities. In the event of multi-agency incident the police PIO will work in conjunction with the PIO designated by the Incident Commander. The Incident Commander in all events must approve the release of all incident-related information.
- (b) Initial information should include:
  - 1. Actions the public should take.
  - 2. Impact of the incident.
  - 3. Actions the response agencies are taking.
  - 4. Actions businesses and industries should take.

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- (c) Verify that the public and officials are getting accurate and complete information through the media in a timely manner. Inaccuracies and rumors that affect health and safety should be addressed immediately with the media and correct information distributed through the media or other means.
- (d) Information should be updated regularly and the PIO should emphasize, as soon as appropriate, when the danger has passed or the situation has transitioned from response to recovery.
- (e) Be prepared to direct questions concerning volunteers and financial contributions to the appropriate organizations.
- (f) Below is a listing of telephone numbers for local TV, radio, and print media

#### Radio:

- (a) WEOL / 538 Broad St. Elyria Ohio. 322-3761 / fax 322-1536
- (b) WZLE / 300 Washington Ave. Lorain Ohio. 236-1844 / fax 244-8942
- (c) WOBL / 45624 U.S. Rte. 20 Oberlin Ohio. 774-1320 / fax 774-1336
- (d) WDOK / 1 Radio Ln. Cleveland Ohio. 696-0123 / fax 579-9365
- (e) WGAR, 5005 Rockside Rd. Cleveland Ohio. 328-9950 / fax 328-1995
- (f) WHK / 1600 W. 2nd St. Cleveland Ohio. 781-1420 / fax 237-2152
- (g) WMJI / 310 W. Lakeside Ave. Cleveland Ohio. 623-1105 / fax 781-1007
- (h) WTAM / 6200 Oak Tree Blvd. 4th floor Independence Ohio. 642-4636 / fax 986-9826

#### Newspaper:

- (a) The Chronicle Telegram / 225 Ease Ave. Elyria Ohio. 329-7000 / fax 329-7282
- (b) The Morning Journal / 1657 Broadway Lorain Ohio. 765-6901 / 245-5667
- (c) The Plain Dealer / 2280 Kresge Dr. Amherst Ohio. 282-1100 / 282-9775

#### Television:

- (a) WKYC TV 3 / 1403 E. 6th St. Cleveland Ohio. 344-3333 / fax 344-3314
- (b) WEWS TV 5 / 3001 Euclid Ave. Cleveland Ohio. 431-5555 / fax 391-9559
- (c) FOX TV 8 / 5800 South Marginal Rd. Cleveland Ohio. 431-8888 / fax
- (d) WOIO TV 19 / 1717 E. 12th St. Cleveland Ohio. 579-4343 / fax 436-5460

#### 200.2.11 RESPONDER'S RESPONSIBILITIES

All responders, regardless of their position in the Incident Command System have certain basic responsibilities. These are:

- (a) Check in or report in with appropriate personnel.
- (b) The responsibilities articulated within this plan require that those assigned to specific sections with specific responsibilities, do all in their power to see to it that the required steps are taken to accomplish the tasks listed for them. Personnel with these

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assignments must be pro-active in insuring that their responsibilities are accomplished without being specifically told to take each step.

- (c) Communicate with incident command to ensure a coordinated response.
- (d) Common Terminology: The use of common terms when communicating by radio or telephone.
- (e) Maximizing radio discipline.
- (f) Position all vehicles and other equipment in a manner that does not block other vehicles or equipment from quickly responding if called for.
- (g) Supervisors/ Senior Personnel: Start and maintain a log of your personnel
- (h) Supervisors/ Senior Personnel: Note on log activities/assignments/actions taken by your work group/unit/squad/team/.
- (i) Check out with appropriate personnel.
- (j) Ensure that everyone within your unit, team, task force, etc., is accounted for.

#### 200.2.12 STAGING MANAGER DUTIES

The Staging Area is to be used for report-in and assembly of all incoming personnel and equipment. The Staging Manager will be responsible for:

- (a) Parking and storing resources to ensure the ability of resources to quickly depart the staging area in response to task assignments.
- (b) Documenting the arrival of incoming personnel and equipment.
- (c) Providing a general briefing to incoming personnel.
- (d) Communicating with the CP whenever more personnel or arrive to the staging area.
- (e) Ensure that adequate security is present at the Staging Area.

#### 200.2.13 SAFETY OFFICER DUTIES

In conducting their duties the Safety Officer must be pro-active to bring dangerous situations to the attention of IC. The Safety Officer must also:

- (a) Identify and mitigate hazardous situation when possible.
- (b) Ensure safety messages and briefings are made.
- (c) Check to ensure that adequate security is present at the CP and Staging Area(s).
- (d) Review plans for safety implications.

#### 200.2.14 AFTER ACTION REPORT

- (a) At the conclusion of the incident, the Incident Commander is to prepare an After Action Report of the incident or pre-planned special event for administrative review and forward the report to the Chief of Police.
- (b) The report shall include:
- (c) A summary of the incident.

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- (d) Timeline of actions taken.
- (e) Details of workforce and equipment utilized.
- (f) Strategies employed.
- (g) Document injuries or deaths sustained by participating agencies.
- (h) Personnel hours.
- (i) Case reports for arrests of persons and Use of Force Documentation.

#### 200.2.15 TRAINING

- (a) The Lorain Police Department will conduct annual training on this policy and ICS concepts.
- (b) This training will include a written test in addition to other documentation required in other areas of Department policy.
- (c) Biennially, Command Staff members will conduct a tabletop exercise or meeting to assess the agency's capabilities with the Critical Incidents Plan and Incident Command System. Information from this meeting will be documented in a summary report, and changes shall be implemented on an as needed basis.

## **Physicians Report of Work Ability MEDCO-14.pdf**

This form provides important information about the injured worker's ability to work.

- The treating physician must submit this form each time he/she sees the injured worker unless the injured worker has been awarded permanent and total disability, has returned to work without restrictions within seven days of the injury, or is being treated after the treating physician has released him/her to his/her former position without restrictions.
- Please complete this form and provide a copy to the injured worker during his/her office visit. Fax a copy to the appropriate managed care organization (MCO) or to the injured worker's employer if self-insured.
- This form or an equivalent physician-generated document may support a request for temporary total compensation. The equivalent document must contain, at a minimum, the data elements required on this form. If you have submitted previously equivalent data elements that remain the same, indicate the name of the report that reflects the injured worker's current condition, e.g., May 15, 2015, office note.
- You may attach additional medical documentation such as diagnostic test results and a treatment plan to this form.
- Failure to provide complete detailed information may delay or suspend compensation payments to the injured worker.

## Instructions

**MEDCO-14 submission section:** You must select only one of the three choices by selecting the appropriate box. If you previously completed a MEDCO-14 and there are changes, you must indicate the changes in the appropriate section on the form, and select the yes box in that section. For all other sections, you would make no entry, and select the no box.

**Employment/occupation section:** Please indicate if you have reviewed a description of the injured worker's job held on the date of the injury. Please indicate all sources providing you a description of the injured worker's job. If you do not have a copy of the injured worker's job description, BWC or the MCO can help secure one.

**Work status/Injured worker's capabilities section:** Please complete this section as accurately and thoroughly as possible, as BWC will use this information to understand the injured worker's work status and help facilitate his/her appropriate and safe return to work either to his/her job held on the date of injury or an alternative job if he/she cannot return to the job held on the date of injury.

**3A:** Please indicate if the injured worker has any physical or health restrictions **related only to the allowed conditions in the claim**. If there are restrictions, please indicate if the restrictions are permanent or temporary. If there are no related restrictions you should check the release to work box. The date of the exam will be the release to work date.

**3B:** If there are restrictions **related only to the allowed conditions in the claim**, indicate whether or not the injured worker can return to **the full duties** of his/her job held on the date of injury. If you determine the injured worker cannot return to the full duties of his/her job held on the date of the injury, you must include the date for which you indicate the injured worker could not fully perform the duties of his/her job held on the date of the injury. You must also indicate an estimated date when you believe the injured worker should be able to fully perform the duties of the job held on the date of injury. **It is imperative that you follow all 3B instructions. This will facilitate appropriate processing of the injured worker's claim. Updates to dates in 3B requires 4A to be completed.**

**3C:** Although an injured worker may not be able to fully return to the job held on the date of injury, understanding the injured worker's capabilities will assist in identifying appropriate and safe work that an injured worker may be able to perform. If an injured worker may return to available and appropriate work with restrictions accommodated, please indicate the possible return to work date. Further, to facilitate BWC's efforts to safely return an injured worker to appropriate work, indicate which of the activities listed in this section, the injured worker can perform. The following definitions apply to the section on Lifting/carrying, Pushing/pulling and Activity with the percentages reflected as they relate to an eight-hour workday:

- Never – 0 percent;
- Occasionally – 1 percent to 33 percent, four to six repetitions per hour;
- Frequently – 34 percent to 66 percent, six to 12 repetitions per hour;
- Continuously – 67 percent to 100 percent, greater than 12 repetitions per hour.

Please note that if the "yes" box is checked in response to the question of whether the injured worker has functional restrictions based only on allowed psychological conditions the MEDCO-16 should be referenced as needed.

We encourage you, in the space provided, to provide any additional information you believe would benefit the injured worker's safety and care relative to any return to work considerations.



**Instructions continued**

**4A: Disability period information section: It is critical that if you answered No to 3B or made changes to dates in 3B this section is fully completed:** Please furnish the narrative description of the diagnosis(es), site/location and International Classification of Diseases code for only allowed conditions being treated. You must indicate by checking the appropriate box whether the allowed condition is preventing the injured worker from returning to the job held on the date of injury.

**4B:** In this area you should list all other relevant conditions that impact treatment of the allowed conditions in the claim.

**Clinical findings section:** Provide medical rationale for the delay in the injured worker's recovery and the barriers to return to work.

**Maximum medical improvement (MMI) section:** Provide the MMI date or explain why the injured worker has not reached MMI. Provide the proposed treatment plan, including estimated duration.

**Vocational rehabilitation section:** If the injured worker is not a candidate for vocational rehabilitation, explain and recommend actions to help the injured worker return to employment.

**Treating physician's signature section:** Sign and date this form. Your signature indicates you have answered the questions as truthfully and completely as possible.

**For more information or assistance**

Please contact your local BWC customer service office, or call 1-800-644-6292. You can obtain BWC forms at [www.bwc.ohio.gov](http://www.bwc.ohio.gov), at all BWC customer service offices, or by calling 1-800-644-6292 and listening to the options to reach a BWC customer service representative.



Injured worker name			Claim number
Date of injury	Date of last appointment/examination	Date of this appointment/examination	Date of next appointment/examination

**MEDCO-14 submission (Select one of the options below.)**

1  I have never completed a MEDCO-14. **Proceed to section 2.**  
 I have previously completed a MEDCO-14, and all of the information remains the same. **Proceed to and complete section 8.**  
 I have previously completed a MEDCO-14, and I am providing updates appropriately checking Yes or No on each section.

**Employment/Occupation (Complete this section and proceed to section 3.)** (Updates Yes  No )

2 Have you reviewed the description of the injured worker's job held on the date of injury (former position of employment)? Yes  No   
**If yes** - please indicate who (select all sources) provided the job description  Injured worker  Employer  MCO  BWC

**Work status/Injured worker's capabilities** (Updates Yes  No )

3A Does the injured worker have any physical or health restrictions related to allowed conditions in the claim? Yes  No   
**If yes**, are the restrictions:  Permanent  Temporary **Proceed to section 3B.**  
**If no**, please check the box to indicate the injured worker is released to work as of the date of this exam.  **Proceed to section 8.**

3B If there are restrictions, can the injured worker return to the full duties of his/her job held on the date of injury (former position of employment)? Yes  No   
**If yes**, please check the box to indicate that the injured worker is released to work as of the date of this exam.  **Proceed to section 8.**  
**If no**, please indicate when the injured worker could not do the job held on the date of injury for this period of restricted duty.  
Date: \_\_\_\_/\_\_\_\_/\_\_\_\_.  
Please estimate when the injured worker should be able to return to the job held on the date of injury for this period of restricted duty.  
Date: \_\_\_\_/\_\_\_\_/\_\_\_\_. **Proceed to section 3C.**

**Please indicate which of the activities listed below the injured worker can perform (even if the response to 3B is No.)**  
If the injured worker is not released to the former position of employment but may return to available and appropriate work with restrictions, please indicate the possible return to work date: \_\_\_\_/\_\_\_\_/\_\_\_\_.  
The injured worker can perform simple grasping with:  Left hand  Right hand  Both  
The injured worker can perform repetitive wrist motion with:  Left hand  Right hand  Both  
The injured worker's dominant hand is:  Left  Right  
The injured worker can perform repetitive actions to operate foot controls or motor vehicles with:  Left foot  Right foot  Both  
If the injured worker is taking prescribed medications for the allowed conditions in this claim, can the injured worker safely:  
\*Operate heavy machinery:  Yes  No \*Drive:  Yes  No \*Perform other critical job tasks as defined by any source listed above in section 2:  Yes  No

Please indicate the following: N = Never, O = Occasionally, F = Frequently, C = Continuously					Lifting/carrying	N	O	F	C	Pushing/pulling	N	O	F	C
Activity	N	O	F	C	Activity	N	O	F	C	0 - 10 lbs.				
Bend					Reach above shoulder					11 - 20 lbs.				
Squat/kneel					Type/keyboard					21 - 40 lbs.				
Twist/turn					Work with cold substances					41 - 60 lbs.				
3C Climb					Work with hot substances					61 - 100 lbs.				
										100 + lbs.				

How many total hours can the injured worker work: \_\_\_\_ per week \_\_\_\_ per day?  
In an eight-hour workday, how many total hours can the injured worker: Sit: \_\_\_\_ hours  Continuously  With break  
Walk: \_\_\_\_ hours  Continuously  With break Stand: \_\_\_\_ hours  Continuously  With break  
Does the injured worker have any functional restrictions based only on allowed psychological conditions?  Yes  No If Yes, please describe in space provided below. Note: If Yes is indicated please reference the MEDCO-16 as needed.  
Additionally, in this space, please provide any additional information addressing the injured worker's capabilities and/or job accommodations which may not be addressed above. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Injured worker name		Claim number	Date of injury	
<b>Disability information (If 3B above is "NO" or dates updated - all 4A fields, including site/location if applicable must be completed)</b>				(Updates Yes <input type="checkbox"/> No <input type="checkbox"/> )
4A	Complete the chart below and furnish the narrative description of the diagnosis(es), site/location, if applicable, and International Classification of Diseases (ICD) code(s) for the condition(s) being treated due to the work-related injury/disease. Please indicate if the condition is preventing the injured worker from returning to job duties he/she held on the date of injury.			
	Narrative description of the work-related allowed condition	Site/location if applicable	ICD code	Is the condition preventing full duty release to the job injured worker held on the date of injury?
				Yes <input type="checkbox"/> No <input type="checkbox"/>
				Yes <input type="checkbox"/> No <input type="checkbox"/>
				Yes <input type="checkbox"/> No <input type="checkbox"/>
				Yes <input type="checkbox"/> No <input type="checkbox"/>
4B	List all other relevant conditions that impact treatment of the conditions listed above (e.g., co-morbidities or not yet allowed conditions).			
<b>Clinical findings: You can reference office notes in lieu of writing clinical findings below.</b>				(Updates Yes <input type="checkbox"/> No <input type="checkbox"/> )
5	The injured worker is progressing: <input type="checkbox"/> As expected <input type="checkbox"/> Better than expected <input type="checkbox"/> Slower than expected Provide your clinical and objective findings supporting your medical opinion outlined on this form. List barriers to return to work and reason, for the injured worker's delay in recovery.			
<b>Maximum medical improvement (MMI)</b>				
				(Updates Yes <input type="checkbox"/> No <input type="checkbox"/> )
6	MMI is a treatment plateau (static or well-stabilized) at which no fundamental functional or physiological change can be expected within reasonable medical probability, in spite of continuing medical or rehabilitative procedures. Has the work-related injury(s) or occupational disease reached MMI based on the definition above? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, give MMI date: ____/____/____. If no, please provide the proposed treatment plan, including estimated duration of each treatment (attach additional sheet if necessary).			
Note: An injured worker may need supportive treatment to maintain his or her level of function after reaching MMI. Thus, periodic medical treatment may still be requested and provided.				
<b>Vocational rehabilitation</b>				(Updates Yes <input type="checkbox"/> No <input type="checkbox"/> )
7	Vocational rehabilitation is an individualized and voluntary program for an eligible injured worker who needs assistance in safely returning to work or in retaining employment. This program can be tailored around an injured worker's restrictions and may provide job seeking skills or necessary retraining. Is the injured worker a candidate for vocational rehabilitation services focusing on return to work? Yes <input type="checkbox"/> No <input type="checkbox"/> If no, please explain why and provide your recommendations to help the injured worker return to employment.			
<b>Treating physician signature - mandatory</b>				
I certify the information on this form is correct to the best of my knowledge. I am aware that any person who knowingly makes a false statement, misrepresentation, concealment of fact or any other act of fraud to obtain payment as provided by BWC, or who knowingly accepts payment to which that person is not entitled, is subject to felony criminal prosecution and may be punished, under appropriate criminal provisions, by a fine or imprisonment or both.				
8	Treating physician's name (please print legibly)		Address, city, state, nine-digit ZIP code	
	Treating physician's signature			
	BWC provider (Peach) number	Date	Telephone number	Fax number

**First Report of Injury Occupational  
Disease or Death FROI-20020723.pdf**



First Report of an Injury, Occupational Disease or Death

By signing this form, I:

- Elect to only receive compensation and/or benefits that are provided for in this claim under Ohio workers' compensation laws;
• Waive and release my right to receive compensation and benefits under the workers' compensation laws of another state for the injury or occupational disease, or death resulting from an injury or occupational disease, for which I am filing this claim;
• Agree that I have not and will not file a claim in another state for the injury or occupational disease or death resulting from an injury or occupational disease for which I am filing this claim;
• Confirm that I have not received compensation and/or benefits under the workers' compensation laws of another state for this claim, and that I will notify BWC immediately upon receiving any compensation or benefits from any source for this claim.

WARNING:

Any person who obtains compensation from BWC or self-insuring employers by knowingly misrepresenting or concealing facts, making false statements or accepting compensation to which he or she is not entitled, is subject to felony criminal prosecution for fraud.

(R.C. 2913.48)

Form section containing personal information, employer details, and injury description. Includes fields for name, address, Social Security number, wage rate, and a detailed description of the accident.

Treatment info. section containing health-care provider details, diagnosis, and incident impact. Includes fields for provider name, address, diagnosis, and whether the incident caused missed work.

Employer info. section containing employer policy details, certification/rejection options, and signature. Includes fields for policy number, contact info, and employer signature.

## **City of Lorain Workers Comp Injury forms.pdf**

**CITY OF LORAIN**  
**EMPLOYEE'S STATEMENT**

I, \_\_\_\_\_ certify that on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ (a.m. or p.m.), I  
(Name) (Date) (Time)

sustained an injury to my \_\_\_\_\_ that occurred as follows:  
(Part of Body)

(Describe the incident in detail, stating part of body injured) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has this body part been previously injured?  Yes  No If yes, when? \_\_\_\_\_

Place incident occurred \_\_\_\_\_

Did the incident occur while you were working (on the clock)?  Yes  No

Did the incident occur while you were performing your regularly assigned job/duty?  Yes  No

Did the incident occur on employer's property?  Yes  No

Name(s) of Witness(s) \_\_\_\_\_

Date/Time and to whom the accident was reported to \_\_\_\_\_

Name of Medical Provider and Treating Physician \_\_\_\_\_

Provider Address \_\_\_\_\_ Provider Phone # \_\_\_\_\_

Employee address \_\_\_\_\_

Phone Number \_\_\_\_\_ Date of Hire \_\_\_\_\_

Building/Occupation \_\_\_\_\_ Supervisor \_\_\_\_\_

Signature of Employee \_\_\_\_\_ Date: \_\_\_\_\_

**PLEASE SUBMIT TO THE HR DEPARTMENT WITHIN 24 HOURS**

# CITY OF LORAIN ANATOMY FORM

Instructions for Employee:

Please circle the injured body part(s) then sign and date this form.

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Date



**CITY OF LORAIN**

**SUPERVISOR'S REPORT**

Employee Name \_\_\_\_\_

Nature of Injury (State employee's complaints and body part injured) \_\_\_\_\_

How did the incident occur? \_\_\_\_\_

In view of a camera? \_\_\_\_\_

Cause of the incident? \_\_\_\_\_

Was the incident preventable?  Yes  No

If yes, explain \_\_\_\_\_

What actions have been taken to prevent a reoccurrence of incident? \_\_\_\_\_

Employee sent to \_\_\_\_\_

Did employee report back to work?  Yes  No

Does Employee have work restrictions? (List) \_\_\_\_\_

Date returned to work: \_\_\_\_\_ In what capacity?  Full Duty  Light Duty

Employer's Address \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_ Supervisor's Phone: \_\_\_\_\_

Signature of Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

**PLEASE SUBMIT TO THE HR DEPARTMENT WITHIN 24 HOURS**

**CITY OF LORAIN**  
**WITNESS STATEMENT**

Name of injured worker: \_\_\_\_\_

Date of injury \_\_\_\_\_ Time of injury: \_\_\_\_\_ (a.m. or p.m.)

Place of injury: \_\_\_\_\_

Description of injury: \_\_\_\_\_

Description of how injury occurred: \_\_\_\_\_

\_\_\_\_\_

Did you see the accident?  Yes  No

Describe how you became aware of the incident \_\_\_\_\_

\_\_\_\_\_

How did the injured person describe the accident to you? \_\_\_\_\_

\_\_\_\_\_

Who else was aware of the accident? \_\_\_\_\_

Was the injured employee on the clock or on duty when the incident occurred? \_\_\_\_\_

Describe any known previous injuries or problems this person has with the same part of the body:

\_\_\_\_\_

Any other information you wish to provide? \_\_\_\_\_

\_\_\_\_\_

Witness's Name \_\_\_\_\_ Witness's Address \_\_\_\_\_

Witness's Phone: \_\_\_\_\_

Signature of Witness: \_\_\_\_\_ Date: \_\_\_\_\_

**PLEASE SUBMIT TO THE HR DEPARTMENT WITHIN 24 HOURS**

# Injury reporting made easy!

## Injured employee steps:

- 1** Immediately notify your employer of the injury.
- 2** Seek medical treatment from the nearest medical facility. A BWC-certified health-care provider must provide medical services after the initial treatment.
- 3** Show the 1-888-OHIOCOMP ID card to all medical providers treating your injury.
- 4** Complete the BWC *First Report of Injury* (FROI) form and any accident report that may be required by your employer.

## Employer steps:

- 1** Complete the employer portion of BWC's *First Report of Injury* (FROI) form.
- 2** Fax the completed form to 1-888-OHIOCOMP at 1-888-644-7339.
- 3** Report the injury by phone to 1-888-OHIOCOMP at 1-888-644-6266 or 216-426-0646.



## INJURED WORKER IDENTIFICATION CARD

Please present to your medical provider when seeking initial medical treatment.

	<b>WORKERS' COMPENSATION IDENTIFICATION CARD</b>
<b>Employer Name:</b>	CITY OF LORAIN
<b>Employer Risk/Policy No:</b>	34705302000
<b>First Report of Injury • Case Management 1-888-644-6266</b> Billing Questions	

In an emergency, immediately notify your employer and seek treatment at the nearest medical facility. A BWC-certified health-care provider must provide medical services after the initial treatment. Call 1-888-OHIOCOMP if you need help locating a BWC-certified medical provider.

# Lorain Police Department

## REQUEST FOR INJURED ON DUTY COMPENSATION



NAME: \_\_\_\_\_  
(please print)

REQUEST INJURED ON DUTY PAY FROM \_\_\_\_\_ TO \_\_\_\_\_

- Copy of Police Incident/Accident Report Attached
- Copy of Medical Documentation Attached
- Copy of City of Lorain Injury Report Form Completed

SIGNATURE

DATE

Submitted by:		
Received by Supervisor:		
Reviewed by Division Captain:		
Reviewed by Chief of Police:		
Approved by Safety Director:		

**CITY OF LORAIN  
ACCIDENT OR INJURY REPORT FORM**

To be completed by injured employee

**MUST BE PRINTED IN INK**

NAME: _____		SEX: (CIRCLE ONE) MALE FEMALE .	
HOME ADDRESS: _____	CITY: _____	ZIP: _____	
DATE OF BIRTH: _____	HOME PHONE: _____	CELL: _____	
DEPARTMENT: _____	POSITION: _____	YEARS ON JOB: _____	
DATE OF INJURY: _____		TIME OF INJURY: _____	AM PM
STATE WHEN ONSET OF SYMPTOMS OCCURRED: DATE: _____		TIME: _____	AM PM
DESCRIBE WHAT CAUSED THE INJURY/SYMPTOMS, WHAT JOB WAS BEING PERFORMED PRIOR TO THE INCIDENT, LOCATION OF INCIDENT, WHAT STEPS WERE TAKEN AFTER THE INCIDENT. NAME OBJECTS OR SUBSTANCES INVOLVED. BE SPECIFIC WITH ALL INFORMATION, IF MORE SPACE IS NEEDED, USE THE BACK OF THIS FORM.			
WAS THIS INCIDENT REPORTED TO ANYONE? YES NO <u>IF NO, STATE REASON:</u> _____			
IF YES, TO WHOM: _____	NAME: _____	TITLE: _____	DATE/TIME: _____
WAS THERE A WITNESS TO THE INJURY? YES NO <u>IF YES, NAME OF WITNESS:</u> _____			
PART(S) OF BODY AFFECTED (BE SPECIFIC; EXAMPLE: RIGHT ELBOW, LEFT KNEE, LOWER BACK, ETC.) _____			
TYPE OF INJURY: (BE SPECIFIC; BRUISE, SCRAPE, LACERATION, PULL, STRAIN, ETC.) _____			
WAS ANY FIRST AID PROVIDED AT SCENE? YES NO <u>IF YES, DESCRIBE:</u> _____			
OTHER MEDICAL TREATMENT SOUGHT? YES NO <u>IF YES, STATE WHEN AND WHERE:</u> _____			
IF MEDICAL TREATMENT NOT SOUGHT IMMEDIATELY, STATE REASON: _____			
IS THIS AN AGGRAVATION OF A PREVIOUS INJURY/SYMPTOM: YES NO <u>IF YES, STATE WHEN YOU WERE LAST TREATED FOR THE PREVIOUS INJURY: DATE: _____ BY WHOM/WHERE: _____</u>			
HAVE YOU EVER HAD A SIMILAR INJURY TO THE SAME BODY PART FROM WHICH YOU WERE TOTALLY RECOVERED? YES NO			
<u>IF YES, EXPLAIN:</u> _____			

**MEDICAL RELEASE:** *Under current workers' compensation law, the employer is entitled to a signed medical release.*

I hereby authorize any person or persons who have in the past or will in the future medically attend, treat or examine me, or any person who may have information of any kind which may be used to reach a decision in any claim for injury or disease arising from injury/illness described above, to disclose such information to my employer, my employer's managed care organization, or to my employer's designated representative, CompManagement, Inc. A copy of this form will serve as the original.

Employee Name: (Print): \_\_\_\_\_

Employee Signature: \_\_\_\_\_ Date (required): \_\_\_\_\_

## **Workers Comp Injury forms.pdf**

By signing this form, I:

- Elect to only receive compensation and/or benefits that are provided for in this claim under Ohio workers' compensation laws;
- Waive and release my right to receive compensation and benefits under the workers' compensation laws of another state for the injury or occupational disease, or death resulting from an injury or occupational disease, for which I am filing this claim;
- Agree that I have not and will not file a claim in another state for the injury or occupational disease or death resulting from an injury or occupational disease for which I am filing this claim;
- Confirm that I have not received compensation and/or benefits under the workers' compensation laws of another state for this claim, and that I will notify BWC immediately upon receiving any compensation or benefits from any source for this claim.

### WARNING:

Any person who obtains compensation from BWC or self-insuring employers by knowingly misrepresenting or concealing facts, making false statements or accepting compensation to which he or she is not entitled, is subject to felony criminal prosecution for fraud.

(R.C. 2913.48)

Injured Worker and Injury/Disease/Death Info.	Last name, first name, middle initial			Social Security number		Marital Status <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Separated <input type="checkbox"/> Widowed		Date of birth		
	Home mailing address			Sex <input type="checkbox"/> Male <input type="checkbox"/> Female				Number of dependents		
	City		State	9-digit ZIP code		Country if different from USA		Department name		
	Wage rate \$ _____ Per: <input type="checkbox"/> Hour <input type="checkbox"/> Month <input type="checkbox"/> Week <input type="checkbox"/> Year <input type="checkbox"/> Other _____		What days of the week do you usually work? <input type="checkbox"/> Sun <input type="checkbox"/> Mon <input type="checkbox"/> Tue <input type="checkbox"/> Wed <input type="checkbox"/> Thur <input type="checkbox"/> Fri <input type="checkbox"/> Sat		Regular work hours From _____ To _____					
	Have you been offered or do you expect to receive payment or wages for this claim from anyone other than the Ohio Bureau of Workers' Compensation <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain.							Occupation or job title		
	Employer name <b>CITY OF LORAIN</b>									
	Mailing address (number and street, city or town, state, ZIP code and country) <b>200 W ERIE AVE STE 114, LORAIN, OH, 440521606</b>									
	Location, if different from mailing address									
	Was the place of accident or exposure on employer's premises? <input type="checkbox"/> Yes <input type="checkbox"/> No (If no, give accident location, street address, city, state and ZIP code)									
	Date of injury/disease		Time of injury _____ <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.		If fatal, give date of death		Time employee began work _____ <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.		Date last worked	Date returned to work
Date hired		State where hired		Date employer notified		State where supervised				
Description of accident (Describe the sequence of events that directly injured the employee, or caused the disease or death.)						Type of injury/disease and part(s) of body affected (For example: sprain of lower left back)				
Benefit application release of information - I am applying for a claim under the Ohio Bureau of Workers' Compensation Act for work-related injuries that I did not inflict. I affirm that I elect to receive compensation and benefits under Ohio's workers' compensation laws for my claim, and I waive and release my right to file for and receive compensation and benefits under the laws of any other state for this claim. I request payment for compensation and/or medical benefits as allowable, and authorize direct payment to my medical providers. I permit and authorize any provider who attends, treats or examines me, the Ohio State Board of Pharmacy, the Ohio Department of Job and Family Services and the Ohio Rehabilitation Services Commission to release medical, psychological, psychiatric, pharmaceutical, vocational and social information. I understand this may include personally identifying information that is casually or historically related to my physical or mental injuries relevant to issues necessary for the administration of my claim to BWC, the Industrial Commission of Ohio, the employer in this claim, the employer's managed care organization and any authorized representatives. My previous or future BWC claims may affect decisions made in this claim. Proper administration of the present claim may require BWC to share claims information with the employers of record (or their authorized representatives) and/or my authorized representative for any and all such previous or future claims. The released claims information may include any record maintained in my claim files.										
Injured worker signature			Date	E-mail Address		Telephone number		Work number		
Treatment Info.	Health-care provider name			Telephone number		Fax number		Initial treatment date		
	Street address			City		State		9-digit ZIP code		
	Diagnosis(es): Include ICD code(s)									
	Will the incident cause the injured worker miss eight or more days of work? <input type="checkbox"/> Yes <input type="checkbox"/> No				Is the injury casually related to the industrial incident? <input type="checkbox"/> Yes <input type="checkbox"/> No					
	E code					11-digit BWC provider number		Date		
Health-care provider signature										
Employment Info.	Employer policy number <b>34705302000</b>			Check <input type="checkbox"/> Employer is self-insuring If <input type="checkbox"/> Injured worker is owner/partner/member of firm						
	Telephone number <b>(440) 204-2015</b>		Fax number		E-mail address		Federal ID number <b>34-6001700</b>		Manual number	
	Was employee treated in an emergency room? <input type="checkbox"/> Yes <input type="checkbox"/> No				Was employee hospitalized overnight as an inpatient? <input type="checkbox"/> Yes <input type="checkbox"/> No					
	If treatment was given away from work site, provider the facility name, street address, city, state and ZIP code									
	<input type="checkbox"/> <b>Certification</b> - The employer certifies that the facts in this application are correct and valid.			<input type="checkbox"/> <b>Rejection</b> - The employer rejects the validity of this claim for the reason(s) listed below:			<b>FOR SELF-INSURING EMPLOYERS ONLY:</b> <input type="checkbox"/> <b>Clarification</b> - The employer clarifies and allows the claim for the condition(s) below. <input type="checkbox"/> <b>Medical only</b> <input type="checkbox"/> <b>Lost Time</b>			
Employer signature and title					Date		OSHA case number			



**CITY OF LORAIN**  
**EMPLOYEE'S STATEMENT**

I, \_\_\_\_\_ certify that on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ (a.m. or p.m.), I  
(Name) (Date) (Time)

sustained an injury to my \_\_\_\_\_ that occurred as follows:  
(Part of Body)

(Describe the incident in detail, stating part of body injured) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has this body part been previously injured?  Yes  No If yes, when? \_\_\_\_\_

Place incident occurred \_\_\_\_\_

Did the incident occur while you were working (on the clock)?  Yes  No

Did the incident occur while you were performing your regularly assigned job/duty?  Yes  No

Did the incident occur on employer's property?  Yes  No

Name(s) of Witness(s) \_\_\_\_\_

Date/Time and to whom the accident was reported to \_\_\_\_\_

Name of Medical Provider and Treating Physician \_\_\_\_\_

Provider Address \_\_\_\_\_ Provider Phone # \_\_\_\_\_

Employee address \_\_\_\_\_

Phone Number \_\_\_\_\_ Date of Hire \_\_\_\_\_

Building/Occupation \_\_\_\_\_ Supervisor \_\_\_\_\_

Signature of Employee \_\_\_\_\_ Date: \_\_\_\_\_

**PLEASE SUBMIT TO THE HR DEPARTMENT WITHIN 24 HOURS**



# CITY OF LORAIN ANATOMY FORM

Instructions for Employee:

Please circle the injured body part(s) then sign and date this form.

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Date





**CITY OF LORAIN**

**SUPERVISOR'S REPORT**

Employee Name \_\_\_\_\_

Nature of Injury (State employee's complaints and body part injured) \_\_\_\_\_

How did the incident occur? \_\_\_\_\_

In view of a camera? \_\_\_\_\_

Cause of the incident? \_\_\_\_\_

Was the incident preventable?  Yes  No

If yes, explain \_\_\_\_\_

What actions have been taken to prevent a reoccurrence of incident? \_\_\_\_\_

Employee sent to \_\_\_\_\_

Did employee report back to work?  Yes  No

Does Employee have work restrictions? (List) \_\_\_\_\_

Date returned to work: \_\_\_\_\_ In what capacity?  Full Duty  Light Duty

Employer's Address \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_ Supervisor's Phone: \_\_\_\_\_

Signature of Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

**PLEASE SUBMIT TO THE HR DEPARTMENT WITHIN 24 HOURS**



**CITY OF LORAIN**  
**WITNESS STATEMENT**

Name of injured worker: \_\_\_\_\_

Date of injury \_\_\_\_\_ Time of injury: \_\_\_\_\_ (a.m. or p.m.)

Place of injury: \_\_\_\_\_

Description of injury: \_\_\_\_\_

Description of how injury occurred: \_\_\_\_\_

\_\_\_\_\_

Did you see the accident?  Yes  No

Describe how you became aware of the incident \_\_\_\_\_

\_\_\_\_\_

How did the injured person describe the accident to you? \_\_\_\_\_

\_\_\_\_\_

Who else was aware of the accident? \_\_\_\_\_

Was the injured employee on the clock or on duty when the incident occurred? \_\_\_\_\_

Describe any known previous injuries or problems this person has with the same part of the body:

\_\_\_\_\_

Any other information you wish to provide? \_\_\_\_\_

\_\_\_\_\_

Witness's Name \_\_\_\_\_ Witness's Address \_\_\_\_\_

Witness's Phone: \_\_\_\_\_

Signature of Witness: \_\_\_\_\_ Date: \_\_\_\_\_

**PLEASE SUBMIT TO THE HR DEPARTMENT WITHIN 24 HOURS**



# Injury reporting made easy!

## Injured employee steps:

- 1** Immediately notify your employer of the injury.
- 2** Seek medical treatment from the nearest medical facility. A BWC-certified health-care provider must provide medical services after the initial treatment.
- 3** Show the 1-888-OHIOCOMP ID card to all medical providers treating your injury.
- 4** Complete the BWC *First Report of Injury* (FROI) form and any accident report that may be required by your employer.

## Employer steps:

- 1** Complete the employer portion of BWC's *First Report of Injury* (FROI) form.
- 2** Fax the completed form to 1-888-OHIOCOMP at 1-888-644-7339.
- 3** Report the injury by phone to 1-888-OHIOCOMP at 1-888-644-6266 or 216-426-0646.



## INJURED WORKER IDENTIFICATION CARD

Please present to your medical provider when seeking initial medical treatment.

	<b>WORKERS' COMPENSATION IDENTIFICATION CARD</b>
<b>Employer Name:</b>	CITY OF LORAIN
<b>Employer Risk/Policy No:</b>	34705302000
<b>First Report of Injury • Case Management 1-888-644-6266</b> Billing Questions	

In an emergency, immediately notify your employer and seek treatment at the nearest medical facility. A BWC-certified health-care provider must provide medical services after the initial treatment. Call 1-888-OHIOCOMP if you need help locating a BWC-certified medical provider.



# Lorain Police Department

## REQUEST FOR INJURED ON DUTY COMPENSATION



NAME: \_\_\_\_\_  
(please print)

REQUEST INJURED ON DUTY PAY FROM \_\_\_\_\_ TO \_\_\_\_\_

- Copy of Police Incident/Accident Report Attached
- Copy of Medical Documentation Attached
- Copy of City of Lorain Injury Report Form Completed

SIGNATURE

DATE

Submitted by:		
Received by Supervisor:		
Reviewed by Division Captain:		
Reviewed by Chief of Police:		
Approved by Safety Director:		



**CITY OF LORAIN  
ACCIDENT OR INJURY REPORT FORM**

To be completed by injured employee

**MUST BE PRINTED IN INK**

NAME: _____		SEX: (CIRCLE ONE) MALE FEMALE .	
HOME ADDRESS: _____	CITY: _____	ZIP: _____	
DATE OF BIRTH: _____	HOME PHONE: _____	CELL: _____	
DEPARTMENT: _____	POSITION: _____	YEARS ON JOB: _____	
DATE OF INJURY: _____		TIME OF INJURY: _____	AM PM
STATE WHEN ONSET OF SYMPTOMS OCCURRED: DATE: _____		TIME: _____	AM PM
DESCRIBE WHAT CAUSED THE INJURY/SYMPTOMS, WHAT JOB WAS BEING PERFORMED PRIOR TO THE INCIDENT, LOCATION OF INCIDENT, WHAT STEPS WERE TAKEN AFTER THE INCIDENT. NAME OBJECTS OR SUBSTANCES INVOLVED. BE SPECIFIC WITH ALL INFORMATION, IF MORE SPACE IS NEEDED, USE THE BACK OF THIS FORM.			
WAS THIS INCIDENT REPORTED TO ANYONE? YES NO <u>IF NO, STATE REASON:</u> _____			
<u>IF YES, TO WHOM:</u> NAME: _____		TITLE: _____ DATE/TIME: _____	
WAS THERE A WITNESS TO THE INJURY? YES NO <u>IF YES, NAME OF WITNESS:</u> _____			
PART(S) OF BODY AFFECTED (BE SPECIFIC; EXAMPLE: RIGHT ELBOW, LEFT KNEE, LOWER BACK, ETC.) _____			
TYPE OF INJURY: (BE SPECIFIC; BRUISE, SCRAPE, LACERATION, PULL, STRAIN, ETC.) _____			
WAS ANY FIRST AID PROVIDED AT SCENE? YES NO <u>IF YES, DESCRIBE:</u> _____			
OTHER MEDICAL TREATMENT SOUGHT? YES NO <u>IF YES, STATE WHEN AND WHERE:</u> _____			
IF MEDICAL TREATMENT NOT SOUGHT IMMEDIATELY, STATE REASON: _____			
IS THIS AN AGGRAVATION OF A PREVIOUS INJURY/SYMPTOM: YES NO <u>IF YES, STATE WHEN YOU WERE LAST TREATED FOR THE PREVIOUS INJURY: DATE: _____ BY WHOM/WHERE: _____</u>			
HAVE YOU EVER HAD A SIMILAR INJURY TO THE SAME BODY PART FROM WHICH YOU WERE TOTALLY RECOVERED? YES NO			
<u>IF YES, EXPLAIN:</u> _____			

**MEDICAL RELEASE:** *Under current workers' compensation law, the employer is entitled to a signed medical release.*

I hereby authorize any person or persons who have in the past or will in the future medically attend, treat or examine me, or any person who may have information of any kind which may be used to reach a decision in any claim for injury or disease arising from injury/illness described above, to disclose such information to my employer, my employer's managed care organization, or to my employer's designated representative, CompManagement, Inc. A copy of this form will serve as the original.

Employee Name: (Print): \_\_\_\_\_

Employee Signature: \_\_\_\_\_ Date (required): \_\_\_\_\_





Instructions

- This form is used to acknowledge an agreement to pay salary/wage continuation in lieu of temporary total or living maintenance compensation.
Regular (full) salary/wages includes any benefits which the employee would normally be entitled to if the employee was working.
This form must be signed by the employee and the employer.
Fax or mail this completed agreement to your local BWC service office.

Table with 3 columns: Employee name, Claim number, Employer name, Policy number, Employer telephone number

On the \_\_\_ day of \_\_\_, \_\_\_, \_\_\_, the employer and the employee named above executed the following terms and conditions pertaining to the payment of salary continuation.

The employer, since the inception of the employee's disability resulting from an accident/occupational disease suffered by the employee on \_\_\_/\_\_\_/\_\_\_, while in course of their employment, has been or is paying regular (full) salary/wages in lieu of temporary total or living maintenance compensation, to the employee during the period of disability as indicated below:

Continuation of regular (full) salary/wages and any benefits the injured worker would otherwise have been entitled to has been/will be paid. Salary continuation will be paid at the rate of \$\_\_\_ per \_\_\_ (week, two weeks, etc.) for the period of time from \_\_\_/\_\_\_/\_\_\_ to \_\_\_/\_\_\_/\_\_\_, (a period of time not to exceed 45 days per C-55 submission).

Does the amount paid include salary/wages from other employment? [ ] Yes [ ] No

Should salary continuation payment continue a new C-55 must be submitted within five days of the end date of this agreement. The employer must notify BWC immediately if salary continuation will be discontinued and/or if the injured worker returns to work.

Table with 2 columns: Employee signature, Date, Employer signature and title, Date





Injured worker name			Claim number
---------------------	--	--	--------------

Date of injury	Date of last appointment/examination	Date of this appointment/examination	Date of next appointment/examination
----------------	--------------------------------------	--------------------------------------	--------------------------------------

**MEDCO-14 submission (Select one of the options below.)**

1  I have never completed a MEDCO-14. *Proceed to section 2.*  
 I have previously completed a MEDCO-14, and all of the information remains the same. *Proceed to and complete section 8.*  
 I have previously completed a MEDCO-14, and I am providing updates appropriately checking Yes or No on each section.

**Employment/Occupation (Complete this section and proceed to section 3.)** (Updates Yes  No )

2 Have you reviewed the description of the injured worker's job held on the date of injury (former position of employment)? Yes  No   
**If yes** - please indicate who (select all sources) provided the job description  Injured worker  Employer  MCO  BWC

**Work status/Injured worker's capabilities** (Updates Yes  No )

3A Does the injured worker have any physical or health restrictions related to allowed conditions in the claim? Yes  No   
**If yes**, are the restrictions:  Permanent  Temporary *Proceed to section 3B.*  
**If no**, please check the box to indicate the injured worker is released to work as of the date of this exam.  *Proceed to section 8.*

3B If there are restrictions, can the injured worker return to the full duties of his/her job held on the date of injury (former position of employment)? Yes  No   
**If yes**, please check the box to indicate that the injured worker is released to work as of the date of this exam.  *Proceed to section 8.*  
**If no**, please indicate when the injured worker could not do the job held on the date of injury for this period of restricted duty.  
 Date: \_\_\_\_\_  
 Please estimate when the injured worker should be able to return to the job held on the date of injury for this period of restricted duty.  
 Date: \_\_\_\_\_ *Proceed to section 3C.*

**Please indicate which of the activities listed below the injured worker can perform (even if the response to 3B is No.)**  
 If the injured worker is not released to the former position of employment but may return to available and appropriate work with restrictions, please indicate the possible return to work date: \_\_\_\_\_  
 The injured worker can perform simple grasping with:  Left hand  Right hand  Both  
 The injured worker can perform repetitive wrist motion with:  Left hand  Right hand  Both  
 The injured worker's dominant hand is:  Left  Right  
 The injured worker can perform repetitive actions to operate foot controls or motor vehicles with:  Left foot  Right foot  Both  
 If the injured worker is taking prescribed medications for the allowed conditions in this claim, can the injured worker safely:  
 \*Operate heavy machinery:  Yes  No \*Drive:  Yes  No \*Perform other critical job tasks as defined by any source listed above in section 2:  Yes  No

Please indicate the following: N = Never, O = Occasionally, F = Frequently, C = Continuously					Lifting/carrying				Pushing/pulling					
Activity	N	O	F	C	Activity	N	O	F	C	0 - 10 lbs.	N	O	F	C
Bend	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Reach above shoulder	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11 - 20 lbs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Squat/kneel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Type/keyboard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	21 - 40 lbs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Twist/turn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Work with cold substances	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	41 - 60 lbs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Climb	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Work with hot substances	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	61 - 100 lbs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
										100 + lbs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3C How many total hours can the injured worker work: \_\_\_\_\_ per week \_\_\_\_\_ per day?  
 In an eight-hour workday, how many total hours can the injured worker: Sit: \_\_\_\_\_ hours  Continuously  With break  
 Walk: \_\_\_\_\_ hours  Continuously  With break Stand: \_\_\_\_\_ hours  Continuously  With break  
 Does the injured worker have any functional restrictions based only on allowed psychological conditions?  Yes  No **If Yes**, please describe in space provided below. Note: If Yes is indicated please reference the MEDCO-16 as needed.  
 Additionally, in this space, please provide any additional information addressing the injured worker's capabilities and/or job accommodations which may not be addressed above.

Injured worker name		Claim number	Date of injury	
<b>Disability information (If 3B above is "NO" or dates updated - all 4A fields, including site/location if applicable must be completed)</b>				(Updates Yes <input type="checkbox"/> No <input type="checkbox"/> )
Complete the chart below and furnish the narrative description of the diagnosis(es), site/location, if applicable, and International Classification of Diseases (ICD) code(s) for the condition(s) being treated due to the work-related injury/disease. Please indicate if the condition is preventing the injured worker from returning to job duties he/she held on the date of injury.				
<b>4A</b>	Narrative description of the work-related allowed condition	Site/location if applicable	ICD code	Is the condition preventing full duty release to the job injured worker held on the date of injury? Yes <input type="checkbox"/> No <input type="checkbox"/>
				Yes <input type="checkbox"/> No <input type="checkbox"/>
				Yes <input type="checkbox"/> No <input type="checkbox"/>
				Yes <input type="checkbox"/> No <input type="checkbox"/>
				Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>4B</b>	List all other relevant conditions that impact treatment of the conditions listed above (e.g., co-morbidities or not yet allowed conditions).			
<b>Clinical findings: You can reference office notes in lieu of writing clinical findings below.</b>				(Updates Yes <input type="checkbox"/> No <input type="checkbox"/> )
<b>5</b>	The injured worker is progressing: <input type="checkbox"/> As expected <input type="checkbox"/> Better than expected <input type="checkbox"/> Slower than expected Provide your clinical and objective findings supporting your medical opinion outlined on this form. List barriers to return to work and reason, for the injured worker's delay in recovery.			
<b>Maximum medical improvement (MMI)</b>				(Updates Yes <input type="checkbox"/> No <input type="checkbox"/> )
<b>6</b>	MMI is a treatment plateau (static or well-stabilized) at which no fundamental functional or physiological change can be expected within reasonable medical probability, in spite of continuing medical or rehabilitative procedures. Has the work-related injury(s) or occupational disease reached MMI based on the definition above? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, give MMI date: _____. If no, please provide the proposed treatment plan, including estimated duration of each treatment (attach additional sheet if necessary).			
Note: An injured worker may need supportive treatment to maintain his or her level of function after reaching MMI. Thus, periodic medical treatment may still be requested and provided.				
<b>Vocational rehabilitation</b>				(Updates Yes <input type="checkbox"/> No <input type="checkbox"/> )
<b>7</b>	Vocational rehabilitation is an individualized and voluntary program for an eligible injured worker who needs assistance in safely returning to work or in retaining employment. This program can be tailored around an injured worker's restrictions and may provide job seeking skills or necessary retraining. Is the injured worker a candidate for vocational rehabilitation services focusing on return to work? Yes <input type="checkbox"/> No <input type="checkbox"/> If no, please explain why and provide your recommendations to help the injured worker return to employment.			
<b>Treating physician signature - mandatory</b>				
I certify the information on this form is correct to the best of my knowledge. I am aware that any person who knowingly makes a false statement, misrepresentation, concealment of fact or any other act of fraud to obtain payment as provided by BWC, or who knowingly accepts payment to which that person is not entitled, is subject to felony criminal prosecution and may be punished, under appropriate criminal provisions, by a fine or imprisonment or both.				
<b>8</b>	Treating physician's name (please print legibly)		Address, city, state, nine-digit ZIP code	
	Treating physician's signature			
	BWC provider (Peach) number	Date		

**Jeanne Clery Act 34 CFR 668 Federal Register.pdf**



# FEDERAL REGISTER

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Part III

Department of Education

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34 CFR Part 668

Violence Against Women Act; Final Rule

**DEPARTMENT OF EDUCATION****34 CFR Part 668**

[Docket ID ED–2013–OPE–0124]

RIN 1840–AD16

**Violence Against Women Act****AGENCY:** Office of Postsecondary Education, Department of Education.**ACTION:** Final regulations.

**SUMMARY:** The Secretary amends the Student Assistance General Provisions regulations issued under the Higher Education Act of 1965, as amended (HEA), to implement the changes made to the Clery Act by the Violence Against Women Reauthorization Act of 2013 (VAWA). These regulations are intended to update, clarify, and improve the current regulations.

**DATES:** These regulations are effective July 1, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ashley Higgins, U.S. Department of Education, 1990 K Street NW., Room 8037, Washington, DC 20006–8502. Telephone (202) 219–7061 or by email at: [Ashley.Higgins@ed.gov](mailto:Ashley.Higgins@ed.gov).

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:****Executive Summary**

Purpose of This Regulatory Action: On March 7th, 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013 (VAWA) (Pub. L. 113–4), which, among other provisions, amended section 485(f) of the HEA, otherwise known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). The Clery Act requires institutions of higher education to comply with certain campus safety- and security-related requirements as a condition of their participation in the title IV, HEA programs. Notably, VAWA amended the Clery Act to require institutions to compile statistics for incidents of dating violence, domestic violence, sexual assault, and stalking and to include certain policies, procedures, and programs pertaining to these incidents in their annual security reports. We are amending § 668.46 of title 34 of the Code of Federal Regulations (CFR) to implement these statutory changes. Additionally, we are updating this section by incorporating provisions added to the Clery Act by the Higher Education Opportunity Act, enacted in 2008, deleting outdated

deadlines and cross-references, and making other changes to improve the readability and clarity of the regulations. We have published 34 CFR 668.46 in its entirety at the end of these regulations for our readers' convenience.

Summary of the Major Provisions of This Regulatory Action: The final regulations will—

- Require institutions to maintain statistics about the number of incidents of dating violence, domestic violence, sexual assault, and stalking that meet the definitions of those terms;
- Clarify the very limited circumstances in which an institution may remove reports of crimes that have been “unfounded” and require institutions to report to the Department and disclose in the annual security report the number of “unfounded” crime reports;
  - Revise the definition of “rape” to reflect the Federal Bureau of Investigation’s (FBI) updated definition in the UCR Summary Reporting System, which encompasses the categories of rape, sodomy, and sexual assault with an object that are used in the UCR National Incident-Based Reporting System;
  - Revise the categories of bias for the purposes of Clery Act hate crime reporting to add gender identity and to separate ethnicity and national origin into separate categories;
  - Require institutions to provide to incoming students and new employees and describe in their annual security reports primary prevention and awareness programs. These programs must include: a statement that the institution prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking, as those terms are defined in these final regulations; the definitions of these terms in the applicable jurisdiction; the definition of “consent,” in reference to sexual activity, in the applicable jurisdiction; a description of safe and positive options for bystander intervention; information on risk reduction; and information on the institution’s policies and procedures after a sex offense occurs;
  - Require institutions to provide, and describe in their annual security reports, ongoing prevention and awareness campaigns for students and employees. These campaigns must include the same information as the institution’s primary prevention and awareness program;
  - Define the terms “awareness programs,” “bystander intervention,” “ongoing prevention and awareness campaigns,” “primary prevention programs,” and “risk reduction;”

- Require institutions to describe each type of disciplinary proceeding used by the institution; the steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding; how to file a disciplinary complaint; and how the institution determines which type of proceeding to use based on the circumstances of an allegation of dating violence, domestic violence, sexual assault, or stalking;

- Require institutions to list all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceedings for an allegation of dating violence, domestic violence, sexual assault, or stalking;

- Require institutions to describe the range of protective measures that the institution may offer following an allegation of dating violence, domestic violence, sexual assault, or stalking;

- Require institutions to provide for a prompt, fair, and impartial disciplinary proceeding in which: (1) Officials are appropriately trained and do not have a conflict of interest or bias for or against the accuser or the accused; (2) the accuser and the accused have equal opportunities to have others present, including an advisor of their choice; (3) the accuser and the accused receive simultaneous notification, in writing, of the result of the proceeding and any available appeal procedures; (4) the proceeding is completed in a reasonably prompt timeframe; (5) the accuser and accused are given timely notice of meetings at which one or the other or both may be present; and (6) the accuser, the accused, and appropriate officials are given timely and equal access to information that will be used during informal and formal disciplinary meetings and hearings;

- Define the terms “proceeding” and “result”; and

- Specify that compliance with these provisions does not constitute a violation of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly known as the Family Educational Rights and Privacy Act of 1974 (FERPA).

*Costs and Benefits:* A benefit of these final regulations is that they will strengthen the rights of victims of dating violence, domestic violence, sexual assault, and stalking on college campuses. Institutions will be required to collect and disclose statistics of crimes reported to campus security authorities and local police agencies that involve incidents of dating violence, domestic violence, sexual assault, and stalking. This will improve crime reporting and will help ensure

that students, prospective students, families, and employees and potential employees of the institutions will be better informed about each campus' safety and security procedures. Ultimately, the improved reporting and transparency will promote safety and security on college campuses.

Institutions are likely to incur two types of costs under the final regulations: Paperwork costs of complying with the regulations, and other compliance costs that institutions may incur as they take required steps to improve security on campus. Institutions will incur paperwork costs involved in: Changing the reporting of crime statistics to capture additional crimes, categories of crimes, differentiation of hate crimes, and expansion of categories of bias reported; and the development of statements of policy about prevention programs and institutional disciplinary actions. Institutions will also incur additional compliance costs. Costs to improve safety on campus will include annual training of officials on issues related to dating violence, domestic violence, sexual assault, and stalking as well as training on how to conduct disciplinary proceeding investigations and hearings. The final regulations are not estimated to have a significant net budget impact on the title IV, HEA student aid programs over loan cohorts from 2014 to 2024.

On June 20, 2014, the Secretary published a notice of proposed rulemaking (NPRM) for these regulations in the **Federal Register** (79 FR 35418). The final regulations contain several changes from the NPRM. We fully explain the changes in the *Analysis of Comments and Changes* section of the preamble that follows.

*Implementation date of these regulations:* Section 482(c) of the HEA requires that regulations affecting programs under title IV of the HEA be published in final form by November 1, prior to the start of the award year (July 1) to which they apply. However, that section also permits the Secretary to designate any regulation as one that an entity subject to the regulations may choose to implement earlier and the conditions for early implementation.

The Secretary has not designated any of the provisions in these final regulations for early implementation. Therefore, these final regulations are effective July 1, 2015.

*Public Comment:* In response to our invitation in the NPRM, approximately 2,200 parties submitted comments on the proposed regulations. In addition, approximately 3,600 individuals submitted a petition expressing their

support for comments submitted by the American Association of University Women. We group major issues according to subject, with appropriate sections of the regulations referenced in parentheses. We discuss other substantive issues under the sections of the proposed regulations to which they pertain. Generally, we do not address technical or other minor changes.

*Analysis of Comments and Changes:* An analysis of the comments and of any changes in the regulations since publication of the NPRM follows.

### General

*Comments:* The great majority of the commenters expressed strong support for the proposed regulations. They believed that these regulations would: Improve the data related to incidents of dating violence, domestic violence, and stalking at institutions; foster greater transparency and accountability around institutional policies and procedures; strengthen institutional efforts to prevent dating violence, domestic violence, sexual assault, and stalking; and ensure proper training for individuals who are involved in institutional disciplinary proceedings. The commenters believed that these changes would lead to greater institutional accountability and result in better information for students and families. They also believed that these regulations would foster more supportive environments for victims of dating violence, domestic violence, sexual assault, and stalking to come forward to report these crimes. Although generally supportive of the regulations, a few commenters urged the Department to consider the needs and perspectives of an accused student, particularly in regard to the regulations pertaining to institutional disciplinary proceedings.

Several commenters noted that the changes that VAWA made to the Clery Act did not alter an institution's obligations to comply with title IX of the Education Amendments of 1972 (title IX), its implementing regulations, or associated guidance issued by the Department's Office for Civil Rights (OCR).<sup>1</sup> However, many commenters noted that institutions' obligations under the Clery Act and under title IX overlap in some areas, and they urged the Department to provide as much guidance as possible about how to comply with both laws to promote best

practices and to reduce regulatory burden.

Finally, some of the commenters stressed the need for institutions to consider students and employees with disabilities when designing their campus safety policies, especially their campus sexual assault policies. The commenter noted that women with disabilities are at a high risk for sexual and other forms of violence.

*Discussion:* We appreciate the commenters' support. We note that the White House Task Force to Protect Students from Sexual Assault, which was established on January 22, 2014, has released and continues to develop guidance and model policies for institutions to use in working to comply with the Clery Act and title IX. Those resources are available to institutions at the Web site [www.notalone.gov](http://www.notalone.gov) under the "Schools" tab. The Department intends to build on these resources and provide additional tools and guidance where possible for institutions, including by updating *The Handbook for Campus Safety and Security Reporting* (<http://www2.ed.gov/admins/lead/safety/handbook.pdf>).

*Changes:* None.

### Implementation

*Comments:* Several of the commenters requested clarification regarding the implementation of these new regulations. Some commenters wondered whether institutions would be expected to identify whether crimes included in statistics in previous calendar years met the definitions of "dating violence," "domestic violence," or "stalking" or to revise their statistics pertaining to rape using the revised definition. Other commenters stressed that institutions should be given significant time to develop or revise procedures, learn how to categorize the new crimes, and update their annual security reports to comply with these final regulations.

*Discussion:* As first explained by the Department in an electronic announcement published on May 29th, 2013, and later reiterated in Dear Colleague Letter GEN-14-13 (<http://ifap.ed.gov/dpccletters/GEN1413.html>), institutions must make a good-faith effort to include accurate and complete statistics for dating violence, domestic violence, sexual assault, and stalking as defined in section 40002(a) of the Violence Against Women Act of 1994 for calendar year 2013 in the annual security report that must be published by October 1, 2014. Institutions will not be required to revise their statistics for calendar years 2013 or 2014 to reflect the final regulations.

<sup>1</sup> Title IX prohibits discrimination on the basis of sex in federally funded education programs or activities.

Section 485(f)(1)(F) and (f)(5) of the Clery Act requires institutions to disclose and report crime statistics for the three most recent calendar years in each annual security report. Consistent with the approach that we took when implementing the changes to the Clery Act and the annual fire safety report added by the Higher Education Opportunity Act, we will phase in the new statistical requirements. The first annual security report to contain a full three years of data using the definitions in these final regulations will be the annual security report due on October 1, 2018.

Section 304(b) of VAWA specified that the amendments made to the Clery Act would be effective with respect to the annual security report prepared by an institution of higher education one calendar year after the date of enactment of VAWA, and each subsequent calendar year. Accordingly, institutions are legally required to update their policies, procedures, and practices to meet the statutory requirements for the annual security report issued in 2014. These final regulations will become effective on July 1, 2015, providing institutions at least seven months after the regulations are published to further update or refine their policies, procedures, and programs before the next annual security report is due on October 1, 2015. We believe that this is sufficient time for institutions to come into compliance.

*Changes:* None.

#### **Burden**

*Comments:* Several commenters raised concerns about the burden on institutions imposed by these regulations, particularly by the requirements for the development of prevention programs and the requirements for campus disciplinary proceedings. The commenters believed that the cost to institutions of complying with these regulations could be significant. One commenter noted that these regulations would result in higher tuition costs because it would require institutions to divert funds from the delivery of education to hiring administrative staff and legal support. These and other commenters urged the Department to provide best practices and model policies and programs to help reduce the costs associated with implementing these changes.

*Discussion:* We understand the commenters' concerns about the burden associated with implementing these regulations. However, these requirements are statutory and institutions must comply with them to participate in the title IV, HEA

programs. As discussed previously under "General," the Department is committed to providing institutions with guidance where possible to minimize the additional costs and burdens. For additional information about the costs and burden associated with these regulations, please see the discussion under "Paperwork Reduction Act of 1995."

*Changes:* None.

#### **Availability of Annual Security Report and Statistics**

*Comments:* Several commenters made suggestions for changes in how institutions must make their annual security reports and statistics available. One commenter suggested that institutions should have to publish their statistics on their Web sites so that parents and students can make informed decisions about where to enroll. Another commenter noted that it is often difficult to find the required policies and procedures on an institution's Web site. One commenter recommended requiring institutions to post all information related to an institution's policies for dating violence, domestic violence, sexual assault, and stalking in one place on its Web site. If related information appears on other pages of an institution's Web site, the commenter recommended requiring institutions to provide links to the text of its policy to prevent misunderstandings about the school's policy or procedures. Another commenter urged the Department to require institutions to provide information to students and employees in languages other than English, particularly where a dominant portion of the campus community speaks a language other than English. Several commenters raised concerns about whether and how students, employees, and prospective students and employees would know when an institution updated its policies, procedures, and programs—particularly those related to campus disciplinary proceedings. Finally, one commenter suggested that the annual security report is unlikely to be effective or to influence behavior because it is just one of numerous disclosures that institutions must provide and is easily overlooked.

*Discussion:* With regard to the commenters' concerns that campus safety- and security-related statistics and policies can be difficult to find, we note that this information must all be contained in an institution's annual security report. Institutions must distribute the annual security report every year to all enrolled students and employees through appropriate

publications and mailings, including direct mailing to each individual through the U.S. Postal Service, campus mail, or electronic mail; by providing a publication directly to each individual; or by posting it on the institution's Web site. Institutions must also distribute the annual security report to all prospective students and employees upon request.

Although institutions are not required by the Clery Act to post their annual security report on their Web site, the Department collects the crime statistics from institutions each fall and makes the data available to the public on the Department's College Navigator Web site at [www.collegenavigator.gov](http://www.collegenavigator.gov), and on the Office of Postsecondary Education's Data Analysis Cutting Tool at <http://www.ope.ed.gov/security/>. We encourage institutions that post annual security reports on their Web site to place related information on the same central Web site or to provide a link to this related information from the site where the annual security report is posted so individuals will have easy access to the institution's policies. Although not required by the Clery Act, consistent with Federal civil rights laws, institutions must take appropriate measures to ensure that all segments of its community, including those with limited English proficiency, have meaningful access to vital information, such as their annual security reports.

In response to the comments about requiring notification when an institution updates its campus security policies and procedures, we note that the Clery Act requires an institution to distribute its annual security report annually (by October 1 each year). If an institution changes its policies during the year, it should notify its students and employees. Institutions that publish their annual security reports on an Intra- or Internet site would be able to post the new version of any changed policies or procedures on a continuing basis throughout the year, and they could notify the campus community of the changes through a variety of means (such as, electronic mail, an announcement on the institution's home page or flyers).

Finally, although we understand the commenter's concern that the campus safety disclosures may be overlooked by students and employees, the commenter did not provide any recommendations for how to ensure that these disclosures are not overlooked.

*Changes:* None.

**668.46(a) Definitions***Clery Geography*

*Comments:* Several commenters supported the inclusion of a definition of “Clery geography” in the interest of making these regulations more user-friendly and succinct. A few commenters, however, raised some questions and concerns about the proposed definition. One commenter was unsure about what areas would be considered “public property” for Clery Act reporting purposes, particularly for institutions located in strip malls or office buildings, and requested additional clarification. Another commenter believed that the definition is confusing and suggested instead creating one definition pertaining to locations for which an institution must maintain crime statistics and another definition pertaining to locations for which an institution must include incidents in its crime log. A third commenter requested clarification about what the phrase “within the patrol jurisdiction of the campus police or the campus security department” would include.

*Discussion:* We appreciate the support from the commenters, and reiterate that we are not changing the long-standing definitions of “campus,” “noncampus buildings or property,” and “public property” in § 668.46(a). Instead, we have added the definition of “Clery geography” to improve the readability and understandability of the regulations. The definition of “public property” continues to include all public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus. The *Handbook for Campus Safety and Security Reporting* includes several examples of what would be considered a part of a school’s “Clery geography,” including how to determine a school’s “public property,” but we will consider including additional examples when we update that guidance in the future.

We disagree with the commenter that it would be more appropriate to separate the definition of “Clery geography” into two definitions. We believe that the definition as written makes it clear that institutions must consider campus, noncampus, and public property locations when recording the statistics required under § 668.46(c), and that they must consider campus, noncampus, public property, and locations within the patrol jurisdiction of the campus police or campus security department when recording crimes in the crime log required under § 668.46(f).

To clarify, the phrase “patrol jurisdiction of the campus police or campus security department” refers to any property that is regularly patrolled by the campus public safety office but that does not meet the definitions of campus, noncampus, or public property. These patrol services are typically provided pursuant to a formal agreement with the local jurisdiction, a local civic association, or other public entity.

*Changes:* None.

*Consent*

*Comments:* We received numerous comments regarding our decision not to define “consent” for the purposes of the Clery Act. Many of the commenters disagreed with the Department’s conclusion that a definition of “consent” is not needed because, for purposes of Clery Act reporting, institutions are required to record all reported sex offenses in the Clery Act statistics and the crime log regardless of any issue of consent. The commenters strongly urged the Department to define “consent” in these final regulations to provide clarity for institutional officials and to promote consistency across institutions. The commenters noted that the definition of “consent” varies by locality, and that some States do not have a definition. These commenters believed that establishing a Federal definition in these regulations would inform State efforts to legislate on this issue. In States that do not have a definition of “consent,” some commenters argued, schools are left to determine their own definitions and have inappropriately deferred to local law enforcement for determinations about whether “consent” was provided based on a criminal evidentiary standard.

Other commenters argued that including statistics about offenses in reports without considering whether there was consent ignores a critical part of the definition of some VAWA crimes, rendering the crime statistics over inclusive. In other words, they believed that not considering consent in the categorization of an incident would result in some actions being reported regardless of whether a key component of the crime existed.

Some other commenters believed that the Department should define “consent” because it is an essential part of education and prevention programming. They argued that, even if a definition is not needed for recording sex offenses, not having a definition ignores current conversations about campus sexual assault.

Some of the commenters who supported including a definition of “consent” provided definitions for the Department’s consideration. Several commenters recommended using the definition that the Department included in the draft language provided to the non-Federal negotiators at the second negotiating session. One commenter recommended defining “consent” as was proposed at the second negotiating session but making a slight modification to clarify that one’s agreement to engage in a specific sexual activity during a sexual encounter can be revoked at any time. Another commenter made a similar recommendation but suggested clarifying that consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another person and that incapacitation could include having an intellectual or other disability that prevents an individual from having the capacity to consent. One commenter suggested that, at a minimum, the Department should provide that the applicable jurisdiction’s definition of “consent” applies for purposes of reporting under these regulations.

By contrast, some commenters agreed with the Department that a definition of “consent” should not be included in these regulations. These commenters urged the Department to provide guidance on the definition of “consent,” rather than establish a regulatory definition.

*Discussion:* During the second negotiation session, we presented draft language that would have defined “consent” to mean “the affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter.” Under this definition, an individual who was asleep, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or who was under duress, threat, coercion, or force, would not be able to consent. Further, one would not be able to infer consent under circumstances in which consent was not clear, including but not limited to the absence of “no” or “stop,” or the existence of a prior or current relationship or sexual activity. We continue to believe that this draft language is a valid starting point for other efforts to define consent or for developing education and prevention programming, and we will provide additional guidance where possible to institutions regarding consent.

However, we do not believe that a definition of consent is needed for the administration and enforcement of the Clery Act. Section 485(f)(1)(F)(i) of the HEA requires schools to include in their

statistics crimes that are reported, not crimes that are reported and proven to have occurred. We reiterate that, for purposes of Clery Act reporting, all sex offenses that are reported to a campus security authority must be included in an institution's Clery Act statistics and, if reported to the campus police, must be included in the crime log, regardless of the issue of consent. Thus, while the definitions of the sex offenses in Appendix A to subpart D of part 668 include lack of consent as an element of the offense, for purposes of Clery Act reporting, no determination as to whether that element has been met is required.

We note the comments suggesting that a definition of "consent" was needed so institutions do not defer to law enforcement for determining whether there was consent. However, as discussed earlier, a definition of "consent" is not needed for purposes of reporting crimes under the Clery Act. If an institution needs to develop a definition of "consent" for purposes of its proceedings it can develop a definition that is appropriate to its administrative proceedings based on the definition we discussed at negotiated rulemaking sessions and definitions from experts in the field.

*Changes:* None.

#### *Dating Violence*

*Comments:* We received numerous comments related to the definition of "dating violence." In particular, the commenters addressed: The basis for determining whether the victim and the perpetrator are in a social relationship of a romantic or intimate nature; what would be considered "violence" under this definition; and how to distinguish between dating violence and domestic violence.

#### *Social Relationship of a Romantic or Intimate Nature*

Several individuals commented on the proposal in the NPRM that, for Clery Act purposes, the determination of whether or not the victim and the perpetrator were in a social relationship of a romantic or intimate nature would be made based on the reporting party's statement and taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Some of the commenters expressed support for this provision. While supporting this approach, other commenters stressed the need for the institution to place significant weight on the reporting party's statement and to allow for a balanced and flexible determination of

the relationship status. However, these commenters were also concerned that institutional officials making judgments about the length of the relationship, the type of relationship, and the frequency of the relationship may omit dating relationships where the reporting party describes the relationship as "talking," "hanging out," "seeing one another," "hooking up," and so on. Along these lines, some of the commenters recommended expanding the definition of "dating" to encompass social or romantic relationships that are casual or serious, monogamous or non-monogamous, and of long or short duration.

One commenter raised concerns about using a third party's assessment when determining whether the victim and the accused were in a social relationship of a romantic or intimate nature. The commenter argued that, absent the victim's characterization of the relationship, third party reporters would be unable to make an accurate evaluation of the relationship and that statistics would therefore be inaccurate. The commenter suggested that it would be inappropriate to rely on a third party's characterization of a relationship, and that in this situation the incident should be included as a "sex offense" and not as dating violence. Further, the commenter asserted that the lack of State standards for determining what constitutes dating violence, combined with the need to determine the nature of a relationship, would complicate the question of how to categorize certain incidents and could lead to inconsistencies in statistics, making comparisons across institutions difficult.

#### *Inclusion of Psychological or Emotional Abuse*

Some commenters supported the proposal to define "dating violence" to include sexual or physical violence or the threat of such abuse. These commenters expressed concerns about how institutions would operationalize a definition that included more subjective and less concrete behavior, such as psychological and emotional abuse. However, numerous commenters raised concerns about our proposal not to include psychological or emotional abuse in the definition of "dating violence." Many of these commenters urged the Department to expand the definition of "dating violence" to explicitly include emotional and psychological abuse. The commenters argued that an expanded definition would more accurately reflect the range of victims' experiences of abuse and recognize the serious and disruptive

impact that these forms of violence have. The commenters believed that the reference to the threat of sexual or physical abuse did not sufficiently describe these forms of violence and that victims would not feel comfortable reporting or pressing charges for cases in which they were psychologically or emotionally abused if the definition did not explicitly speak to their experiences. Along these lines, some commenters believed that not including these forms of abuse would exclude significant numbers of victimized students from the statistics, and they recommended revising the definition to encompass the range of abuse that all victims face.

Some of the commenters argued that it is inappropriate to exclude psychological or emotional abuse from the definition of "dating violence" simply because they are "invisible" forms of violence. In particular, they noted that a victim's self-report of sexual or physical abuse would be included, even if that abuse is not immediately and visibly apparent. They argued that, similarly, a victim's self-report of emotional or psychological abuse should also be included in an institution's statistics.

Other commenters disagreed with the Department's view that including emotional and psychological abuse would be inconsistent with the statute. In arguing for a broader interpretation of "violence" for the purposes of "dating violence," they cited Supreme Court Justice Sotomayor's opinion for the Court in *U.S. v. Castleman*, 134 S.Ct. 1405 (2014) that, "whereas the word 'violent' or 'violence' standing alone connotes a substantial degree of force; that is not true of 'domestic violence.' 'Domestic violence' is a term of art encompassing acts that one might not characterize as violent in a nondomestic context." 134 S.Ct. at 1411.

Some of the commenters were concerned that the proposed regulations would set an inadequate starting point for prevention programming by not portraying psychological or emotional abuse as valid forms of violence on which to focus prevention efforts, even though research indicates that emotional or psychological abuse often escalates to physical or sexual violence. They argued that it was important to recognize psychological and emotional abuse as forms of violence when training students to look for, and to intervene when they observe, warning signs of behavior that could lead to violence involving force.

### Relationship Between Dating Violence and Domestic Violence

A few commenters raised concerns about the statement in the definition of “dating violence” that provides that dating violence does not include acts covered under the separate definition of “domestic violence.” Some commenters expressed support for this approach. However, one commenter argued that using this approach would result in most dating violence incidents being included in the domestic violence category. As a result, institutions would report very few dating violence crimes. This commenter recommended specifically identifying which types of relationship violence would be included under dating violence rather than including this “catch-all” provision.

One commenter was concerned that defining “dating violence” as “violence,” but defining “domestic violence” as “a felony or misdemeanor crime of violence” would create a higher threshold to report domestic violence than dating violence and would treat the two types of incidents differently based on the status of the parties involved. The commenter believed that, from a compliance perspective, the only determining factor between recording an incident as dating violence or domestic violence should be the relationship of the parties, not the nature of the underlying incident. As a result, the commenter suggested that institutions should be required to count dating violence and domestic violence crimes only where there is a felony or misdemeanor crime of violence. The commenter recommended that the Department provide additional guidance for institutions about what would constitute “violence” when the incident is not a felony or misdemeanor crime of violence.

#### *Discussion:*

#### Social Relationship of a Romantic or Intimate Nature

We appreciate the commenters’ support for our proposal that the determination of whether or not the victim and the perpetrator were in a social relationship of a romantic or intimate nature would be made based on the reporting party’s statement and taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Institutions are responsible for determining whether or not an incident meets the definition of dating violence, and they must consider the reporting party’s characterization of the relationship

when making that determination. We stress that generational or other differences in terminology and culture may mean that a reporting party may describe a dating relationship using different terms from how an institutional official might describe “dating.” When the reporting party asserts that there was a dating relationship, institutions should err on the side of assuming that the victim and the perpetrator were in a dating relationship to avoid incorrectly omitting incidents from the crime statistics and the crime log. The victim’s use of terms such as “hanging out” or “hooking up” rather than “dating,” or whether or not the relationship was “monogamous” or “serious” should not be determinative.

We disagree with the commenter who was concerned that a third party who makes a report would be unable to accurately characterize a relationship. Third parties who are reporting an incident of dating violence are not required to use specific terms to characterize the relationship or to characterize the relationship at all; however, they should be asked whether they can characterize the relationship. Ultimately, the institution is responsible for determining whether the incident is an incident of dating violence. Furthermore, the commenter’s suggestion to classify all third-party reports as sexual assaults is unworkable because dating violence does not always involve a sexual assault. Lastly, this commenter’s concern that the lack of State laws criminalizing dating violence will lead to inaccurate statistics is unwarranted because schools must use the definition of “dating violence” in these final regulations when compiling their statistics.

#### Inclusion of Psychological or Emotional Abuse

Although we fully support the inclusion of emotional and psychological abuse in definitions of “dating violence” used for research, prevention, victim services, or intervention purposes, we are not persuaded that they should be included in the definition of “dating violence” for purposes of campus crime reporting. We are concerned that such a broad definition of “dating violence” would include some instances of emotional and verbal abuse that do not rise to the level of “violence” which is a part of the statutory definition of dating violence under VAWA. With respect to the Supreme Court’s opinion in *U.S. v. Castleman*, Justice Sotomayor’s statement was made in a very different context and that case, which interpreted

an entirely different statute, is in no way controlling here. Furthermore, we continue to believe that including emotional and psychological abuse in the definition would pose significant challenges in terms of compliance and enforcement of these provisions.

### Relationship Between Dating Violence and Domestic Violence

We disagree with the recommendation to remove the provision specifying that dating violence does not include acts covered under the definition of domestic violence. This provision is needed to prevent counting the same incident more than once, because incidents of dating violence include a subset of incidents that also meet the definition of domestic violence.

Lastly, in response to the concern that the threshold for an incident to meet the definition of “domestic violence” is higher than for “dating violence,” we note that this aspect of the definitions is consistent with the definitions in section 40002(a) of the Violence Against Women Act of 1994. We also note that an incident that does not constitute a felony or misdemeanor crime of violence committed by an individual in a relationship specified in the definition of “domestic violence” nevertheless could be recorded as dating violence. We believe that this would still provide valuable information about the extent of intimate partner violence at the institution.

*Changes:* None.

#### *Domestic Violence*

*Comments:* The commenters generally supported the proposed definition of “domestic violence.” However, one commenter believed that the definition, as written, would require institutions in some States to include incidents between roommates and former roommates in their statistics because they would be considered household members under the domestic or family laws of those jurisdictions. This commenter was concerned about inadvertently capturing situations in which two individuals are living together, but are not involved in an intimate relationship in the statistics.

*Discussion:* We appreciate the commenters’ support. With regard to the comment about roommates, the final definition of “domestic violence,” consistent with the proposed definition, requires more than just two people living together; rather, the people cohabitating must be spouses or have an intimate relationship.

*Changes:* None.

*FBI's UCR Program*

*Comments:* A few commenters expressed support for including this definition, agreeing that it added clarity to the regulations.

*Discussion:* We appreciate the commenters' support.

*Changes:* None.

*Hate Crime*

*Comments:* A few commenters supported the inclusion of a definition of "hate crime" in § 668.46(a) to improve the clarity of these regulations. The commenters also supported the inclusion of gender identity and national origin as categories of bias that would serve as the basis for identifying a hate crime, as discussed under "Recording hate crimes."

*Discussion:* We appreciate the commenters' support.

*Changes:* None.

*Hierarchy Rule*

*Comments:* The commenters generally supported the inclusion of a definition of the term "Hierarchy Rule" in § 668.46(a). One commenter, however, recommended that we clarify in the definition that a case of arson is an exception to the rule that when more than one offense is committed during a single incident, only the most serious offense is counted. The commenter said that arson is always counted.

*Discussion:* We appreciate the commenters' support. The commenter is correct that there is a general exception to the Hierarchy Rule in the Summary Reporting System from the FBI's UCR Program for incidents involving arson. When multiple reportable incidents are committed during the same incident in which there is also arson, institutions must report the most serious criminal offense along with the arson. We have not made the treatment of arson explicit in the definition of "Hierarchy Rule," however, because we believe that it is more appropriate to state the general rule in the definitions section and clarify how arson must be recorded in § 668.46(c)(9), which explains how institutions must apply the Hierarchy Rule. Please see "Using the FBI's UCR Program and the Hierarchy Rule" for additional discussion.

*Changes:* None.

*Programs To Prevent Dating Violence, Domestic Violence, Sexual Assault, and Stalking*

*Comments:* Many commenters strongly supported the proposed definition of "programs to prevent dating violence, domestic violence, sexual assault, and stalking." They believed that the definition would

promote the development of effective prevention programs that focus on changing social norms and campus climates instead of focusing on preventing single incidents of abuse from occurring, and it would promote programs that do not engage in stereotyping or victim blaming. In particular, many commenters expressed support for the language requiring that an institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking be culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome.

Other commenters recommended several changes to the definition. Several commenters recommended requiring that an institution's prevention programs be informed by research and assessed for value, effectiveness or outcome, rather than allowing one or the other. One commenter, although agreeing that it is important for programs to be research-based, stressed the need to identify the source of research and what would qualify as "research-based." This commenter was also concerned that institutions without the funding to support home-grown prevention education staff would use "check-the-box" training offered by third party training and education vendors to meet this requirement.

One commenter supported the definition but urged the Department to explicitly require institutions to include programs focused on the lesbian, gay, bisexual, transgender, and queer (LGBTQ) community to meet this requirement. The commenter believed that it is important to name LGBTQ community programs in this definition because evidence suggests that LGBTQ students are frequently targets of sexual violence. Several other commenters stressed that prevention programs need to address the unique barriers faced by some of the communities within an institution's population.

One commenter stated that computer-based prevention programs can be effective, but believed that such training would not satisfy the requirement that prevention training be comprehensive, intentional, and integrated. Another commenter stated that the regulations should specify that a "one-time" training does not comply with the definition because a comprehensive prevention framework requires an ongoing prevention strategy, in partnership with local rape crisis centers or State sexual assault coalitions, or both.

One commenter was concerned that the phrases "culturally relevant" and "informed by research or assessed for value, effectiveness, or outcome" were ambiguous, and that it could cost institutions significant time and resources to develop programs that meet this definition. Several commenters stressed the need for the Department to provide information on best practices and further guidance about effective programs to support institutions in complying with the definition, to help ensure that programming reaches all parts of an institution, and to help minimize burden. Other commenters stated that the definition exceeded the scope of the statute and would be time-consuming and expensive to implement, especially for small institutions.

*Discussion:* We appreciate the commenters' support, and we believe that this definition is consistent with the statute and will serve as a strong foundation for institutions that are developing primary prevention and awareness programs and ongoing prevention and awareness campaigns, as required under § 668.46(j). We agree with the commenters that these programs should focus on changing the social norms and stereotypes that create conditions in which sexual violence occurs, and that these programs must be tailored to the individual communities that each school serves to ensure that they are culturally relevant and inclusive of, and responsive to, all parts of a school's community. As discussed in the NPRM, this definition is designed to provide that institutions must tailor their programs to their students' and employees' needs (i.e. that the programs must be "culturally relevant"). We note that these programs include "ongoing prevention and awareness campaigns," which, as defined in § 668.46(j)(2)(iii), requires that programs be sustained over time.

We do not agree with the recommendations to require that these programs be both informed by research and assessed for value and that we set standards for the research or prohibit certain forms of training. During the negotiations, the negotiators discussed the extent to which an institution's prevention programs must be based on research and what types of research would be acceptable. Ultimately, they agreed that "research" should be interpreted broadly to include research conducted according to scientific standards as well as assessments for efficacy carried out by institutions and other organizations. There is a relative lack of scientific research showing what makes programs designed to prevent dating violence, domestic violence,

sexual assault, and stalking effective. Adopting the limitations suggested by the commenter could significantly limit the types of programs that institutions develop, and could preclude the use of promising practices that have been assessed for value, effectiveness, or outcome but not subjected to a scientific review. We believe that this definition will help to guard against institutions using approaches and strategies that research has proven to be ineffective and that reinforce and perpetuate stereotypes about gender roles and behaviors, among other things.

We do not agree with the recommendations to specify in the definition that these programs must include a component focused on LGBTQ students. We believe that the requirement that institutions consider the needs of their campus communities and be inclusive of diverse communities and identities will ensure that the programs include LGBTQ students, students with disabilities, minority students, and other individuals.

With respect to the comment asking whether computer-based programming could be “comprehensive, intentional, and integrated”, the statute requires institutions to provide these programs and to describe them in their annual security reports. However, the Department does not have the authority to mandate or prohibit the specific content or mode of delivery for these programs or to endorse certain methods of delivery (such as computer based programs) as long as the program’s content meets the definition of “programs to prevent dating violence, domestic violence, sexual assault, and stalking.” Similarly, institutions may use third party training vendors so long as the actual programs offered meet the definitions for “programs to prevent dating violence, domestic violence, sexual assault, and stalking.”

We encourage institutions to draw on the knowledge and experience of local rape crisis centers and State sexual assault coalitions when developing programs. Over time, we hope to share best practices based on research on effective approaches to prevention that institutions may use to inform and tailor their prevention programming.

Although we understand institutions’ concerns about the burden associated with developing prevention programs, the statute requires institutions to develop these programs. In terms of providing programs that meet this specific definition, we reiterate that we are committed to providing institutions with guidance where possible to clarify terms such as “culturally relevant” and to minimize the additional costs and

burden. As discussed previously under “General,” the White House Task Force to Protect Students from Sexual Assault has developed guidance and continues to develop model policies and best practices related to preventing sexual assault and intimate partner violence on college campuses. We expect that these resources will help schools to develop the types of programs that these regulations require, resulting in less burden.

*Changes:* None.

#### *Sexual Assault*

*Comments:* The commenters generally supported our proposal to include this definition in the regulations. They agreed that specifying that, for the purposes of the Clery Act statistics, “sexual assault” includes rape, fondling, incest, or statutory rape, as those crimes are defined in the FBI’s UCR program, would clarify the regulations and ensure more consistent reporting across institutions.

*Discussion:* We appreciate the commenters’ support.

*Changes:* None.

#### *Stalking*

*Comments:* The commenters generally supported the proposed definition of “stalking.” In particular, many of the commenters supported defining the term “course of conduct” broadly to include all of the various forms that stalking can take and the range of devices or tactics that perpetrators use, including electronic means. These commenters also supported the proposed definition of “reasonable person” as a reasonable person under similar circumstances and with similar identities to the victim.

One commenter suggested modifying the definition of stalking to include consideration of the extent to which the victim indicates that the stalking has affected them or interfered with their education.

Other commenters raised concerns about the proposed definition. Some commenters believed that the proposed definition was overly broad. One commenter argued that the proposed definition was inconsistent with the description of stalking in 18 U.S.C. 2261A, as amended by VAWA, which prohibits actions committed with a criminal intent to kill, injure, harass, or intimidate. This commenter believed that the final regulations should require that to be included as stalking in the institution’s statistics, there had to be a determination that the perpetrator had the intent to cause substantial emotional distress rather than requiring that the course of conduct have the effect of

causing substantial emotional distress. Otherwise, the commenter believed that the proposed definition raised First Amendment concerns by impermissibly restricting individual speech.

Lastly, several commenters expressed concern that the proposed definition of “substantial emotional distress” risked minimizing the wide range of responses to stalking and trauma. The commenters believed that institutions would overlook clear incidences of stalking in cases where the victim is not obviously traumatized or is reacting in a way that does not comport with the decision maker’s preconceived expectations of what a traumatic reaction should look like. Along these lines, some commenters believed that the definition was too subjective and were concerned that it could make it challenging for institutions to investigate a report of stalking.

*Discussion:* We appreciate the commenters’ support for our proposed definition.

The statutory definition of “stalking” in section 40002(a) of the Violence Against Women Act of 1994 (which the Clery Act incorporates by reference) does not refer to or support taking into account the extent to which the stalking interfered with the victim’s education.

We disagree with the commenters who argued that the definition of stalking is overly broad, and raises First Amendment concerns. Section 304 of VAWA amended section 485(f)(6)(A) of the Clery Act to specify that the term “stalking” has the meaning given that term in section 40002(a) of the Violence Against Women Act of 1994. Thus, the HEA is clear that the definition of “stalking” in section 40002(a) of the Violence Against Women Act of 1994 should be used for Clery Act purposes—not the definition in the criminal code (18 U.S.C. § 2261A). Section 40002(a) of the Violence Against Women Act of 1994 defines “stalking” to mean “engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.” In these final regulations, we have defined the statutory phrase “course of conduct” broadly to capture the wide range of words, behaviors, and means that perpetrators use to stalk victims, and, as a result, cause their victims to fear for their personal safety or the safety of others or suffer substantial emotional distress. This definition serves as the basis for determining whether an institution is in compliance with the Clery Act and does not govern or limit an individual’s speech or behavior under the First Amendment.

We appreciate the commenters' concern that the definition would lead institutions to undercount the number of stalking incidents based on a misunderstanding of the victim's reaction. We encourage institutions to consider the wide range of reactions that a reasonable person might have to stalking. Institutions should not exclude a report of stalking merely because the victim's reaction (or the description of the victim's reaction by a third party) does not match expectations for what substantial emotional distress might look like.

*Changes:* None.

### **Sec. 668.46(b) Annual Security Report**

#### *Policies Concerning Campus Law Enforcement (§ 668.46(b)(4))*

*Comments:* The commenters generally supported the proposed changes in § 668.46(b)(4) that would: Clarify the term "enforcement authority of security personnel;" require institutions to address in the annual security report any memoranda of understanding (MOU) in place between campus law enforcement and State and local police agencies; and clarify that institutions must have a policy that encourages the reporting of crimes to campus law enforcement when the victim elects to or is unable to report the incident. They believed that these changes would clearly define for students and employees the different campus and local law enforcement agencies and the reporting options based on Clery geography, improve transparency about any relevant MOUs, and empower victims to make their own decisions about whether or not to report an incident.

One commenter requested guidance on the applicability of § 668.46(b)(4) to smaller institutions and institutions without campus law enforcement or campus security personnel.

Several commenters raised concerns about the phrase "elects to or is unable to make such a report" in § 668.46(b)(4)(iii). Some believed that the language could be confusing without additional context and could be incorrectly interpreted to include situations in which a victim is unwilling to make a report. These commenters recommended clarifying in the final regulations that "unable to make such a report" means physically or mentally incapacitated and does not refer to situations in which someone may be unwilling—i.e., psychologically unable—to report because of fear, coercion, or any other reason. One commenter asked how this provision would apply in situations in which an

institution is subject to mandatory reporting of crimes against children or individuals with certain disabilities occurring on an institution's Clery geography.

Several commenters urged the Department to mandate, or at a minimum, encourage institutions to make clear to students and employees what opportunities exist for making confidential reports for inclusion in the Clery Act statistics, for filing a title IX complaint with the institution, or for obtaining counseling or other services without initiating a title IX investigation by the institution or a criminal investigation. These commenters explained that providing information about the range of options for reporting to campus authorities would empower victims to make informed choices and would foster a climate in which more victims come forward to report. Along these lines, one commenter requested that the Department provide a model or suggestion for a reporting regime that institutions could use to satisfy the confidential reporting provisions in the Clery Act and title IX.

*Discussion:* We appreciate the commenters' support for these provisions. All institutions participating in the title IV, HEA programs, regardless of size or whether or not they have campus law enforcement or security personnel, must address their current policies concerning campus law enforcement in their annual security report. This information will vary significantly in terms of detail, content, and complexity based on the school's particular circumstances. However, all institutions must address each of the elements of this provision. If an institution does not have a policy for one of these elements because, for example, it does not have campus law enforcement staff, the institution must provide this explanation.

With regard to the concerns about the phrase "elects to or is unable to make such a report," we note that the negotiators discussed this issue extensively and ultimately agreed to include the statutory language of "unable to report," in the regulations. The negotiators believed that this language captured both physical and mental incapacitation. The committee did not intend for "unable to report" to include situations where a victim is unwilling to report, consistent with the commenter's suggestion. We believe that this language appropriately strikes a balance between empowering victims to make the decision about whether and when to report a crime and encouraging members of the campus community to report crimes of which they are aware.

Additionally, as required under § 668.46(c)(2), all crimes that occurred on or within an institution's Clery geography that are reported to local police or a campus security authority must be included in the institution's statistics, regardless of whether an institution is subject to mandatory reporting of crimes against children or individuals with certain disabilities. The requirement in § 668.46(c)(2) is unaffected by § 668.46(b)(4)(iii), which addresses an institution's policies on encouraging others to accurately report crimes.

We agree with the commenters that it is important for institutions to make clear to students and employees how to report crimes confidentially for inclusion in the Clery Act statistics. We note that institutions must address policies and procedures for victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics. The Clery Act does not require institutions to include in their annual security report procedures for filing a title IX complaint with the institution or how to obtain counseling or other services without initiating a title IX investigation by the institution or a criminal investigation. The White House Task Force to Protect Students from Sexual Assault has developed some materials to support institutions in complying with the requirements under the Clery Act and title IX, and we intend to provide additional guidance in the *Handbook for Campus Safety and Security Reporting*.

*Changes:* None.

#### *Procedures Victims Should Follow If a Crime of Dating Violence, Domestic Violence, Sexual Assault, or Stalking Has Occurred (§ 668.46(b)(11)(ii))*

*Comments:* The commenters expressed support for the requirement that institutions inform victims of dating violence, domestic violence, sexual assault, or stalking of: The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order; their options and how to notify law enforcement authorities; and their option to decline to notify those authorities. The commenters believed that providing this information would dramatically improve the clarity and accessibility of criminal reporting processes for students and employees, and they strongly urged the Department to retain these provisions.

Some commenters suggested expanding these provisions to require institutions to provide additional

information to victims. One commenter recommended requiring institutions to include information about where to obtain a forensic examination at no cost when explaining the importance of preserving evidence. The commenter further recommended requiring institutions to inform victims that completing a forensic examination does not require someone to subsequently file a police report.

Another commenter recommended revising § 668.46(b)(11)(ii)(C) to also require institutions to inform victims of how to request institutional protective measures and pursue disciplinary sanctions against the accused, including filing a title IX complaint with the institution.

One commenter recommended requiring institutions to go beyond assisting a victim in notifying law enforcement and to also help them while they are working with prosecutors and others in the criminal justice system by allowing flexible scheduling for completing papers and exams and by providing transportation, leaves of absence, or other supports.

Another commenter recommended modifying § 668.46(b)(11)(ii)(D) to further require institutions to disclose the definitions of dating violence, domestic violence, sexual assault, stalking, and consent that would apply if a victim wished to obtain orders of protection, “no-contact” orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution.

Finally, one commenter was unsure about how institutions should implement § 668.46(b)(11)(ii)(C)(3) which would require institutions to explain to victims that they can decide not to notify law enforcement authorities, including on-campus and local police. The commenter was particularly concerned about how this would be applied in States with mandatory reporting requirements.

*Discussion:* We appreciate the commenters’ support. We believe that the requirement that institutions provide this information will improve the clarity and accessibility of criminal reporting processes for students and employees.

Institutions must provide information to victims about the importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or that may be helpful in obtaining a protection order. The statute does not require institutions to provide information specifically about where to obtain forensic examinations; however, we urge institutions to provide this information when stressing the

importance of preserving evidence. We encourage institutions to make clear in their annual security report that completing a forensic examination would not require someone to file a police report. While some victims may wish to file a police report immediately after a sexual assault, others may wish to file a report later or to never file a police report. Regardless, institutions may wish to advise students that having a forensic examination would help preserve evidence in the case that the victim changes their mind about how to proceed. For further discussion on forensic evidence please see “Services for victims of dating violence, domestic violence, sexual assault, or stalking”.

With regard to the recommendation to modify § 668.46(b)(11)(ii)(C) to require institutions to inform victims of how to request institutional protective measures, we note that this provision is intended to ensure that victims understand that they can choose whether or not to notify appropriate law enforcement authorities, and that if they choose to notify those authorities, campus authorities will help them to do so. We do not believe that information about how to request institutional protective measures belongs in this provision. However, an institution must provide victims of dating violence, domestic violence, sexual assault, and stalking with written notification that it will make accommodations and provide protective measures for the victim if requested and reasonably available under § 668.46(b)(11)(v). As part of this notification, an institution must inform victims of how to request those accommodations or protective measures. Additionally, under § 668.46(b)(11)(vi) and (k), an institution must include information about its disciplinary procedures for allegations of dating violence, domestic violence, sexual assault, and stalking in its annual security report. We agree with the commenter that this statement should include information for how to file a disciplinary complaint, and we have modified § 668.46(k)(1)(i) to make this clear.

We believe that the provisions in § 668.46(b)(11)(ii) and (v) adequately address the commenter’s concern about providing institutional supports for victims who opt to file a criminal complaint after dating violence, domestic violence, sexual assault, or stalking. In particular, institutions must provide accommodations related to the victim’s academic, living, transportation, and working situation if the victim requests those accommodations and if they are reasonably available. Institutions may

provide additional accommodations. We strongly encourage institutions to provide these types of accommodations to support students while they are involved with the criminal justice system, and we encourage them to work with victims to identify the best ways to manage those accommodations.

We disagree with the recommendation to require institutions to provide the definitions of dating violence, domestic violence, sexual assault, stalking, and consent that would apply for someone to obtain a protection order or similar order from a court or the institution. This provision is intended to ensure that individuals understand what an institution’s responsibilities are for enforcing these types of orders. Jurisdictions vary widely in the standards that they use when issuing a protection order or similar order, and it would not be reasonable to expect an institution to identify all of these possible standards in its annual security report. Institutions must provide the definitions of dating violence, domestic violence, sexual assault, and stalking, as defined in § 668.46(a), as well as the definitions of dating violence, domestic violence, sexual assault, stalking, and consent (in reference to sexual activity) in their jurisdiction in their annual security report. We believe that it will be clear in the annual security report what definitions would apply if an institution is asked to issue a protection order or similar order and that additional clarification in § 668.46(b)(11)(ii)(D) is not needed.

Lastly, these regulations require institutions to explain in their annual security report a victim’s options for involving law enforcement and campus authorities after dating violence, domestic violence, sexual assault, or stalking has occurred, including the options to notify proper law enforcement authorities, to be assisted by campus authorities in notifying law enforcement authorities, and to decline to notify law enforcement authorities. This requirement does not conflict with an institution’s obligation to comply with mandatory reporting laws because the regulatory requirement relates only to the victim’s right not to report, not to the possible legal obligation on the institution to report.

As discussed previously under “Policies concerning campus law enforcement,” institutions must describe any policies or procedures in place for voluntary, confidential reporting of crimes for inclusion in the institution’s Clery Act statistics. Although this requirement applies only to Clery Act crimes, institutions may

wish to reiterate or reference their policies and procedures that are specific to dating violence, domestic violence, sexual assault, and stalking to ensure that victims are aware of where they can go to report any crime confidentially.

*Changes:* We have revised § 668.46(k)(1)(i) to make it explicit that institutions must also provide information in the annual security report on how to file a disciplinary complaint.

*Protecting Victim Confidentiality*  
(§ 668.46(b)(11)(iii))

*Comments:* The commenters generally supported requiring institutions to address, in their annual security report, how they will protect the confidentiality of victims and other necessary parties when completing publicly available recordkeeping requirements or providing accommodations or protective measures to the victim. These commenters asserted that protecting victim confidentiality is critical to efforts to support a campus climate in which victims feel safe coming forward. Additionally, several commenters expressed support for incorporating the definition of “personally identifying information” in section 40002(a)(20) of the Violence Against Women Act of 1994 in these regulations.

Several commenters, however, raised some concerns and questions about this requirement. Some commenters believed that the Department should limit institutions’ discretion in determining whether maintaining a victim’s confidentiality would impair the ability of the institution to provide accommodations or protective measures. These commenters believed that institutions should have to obtain the informed, written, and reasonably time-limited consent of the victim before sharing personally identifiable information that they believe to be necessary to provide the accommodation or protective measures or, at a minimum, notify the victim when it determines that the disclosure of that information is needed.

A few commenters noted that it can be very difficult to provide a victim with total confidentiality. One commenter asserted that, in some cases, merely including the location of a rape, for instance, as part of a timely warning, can inadvertently identify the victim. Another commenter noted that some institutions, particularly those with very small populations or very limited numbers of reportable crimes, might not be able to achieve the goals of the Clery Act without disclosing the victim’s identity. The commenters requested guidance on how to implement the

proposed requirements in these circumstances, when it might be impossible to fully protect confidentiality.

*Discussion:* We appreciate the commenters’ support. We believe that this provision makes it clear that institutions must protect a victim’s confidentiality while also recognizing that, in some cases, an institution may need to disclose some information about a victim to a third party to provide necessary accommodations or protective measures. Institutions may disclose only information that is necessary to provide the accommodations or protective measures and should carefully consider who may have access to this information to minimize the risk to a victim’s confidentiality. We are not requiring institutions to obtain written consent from a victim before providing accommodations or protective measures, because we do not want to limit an institution’s ability to act quickly to protect a victim’s safety. However, we strongly encourage institutions to inform victims before sharing personally identifiable information about the victim that the institution believes is necessary to provide an accommodation or protective measure.

As discussed under “Timely warnings,” we recognize that in some cases, an institution may need to release information that may lead to the identification of the victim. We stress that institutions must balance the need to provide information to the campus community while also protecting the confidentiality of the victim to the maximum extent possible.

*Change:* None.

*Services for Victims of Dating Violence, Domestic Violence, Sexual Assault, or Stalking* (§ 668.46(b)(11)(iv))

*Comments:* The commenters expressed support for the proposed provision requiring institutions to provide victims of dating violence, domestic violence, sexual assault, and stalking with information about available services and assistance both on campus and in the community that could be helpful and informative. In particular, several commenters supported the requirement that institutions provide victims with information about visa and immigration services. Some of the commenters recommended also requiring institutions to provide student victims with financial aid information, noting that this can be critical to a student’s persistence in higher education.

*Discussion:* We appreciate the commenters’ support. We also agree that

it is critical for schools to provide student victims with financial aid-related services and information, such as information about how to apply for a leave of absence or about options for addressing concerns about loan repayment terms and conditions and are revising the regulations accordingly. An institution must address in its annual security report what services are available. This notification should provide information about how a student or employee can access these services or request information, such as providing a contact person whom student victims may contact to understand their options with regard to financial aid.

We also note that information about health services that are available on campus and in the community would include information about the presence of, and services provided by, forensic nurses, if available. We recommend that institutions provide information to victims about forensic nurses who may be available to conduct a forensic examination, but we also suggest that they inform victims that having a forensic examination does not require them to subsequently file a police report. Including this information will improve the likelihood that victims will take steps to have evidence preserved in case they file criminal charges or request a protection order.

Additionally, we encourage institutions to reach out to organizations that assist victims of dating violence, domestic violence, sexual assault, and stalking, such as local rape crisis centers and State and territorial coalitions against domestic and sexual violence, when developing this part of the annual security report. These types of organizations might provide resources and services to victims that can complement or supplement the services available on campus.

*Changes:* We have added “student financial aid” to the list of services about which institutions must alert victims.

*Accommodations and Protective Measures for Victims of Dating Violence, Domestic Violence, Sexual Assault, or Stalking* (§ 668.46(b)(11)(v))

*Comments:* The commenters strongly supported proposed § 668.46(b)(11)(v), which would require institutions to specify in their annual security reports that they will provide written notification to victims of dating violence, domestic violence, sexual assault, or stalking of accommodations available to them and that the institution will provide those accommodations if requested by the

victim, regardless of whether the victim chooses to report the crime to the campus public safety office or to local law enforcement. The commenters stated that these accommodations are critical for supporting victims and for reducing barriers that can lead victims to drop out of school or leave a job.

Some of the commenters recommended strengthening this provision by requiring institutions to also disclose the process the victim should use to request accommodations. One commenter asked for guidance about what schools could require from a student who requests accommodations and whether it would be appropriate to expect that the student will disclose sufficient information to determine the potential nature of the crime and whether or not the student has sought support, such as counseling, elsewhere. Other commenters requested additional guidance around the meaning of "options for" accommodations and what would be considered "reasonably available." Additionally, some commenters noted that institutions could offer accommodations other than those listed in the regulations.

*Discussion:* We appreciate the commenters' support. We agree that the proposed regulations did not make it sufficiently clear that, in notifying victims of dating violence, domestic violence, sexual assault, and stalking that they may request accommodations, institutions must specify how to request those accommodations. We have clarified the regulations to provide that institutions must explain how to request accommodations and protective measures. In complying with this requirement, we expect institutions to include the name and contact information for the individual or office that would be responsible for handling these requests so that victims have easy access to this information.

We note that institutions must provide victims with written notification of their option to request changes in their academic, living, transportation, and working situations, and they must provide any accommodations or protective measures that are reasonably available once the student has requested them, regardless of whether the student has requested or received help from others or whether the student provides detailed information about the crime. An accommodation or protective measure for a victim must be reasonably available, and what is "reasonably available" must be determined on a case-by-case basis. Institutions are expected to make reasonable efforts to provide acceptable accommodations or

protective measures, but if a change of living or academic situation or protective measure requested by a victim is unreasonable, an institution is not required to make the change or provide the protective measure. However, institutions are not required to list all examples of acceptable accommodations or protective measures in the annual security report.

We stress that institutions may provide information about accommodations or protective measures beyond those included in these final regulations.

*Changes:* We have revised § 668.46(b)(11)(v) to specify that an institution must notify victims of dating violence, domestic violence, sexual assault, and stalking of how to request changes to academic, living, transportation, and working situations and how to request protective measures.

*Written Explanation of Rights and Options (§ 668.46(b)(11)(vii))*

*Comments:* Several commenters supported providing victims of dating violence, domestic violence, sexual assault, or stalking with written notification of their rights and options. A few other commenters made suggestions for modifying or strengthening this provision. One commenter suggested specifying in the regulations that institutions may meet their obligations by providing a victim with a copy of the annual security report, noting that the annual security report contains all of the information required to be in the written notification. Another commenter believed that this written notification should be provided to all students each year, not just to those who are victims of dating violence, domestic violence, sexual assault, or stalking, and that the notification should be posted on line. The commenter opined that highlighting victims' rights could help to educate the campus community and suggested that it could also serve as a deterrent to potential assailants by reminding them of the possibility of institutional sanctions and criminal prosecution. Lastly, one commenter recommended requiring institutions to provide students and employees who are accused of perpetrating dating violence, domestic violence, sexual assault, or stalking with clear, detailed information about their rights and options, particularly with regard to institutional disciplinary procedures.

*Discussion:* We appreciate the commenters' support for this provision.

We disagree with the commenter who suggested that institutions should be considered in compliance with this

provision if they provide a victim with a copy of the annual security report. Institutions must distribute the annual security report to all enrolled students and current employees and to all prospective students and employees. However, the annual security report contains a great deal of information beyond an institution's campus sexual assault policies. We believe that Congress intended for institutions to provide a specific document to individuals who report that they were victims of dating violence, domestic violence, sexual assault, or stalking with information that they would specifically want or need to know. This targeted information would be more helpful and supportive for victims than directing them to the longer, broader annual security report. For the general campus community, the statute requires institutions to distribute their annual security report. The statute does not support requiring institutions to provide the more personalized written explanation to the general campus community, although an institution may choose to make this information widely available. The different types of information the statute requires institutions to provide strikes an appropriate balance between ensuring that victims have relevant information when they are most likely to need it and ensuring that the campus community has general access to information.

As discussed under "Availability of Annual Security Report and Statistics," we do not have the authority to require institutions to publish their annual security reports online. However, we encourage institutions to do so in order to make the annual security reports as accessible to students, employees, and prospective students and employees as possible.

We agree that it is critical for individuals who are accused of committing dating violence, domestic violence, sexual assault, or stalking to be informed of their rights and options, particularly as they relate to the institution's disciplinary policies. Additionally, we note that responding to these sorts of allegations, whether in the criminal justice system or in an institution's disciplinary procedures will likely be very stressful for the accused as well as the accuser. Therefore, institutions should consider providing the accused with information about existing counseling, health, mental health, legal assistance, and financial aid services both within the institution and in the community. Although we encourage institutions to provide written notification of this sort to an accused student or employee, the

statute does not refer to or support requiring it.

*Changes:* None.

#### *Other Comments Pertaining to Campus Sexual Assault Policies*

*Comments:* One commenter recommended requiring institutions to specify in their annual security reports that victims of sexual assault will not be charged with misconduct related to drugs or alcohol. The commenter explained that since drugs and alcohol render an individual incapable of consenting to a sexual activity, to the extent that an institution has such a policy, students and employees would benefit from having this explicitly stated in the annual security report.

*Discussion:* We agree with the commenter that it would be helpful for victims to know an institution's policies for handling charges of misconduct that are related to drugs or alcohol in the case of a sexual assault, particularly because some victims may not seek support or report a sexual assault out of fear that they may be subjected to a campus disciplinary proceeding for breaking an institution's code of conduct related to drug and alcohol use. We encourage institutions to consider whether their disciplinary policies could have a chilling effect on students' reporting of sexual assault or participating as witnesses where drugs or alcohol are involved, and to make their policies in this area clear in the annual security report or through other communications with the campus community about their sexual assault-related policies. However, although we encourage institutions to include this information in their annual security reports, the statute does not refer to or require it.

*Changes:* None.

#### **Sec. 668.46(c) Crime Statistics**

##### *Crimes That Must Be Reported and Disclosed (§ 668.46(c)(1))*

*Comments:* The commenters overwhelmingly supported including the requirement for the reporting and disclosure of statistics for dating violence, domestic violence, and stalking, explaining that the enhanced statistics would elevate the seriousness of these behaviors and would provide important information about the extent of these incidents on campuses for students, faculty, prospective students and their parents, community members, researchers, and school administrators. However, a few commenters raised concerns about how these new requirements would be implemented. One commenter expressed concern

about including dating violence as a reportable crime when it is only so designated in one State. This commenter believed that including these "incidents" instead of reporting behaviors that are "crimes" under criminal statutes dilutes the purpose of the Clery Act.

We received several comments in response to our question about whether the proposed regulations should be modified to capture information about the relationship between a perpetrator and a victim for some or all of the Clery Act crimes. Some of the commenters urged the Department to maintain the approach in the proposed regulations, which would not capture detail about the relationship between a perpetrator and a victim. These commenters believed that this approach protects a victim's right to privacy and the victim's right to choose how much detail to include when reporting a crime; would make it simpler for institutions to comply with the regulations; and would provide clear, easy-to-understand data for students, families, and staff. Other commenters, however, recommended that the Department require institutions to report and disclose the relationship between the offender and the victim. They believed that this detail would provide a more complete picture of the nature of crime on college campuses and help institutions craft the most appropriate response and target their prevention resources effectively.

We also received several comments about our proposal to replace the existing list of forcible and nonforcible sex offenses with rape, fondling, incest, and statutory rape to more closely align with the FBI's updated definitions and terminology. Numerous commenters strongly supported using the definition of "rape" in the FBI's Summary Reporting System (SRS) because they believed that it is more inclusive of the range of behaviors and circumstances that constitute rape. Other commenters disagreed with the proposal, arguing that defining sex or intimate touching without advance "consent" as "sexual assault" when it would otherwise not be defined as such under State law would go beyond the Department's authority. Additionally, some commenters requested additional clarification about what types of incidents would be considered rape or sexual assault and which would not.

One commenter recommended that we replace the term "fondling" with the term "molestation," arguing that this term more accurately portrays the gravity of the crime and the seriousness of such an allegation.

Lastly, one commenter recommended combining "incest" and "statutory rape" into a single category for the Clery Act statistics, opining that the disaggregation of these statistics could create confusion about the statistics and that these two crimes are rare on college campuses.

*Discussion:* We appreciate the commenters' support. In response to the commenters who were concerned that these regulations would require institutions to maintain statistics on incidents that may not be considered "crimes" in many jurisdictions, we note that the statistical categories are required by section 485(f)(1)(F)(iii) of the Clery Act. Further, the HEA specifies that "dating violence," "domestic violence," "sexual assault," and "stalking" are to be defined in accordance with section 40002(a) of the Violence Against Women Act of 1994. Although we recognize that these incidents may not be considered crimes in all jurisdictions, we have designated them as "crimes" for the purposes of the Clery Act. We believe that this makes it clear that all incidents that meet the definitions in § 668.46(a) must be recorded in an institution's statistics, whether or not they are crimes in the institution's jurisdiction.

Although we believe that capturing data about the relationship between a victim and a perpetrator in the statistics could be valuable, we are not including this requirement in the final regulations given the lack of support for, and controversy around, this issue that was voiced during the negotiations and the divergent views of the commenters. However, we note that institutions may choose to provide additional context for the crimes that are included in their statistics, so long as they do not disclose names or personally identifying information about a victim. Providing this additional context could provide a fuller picture of the crimes involving individuals who are in a relationship to anyone interested in such data. In particular, as discussed under "Recording stalking," providing narrative information related to statistics for stalking may be valuable.

We appreciate the commenters' support for our proposal to use the FBI's updated definition of "rape" under the SRS. With respect to the comments objecting to specific aspects of the FBI's definitions, section 485(f)(6)(A)(v) of the Clery Act specifies that sex offenses are to be reported in accordance with the FBI's UCR program, which these regulations reflect. With respect to the commenters who requested additional clarification on the types of incidents that would constitute "rape" or a "sex

offense” we refer to the definitions of these terms in Appendix A.

Although not raised by the commenters, we have made a slight modification to the regulations in § 668.46(c)(1)(ii) to clarify that, consistent with section 485(f)(1)(i)(IX) of the HEA, institutions must report arrests and referrals for disciplinary action for liquor law violations, drug law violations, and illegal weapons possession.

*Changes:* We have revised § 668.46(c)(1)(ii) to require institutions to report statistics for referrals (in addition to arrests) for disciplinary action for liquor law violations, drug law violations, and illegal weapons possession.

*All Reported Crimes Must Be Recorded (§ 668.46(c)(2))*

*Comments:* We received a few comments on our proposal that all crimes reported to a campus security authority be included in an institution’s crime statistics. One commenter recommended that the Department specify that an institution may withhold, or subsequently remove, a reported crime from its crime statistics if it finds that the report is false or baseless (that is, “unfounded”).

Another commenter requested clarification about whether third-party reports that are provided anonymously and that cannot be confirmed should be included in an institution’s statistics. The commenter was concerned that requiring these reports could give rise to unsubstantiated accusations from those who do not identify themselves as victims.

One commenter was concerned that institutions with numerous campus security authorities could receive multiple reports of the same incident and that the duplication could result in data that do not accurately represent the number of crimes occurring on campus. This commenter urged the Department to require institutions to review their reports to eliminate duplication.

One commenter believed that institutions should be able to remove statistics for crimes if a jury or coroner has decided that an accused individual did not commit the crime. The commenter accused the Department of designing the regulations to artificially inflate the number of reported crimes on campuses, and they believed that maintaining this type of report would not help students accurately judge the safety of an institution.

Finally, one commenter suggested clarifying that an institution must include all reports of crimes occurring on or within the institution’s Clery

geography, not just “all crimes reported.”

*Discussion:* Pursuant to section 485(f)(1)(F)(i) of the Clery Act, institutions must include all reports of a crime that occurs on or within an institution’s Clery geography, regardless of who reports the crime or whether it is reported anonymously. For example, if an institution provides for anonymous reporting through an online reporting form, the institution must include in its statistics crimes that occurred within the Clery geography that are reported through that form. We also note that institutions must record all reports of a single crime, not all reports. If after investigating several reports of a crime, an institution learns that the reports refer to the same incident, the institution would include one report in its statistics for the crime that multiple individuals reported. In addition, we do not believe it is necessary to require institutions to review their reports to eliminate duplication in their statistics, as such a requirement is difficult to enforce and institutions have an incentive to do this without regulation.

We agree with the commenter that there is one rare situation—so-called “unfounded” reports—in which it is permissible for an institution to omit a reported Clery Act crime from its statistics, and we have added language to the regulations to recognize this exemption. However, we are concerned that some institutions may be inappropriately un-founding crime reports and omitting them from their statistics. To address this concern, we have added language to the regulations to require an institution to report to the Department and disclose in its annual security report statistics the number of crime reports that were “unfounded” and subsequently withheld from its crime statistics during each of the three most recent calendar years. This information will enable the Department to monitor the extent to which schools are designating crime reports as unfounded so that we can provide additional guidance about how to properly “unfound” a crime report or intervene if necessary.

We remind institutions that they may only exclude a reported crime from its upcoming annual security report, or remove a reported crime from its previously reported statistics after a full investigation. Only sworn or commissioned law enforcement personnel can make a formal determination that the report was false or baseless when made and that the crime report was therefore “unfounded.” Crime reports can be properly determined to be false only if

the evidence from the complete and thorough investigation establishes that the crime reported was not, in fact, completed or attempted in any manner. Crime reports can only be determined to be baseless if the allegations reported did not meet the elements of the offense or were improperly classified as crimes in the first place. A case cannot be designated “unfounded” if no investigation was conducted or the investigation was not completed. Nor can it be designated unfounded merely because the investigation failed to prove that the crime occurred; this would be an inconclusive or unsubstantiated investigation.

As stated above, only sworn or commissioned law enforcement personnel may determine that a crime reported is “unfounded.” This does not include a district attorney who is sworn or commissioned. A campus security authority who is not a sworn or commissioned law enforcement authority cannot “unfound” a crime report either. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with law enforcement or the prosecution or the failure to make an arrest does not “unfound” a crime. The findings of a coroner, court, jury (either grand or petit), or prosecutor do not “unfound” crime reports of offenses or attempts.

Consistent with other recordkeeping requirements that pertain to the title IV, HEA programs, if a crime was not included in the Clery Act statistics because it was “unfounded,” the institution must maintain accurate documentation of the reported crime and the basis for un-founding the crime. This documentation must demonstrate that the determination to “unfound” the crime was based on the results of the law enforcement investigation and evidence. The Department can and does request such documentation when evaluating compliance with Federal law.

We also remind institutions that have a campus security or police department that all reported crimes must be included in their crime log, as required by § 668.46(f). The crime log must include the nature, date, time, and general location of each crime, as well as the disposition of the complaint. If a crime report is determined to be “unfounded,” an institution must update the disposition of the complaint to “unfounded” in the crime log within two business days of that determination. It may not delete the report from the crime log.

We disagree with the commenter that institutions should be able to remove

statistics for crimes where an accused individual is exonerated of committing a crime. A verdict that a particular defendant is not guilty of a particular charge (or, more technically, that there was not sufficient admissible evidence introduced demonstrating beyond a reasonable doubt that the accused committed the crime) does not mean that the crime did not occur. The Clery Act statistics are not based on the identity of the perpetrator. Therefore, all reports of crimes must be included in the statistics, except in the rare case that a crime report is “unfounded,” as discussed earlier in this section.

Lastly, in response to the recommendation for greater specificity about which crimes must be reported, we have clarified that an institution must include all reports of Clery Act crimes occurring on or within the institution’s Clery geography. We believe that this adds clarity to the regulations.

*Changes:* We have revised § 668.46(c)(2)(iii) to clarify that, in rare cases, an institution may remove reports of crimes that have been “unfounded” and to specify the requirements for unbounding. We have added new § 668.46(c)(2)(iii)(A) requiring an institution to report to the Department, and to disclose in its annual security report, the number of crime reports listed in § 668.46(c)(1) that were “unfounded” and subsequently withheld from its crime statistics pursuant to § 668.46(c)(2)(iii) during each of the three most recent calendar years. We have also reserved § 668.46(c)(2)(iii)(B). Lastly, we have also clarified throughout § 668.46(c) that an institution must include all reports of Clery Act crimes that occurred on or within the institution’s Clery geography.

#### *Recording Crimes by Calendar Year (§ 668.46(c)(3))*

*Comments:* The commenters expressed support for this proposed provision.

*Discussion:* We appreciate the commenters’ support.

*Changes:* None.

#### *Recording Hate Crimes (§ 668.46(c)(4))*

*Comments:* The commenters generally supported the inclusion of “gender identity” and “national origin” as categories of bias for the purposes of recording hate crime statistics. One commenter recommended collecting and disaggregating information on the actual or perceived race, ethnicity, and national origin of victims of hate crimes. This commenter believed that this information would improve public awareness and knowledge of the

prevalence of certain forms of abuse, including hate crimes, directed at certain populations, such as the Latino/Latina college population.

*Discussion:* We appreciate the commenters’ support for adding “gender identity” and “national origin” as categories of bias and for adding a definition of “hate crime.”

Section 485(f)(1)(F)(ii) of the Clery Act requires institutions to collect and report crimes that are reported to campus security authorities or local police agencies “according to category of prejudice.” Accordingly, institutions collect and report hate crimes according to the bias that may have motivated the perpetrator. At this time, we do not believe it is necessary to also require institutions to collect and report data about, for example, the victim’s actual race, ethnicity, or national origin.

*Changes:* None.

#### *Recording Reports of Stalking (§ 668.46(c)(6))*

*Comments:* We received numerous comments in response to our request for feedback about how to count stalking that crosses calendar years, how to apply an institution’s Clery geography to reports of stalking, and how to identify a new and distinct course of conduct involving the same perpetrator and victim.

#### *Stalking Across Calendar Years*

Some of the commenters supported the approach in the proposed regulations, arguing that it would provide an accurate picture of crime on campus for each calendar year. The commenters suggested, however, modifying the language to clarify that an institution must include a statistic for stalking in each and every year in which a particular course of conduct is reported to a local police agency or campus security authority. One commenter recommended requiring institutions to report stalking in only the first calendar year in which a course of conduct was reported, rather than including it each and every year in which the conduct continues and is reported. Another commenter suggested requiring institutions to disaggregate how many incidents of stalking are newly reported in that calendar year and how many are continuations from the previous calendar year to avoid a misinterpretation of the crime statistics.

#### *Stalking by Location*

The commenters provided varied feedback with regards to recording stalking by location. Some of the commenters supported the approach in the proposed regulations that would

require institutions to include stalking at only the first location within the institution’s Clery geography in which a perpetrator engaged in the stalking course of conduct or where a victim first became aware of the stalking. Other commenters generally agreed with this approach but urged the Department to modify the regulations so that stalking using an institution’s servers, networks, or other electronic means would be recorded based on where the institution’s servers or networks are housed. These commenters were concerned that, without this change, some instances of stalking would not be accounted for in the statistics if the perpetrator or the victim is never physically located on or within the institution’s Clery geography.

Some of the commenters recommended reporting stalking based only on the location of the perpetrator. These commenters argued that using the location of the victim would result in institutions including reports of stalking where the perpetrator was nowhere near the institution but the victim was on campus. They believed that this information would not be meaningful because it would not help members of the campus community protect themselves while on the school’s Clery geography. Along these lines, one commenter suggested giving institutions the option to exclude reports of stalking if the perpetrator has never been on or near the institution’s Clery geography if the institution can document its reasons for doing so. Other commenters believed that reporting based on the location of the perpetrator would be more consistent with how other crimes are reported under the Clery Act. The commenter noted, for example, that motor vehicle theft is only included in an institution’s statistics if the perpetrator stole the car from a location within the institution’s Clery geography, regardless of whether the car’s owner learned of the theft while within the institution’s Clery geography.

Some of the commenters recommended recording stalking based only on the location of the victim. These commenters argued that it would be much easier for institutions to determine the location of the victim than the location of the perpetrator.

Lastly, a few commenters addressed our discussion in the NPRM about how stalking involving more than one institution should be handled. The commenters supported our statement that, when two institutions are involved, both institutions should include the stalking report in their Clery Act statistics. One commenter, however, requested clarification about an

institution's responsibility to notify another institution if the stalking originated on the other institution's Clery geography.

#### Stalking After an "Official Intervention"

We received several comments related to when an institution should count a report of stalking as a new and distinct crime in its statistics. Some of the commenters supported the approach in the NPRM under which stalking would be counted separately after an official intervention. An official intervention would include any formal or informal intervention and those initiated by school officials or a court. One commenter generally supported this approach but was concerned that an institution might not be aware when an "official intervention" has occurred if that intervention did not involve the institution, such as when a court has issued a no-contact order or a restraining order. The commenter recommended revising the regulations to specify that an institution would record stalking in these cases as a new and distinct crime only to the extent that the institution has actual knowledge that an "official intervention" occurred.

Other commenters urged the Department to remove § 668.46(c)(6)(iii), arguing that counting a new incident of stalking after an official intervention would not be consistent with treating stalking as a course of conduct. They explained that stalking cases often have numerous points of intervention, but that despite those interventions, it is still the same pattern or course of conduct, and that recording a new statistic after an "official intervention" would be arbitrary. The commenters believed that requiring that stalking be recorded in each and every subsequent year in which the victim reports the same stalking course of conduct would appropriately capture the extent of stalking without introducing an arbitrary bright line, such as an "official intervention" or a specific time period between stalking behaviors.

Several commenters recommended encouraging institutions to provide narrative information about each incident of stalking in their reports to provide context. They believed that this narrative would provide more useful information by explaining whether a particular course of conduct spanned several years, whether it continued after one or multiple interventions, and how many behaviors or actions on the part of the perpetrator made up the single course of conduct.

*Discussion:* We thank the commenters for their feedback.

#### Stalking Across Calendar Years

We appreciate the commenters' support for our proposal to record incidents of stalking that cross calendar years. This approach strikes a balance by ensuring that stalking is adequately captured in an institution's statistics without inflating the number of incidents of stalking by counting each behavior in the pattern. In response to recommendations from the commenters, we have modified § 668.46(c)(6)(i) to clarify that an institution must record a report of stalking in each and every year in which the stalking course of conduct is reported to local police or a campus security authority. An institution is not required to follow up with victims each year to determine whether the behavior has continued, although institutions are not precluded from doing so. If, as a result of following up with a stalking victim, the institution learns that the behavior has continued into another year, the institution must record the behavior as a new report of stalking in that year. Otherwise, institutions must record only reports that they receive in each year.

We appreciate the suggestion that institutions should disaggregate statistics for stalking each year based on which incidents were continuations for stalking reported in a previous calendar year and which were new reports of stalking, but we believe that the approach in the final regulations is simpler for institutions to understand and implement. However, we encourage institutions to provide additional detail, such as whether a report represents a continuation of a previous year's report, in their annual security report.

#### Stalking By Location

With regard to recording stalking based on the location of either the victim or perpetrator, we note that the negotiating committee reached consensus on the proposed language, which accounts for the location of both the victim and the perpetrator. Given the disagreement among the commenters about how to modify these provisions, we have decided to adopt the approach approved by the negotiating committee. We do not believe that the analogy to motor vehicle theft is appropriate because the crime of stalking is not a crime perpetrated against property and, thus, it presents different considerations.

We are not persuaded that we should include stalking based on the use of the institution's servers or networks, but where neither the victim nor the perpetrator was on or within the institution's Clery geography. Including

these incidents would be inconsistent with our traditional approach in regard to the Clery Act, which uses physical location as the determining factor. Moreover, it may not always be clear whether a particular message used a particular institution's computer servers or networks. Of course, an institution may still be able to take action to address a stalking incident that used its servers or networks. Many institutions have terms of use associated with the use of those networks, and violations of those terms of use may subject an individual to disciplinary action.

Lastly, if stalking occurs on more than one institution's Clery geography and is reported to a campus security authority at both institutions, then both institutions must include the stalking in their statistics. Although the statute does not require an institution that learns of stalking occurring on another campus to alert the other campus, we strongly encourage an institution in this situation to do so.

#### Stalking After an "Official Intervention"

We agree with the commenters who argued that requiring institutions to record stalking involving the same victim and perpetrator as a new crime after an official intervention would be arbitrary. We also agree that it could be difficult for institutions to track stalking incidents if the institution does not have actual knowledge of the intervention. As a result, we have not included proposed § 668.46(c)(6)(ii) in the final regulations. We believe that the requirement that institutions record stalking in each and every year in which it is reported is an effective, straightforward, and less arbitrary approach than including the concept of an "official intervention." We encourage institutions to provide narrative information in their annual security reports about incidents of stalking to the extent possible to provide individuals reading the annual security report with a fuller picture of the stalking. In addition to explaining whether a report represents stalking that has continued across multiple calendar years, institutions may provide additional context for these statistics by explaining, for example, whether the stalking continued despite interventions by the institution or other parties, whether it lasted for a short but intense period or occurred intermittently over several months, and whether the perpetrator or the victim was located on or within the institution's Clery geography.

*Changes:* We have revised § 668.46(c)(6)(i) to clarify that stalking that crosses calendar years must be recorded in each and every year in

which the stalking is reported to a campus security authority or local police. We have also removed proposed § 668.46(c)(6)(iii), which would have required institutions to record a report of stalking as a new and distinct crime when the stalking behavior continues after an official intervention.

*Using the FBI's UCR Program and the Hierarchy Rule (§ 668.46(c)(9))*

*Comments:* We received several comments on our proposal to modify the application of the Hierarchy Rule under the FBI's UCR Program, as well as comments about how to further update and clarify § 668.46(c)(9). First, with regard to applying the Hierarchy Rule, some of the commenters supported our proposal to create an exception so that when both a sex offense and murder are committed in the same incident, both crimes would be counted in the institution's statistics. These commenters believed that this approach would more accurately reflect the full range of incidents involving intimate partner violence. One commenter recommended clarifying that the exception would apply only to cases involving rape and murder, noting that every rape would involve fondling.

Other commenters, however, disagreed with our proposal to create an exception to the Hierarchy Rule, arguing that if the Department continues to use the Hierarchy Rule, it should do so in its entirety. These commenters recommended having subcategories under the primary crimes so that they could report elements of each crime as a subset, rather than as a freestanding incident. For example, one commenter believed that instead of requiring an institution to record a statistic for a murder and for dating violence if a victim was murdered by someone the victim was dating, the Department should require an institution to record a murder and to include dating violence as an element of that murder. The commenter believed that this would reduce double-counting and would make the data more transparent.

Another commenter recommended abandoning the Hierarchy Rule altogether, arguing that it detracts from the value and clarity of the Clery Act statistics and leads to an underrepresentation of the extent of crimes on a given college campus.

With regards to clarifying the regulation, one commenter noted that proposed § 668.46(c)(9) referred to outdated guidance and documents issued by the FBI for the UCR program. They recommended replacing references to the "UCR Reporting Handbook" and the "UCR Reporting Handbook: National

Incident-Based Reporting System (NIBRS) EDITION" with references to the "Criminal Justice Information System (CJIS) Division Uniform Crime Reporting (UCR) Program Summary Reporting System (SRS) User Manual," and the "Criminal Justice Information System (CJIS) Division Uniform Crime Reporting (UCR) Program National Incident-Based Reporting System (NIBRS) User Manual," respectively. The commenter recommended also updating the references in Appendix A to refer to the appropriate User Manuals and to identify the correct system source (SRS or NIBRS) for the definitions of rape, fondling, statutory rape, and incest.

One commenter recommended importing the breadth of the UCR program into the regulations to provide more clarity and guidance for campus security authorities to help them in categorizing crimes, particularly at institutions that do not have a campus law enforcement division.

*Discussion:* We appreciate the commenters' support. We have decided to retain the Hierarchy Rule and the exception to that rule for situations involving a sex offense and murder. We believe that the Hierarchy Rule provides a useful approach for recording the numbers of crimes without overreporting and note that it is used by other crime reporting systems. However, in light of the statute's purpose and the appropriate public concern about sex offenses on campus, we have determined that an exception to ensure that all sex offenses are counted is necessary for Clery Act purposes. Without this exception, under the Hierarchy Rule, an incident that involves both a rape and a murder, for example, would be recorded only as a murder, obscuring the fact that the incident also included a sexual assault. We believe that Congress intended to capture data about sexual assaults at institutions participating in the title IV, HEA programs, and this exception will ensure that all cases of sexual assault are included in an institution's statistics. Some of the commenters misinterpreted the proposed regulations to mean that an institution would have to include all of the elements of a sex offense in its statistics. For example, they believed that an institution would include both fondling and rape in its statistics in any incident involving rape. We intended for the exception to the Hierarchy Rule to apply when a rape, fondling, incest, or statutory rape occurs in the same incident as murder. As a result, we have clarified § 668.46(c)(9)(vii) to make it clear that this exception to the Hierarchy Rule

would apply only when a sex offense and murder are involved in the same incident, and that, in these cases, an institution would include statistics for the sex offense and murder, rather than including only the murder.

As discussed under "Hierarchy Rule," we agree with the commenter who recommended clarifying in the regulations that, consistent with treatment in the FBI's UCR program, an arson that occurs in the same incident as other crimes must always be included in an institution's statistics. As a result, we have clarified in § 668.46(c)(9)(vi) that an institution must always record an arson in its statistics, regardless of whether or not it occurs in the same incident as other crimes. We believe that including this provision related to arson in the same place as the exception for sex offenses will make it easier for readers to understand how to apply the Hierarchy Rule.

We agree with the commenter who argued that the references to the FBI's UCR Program may be confusing for institutions that do not have a campus law enforcement division that is familiar with the UCR Program. We have clarified in § 668.46(c)(9)(i) that an institution must compile the crime statistics for murder and nonnegligent manslaughter, negligent manslaughter, rape, robbery, aggravated assault, burglary, motor vehicle theft, arson, liquor law violations, drug law violations, and illegal weapons possession using the definitions of those crimes from the "Summary Reporting System (SRS) User Manual" from the FBI's UCR Program. We also have clarified in § 668.46(c)(9)(ii) that an institution must compile the crime statistics for fondling, incest, and statutory rape using the definitions of those crimes from the "National Incident-Based Reporting System (NIBRS) User Manual" from the FBI's UCR Program. Further, we have specified in § 668.46(c)(9)(iii) that an institution must compile the crime statistics for the hate crimes of larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property using the definitions provided in the "Hate Crime Data Collection Guidelines and Training Manual" from the FBI's UCR Program. We have made corresponding changes to Appendix A to reflect the UCR Program sources from which the Clery Act regulations draw these definitions. Finally, we have reiterated in § 668.46(c)(9)(iv) that an institution must compile the crime statistics for dating violence, domestic violence, and stalking using the definitions provided in § 668.46(a). We believe that these changes, combined

with our revisions to Appendix A and the updated references to the FBI's UCR Program materials will make clear to institutions which definitions they must use when classifying reported crimes. We intend to include additional guidance on these issues when we revise the *Handbook for Campus Safety and Security Reporting*.

*Changes:* We have revised paragraph § 668.46(c)(9) to clarify how the definitions in the FBI's UCR Program apply to these regulations, updated references to the FBI's UCR Program materials, revised the exception to the Hierarchy Rule to clarify that it applies in cases where a sex offense and a murder occur during the same incident, and that under the Hierarchy Rule an institution must always include arson in its statistics.

#### *Statistics From Police Agencies* (§ 668.46(c)(11))

*Comments:* One commenter was concerned that the proposed regulations would require an institution to gather and review individual reports from municipal police authorities and to determine whether the offenses described in the reports meet the definition of "dating violence," "domestic violence," or "stalking" in the regulations, even if they do not constitute criminal offenses in the jurisdiction. The commenter opined that such a collection and review would be very burdensome for institutions and would require significant cooperation by municipal police authorities.

*Discussion:* Initially, we note that the requirement to collect crime statistics from local or State police agencies has been a longstanding requirement under the Clery Act. Under § 668.46(c)(11) of the regulations, institutions are required to make a good-faith effort to obtain the required statistics and may rely on the information supplied by a local or State police agency. We would consider an institution to have made a good-faith effort to comply with this requirement if it provided the definitions in these regulations to the local or State police agency and requested that that police agency provide statistics for reports that meet those definitions with sufficient time for the local or State police agency to gather the requested information. As a matter of best practice, we strongly recommend that institutions make this request far in advance of the October 1 deadline for publishing their annual security reports and follow up with the local or State police agency if they do not receive a response. As long as an institution can demonstrate that it made a good-faith effort to obtain this

information, it would be in compliance with this requirement.

*Changes:* None.

#### *Timely Warnings (§ 668.46(e))*

*Comments:* The commenters strongly supported our proposal to clarify that institutions must keep confidential the names and personally identifying information of victims when issuing a timely warning. Some commenters, however, requested additional guidance for how institutions can most effectively comply with this requirement.

*Discussion:* We appreciate the commenters' support. Generally, institutions must provide timely warnings in response to Clery Act crimes that pose a continuing threat to the campus community. These timely warnings must be provided in a manner that is timely and that will aid in the prevention of similar crimes. Under these final regulations, institutions must not disclose the names and personally identifying information of victims when issuing a timely warning. However, in some cases to provide an effective timely warning, an institution may need to provide information from which an individual might deduce the identity of the victim. For example, an institution may need to disclose in the timely warning that the crime occurred in a part of a building where only a few individuals have offices, potentially making it possible for members of the campus community to identify a victim. Similarly, a perpetrator may have displayed a pattern of targeting victims of a certain ethnicity at an institution with very few members of that ethnicity in its community, potentially making it possible for members of the campus community to identify the victim(s). Institutions must examine incidents requiring timely warnings on a case-by-case basis to ensure that they have minimized the risk of releasing personally identifying information, while also balancing the safety of the campus community.

*Changes:* None.

#### **Programs To Prevent Dating Violence, Domestic Violence, Sexual Assault, and Stalking (668.46(j))**

##### *General*

*Comments:* One commenter sought clarification regarding the proposed language in § 668.46(j)(1) that states that an institution must include in its annual security report a statement of policy that addresses the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking and that the statement must include a description of the institution's primary

prevention and awareness programs for all incoming students and new employees, which must include the contents of § 668.46(j)(1)(i)(A)–(F). The commenter sought clarification as to whether this language meant simply that the description of an institution's primary prevention and awareness programs had to contain these elements or if it meant that the actual programs, as administered on an institution's campus, had to incorporate and address these elements.

Several commenters asked that the final regulations be modified to redefine who would be considered a "student" for the purposes of the institution's obligation to provide primary prevention and awareness programs and ongoing prevention and awareness campaigns. Noting that the Department interprets the statute in this regard consistent with other Clery Act requirements by requiring institutions to offer training to "enrolled" students, as the term "enrolled" is defined in § 668.2, the commenters were concerned about the burden of providing prevention training to students who are enrolled only in continuing education courses, online students, and students who are dually enrolled in high school and community college classes and suggested that prevention training should be focused on students who are regularly on campus.

One commenter was concerned that institutions may allow collective bargaining agreements to be a barrier to offering primary prevention and awareness programs and ongoing prevention and awareness campaigns to current employees who belong to a union.

Another commenter asked the Department to clarify whether an institution must require and document that every member of its community attend prevention programs and training or whether it is mandatory that an institution simply make such programming widely available and accessible for members of its community and maintain statistical data on the frequency, type, duration, and attendance at the training.

One commenter opined that the final regulations should require institutions to work with local and State domestic violence and sexual assault coalitions to develop "best practice" training models, access programs for confidential services for victims, and serve on advisory committees that review campus training policies and protocols for dealing with sexual violence issues.

Lastly, one commenter believed that the final regulations should require prevention programs to focus on how

existing technology can be used to help prevent crime. This commenter believed that such a focus will ultimately reduce institutional burden to report, classify, and respond to reports of dating violence, domestic violence, sexual assault, and stalking.

*Discussion:* In response to the first comment, the actual prevention programs administered on an institution's campus must incorporate and address the contents of § 668.46(j)(1)(i)(A)–(F) as well as meet the definition of “programs to prevent dating violence, domestic violence, sexual assault, and stalking” in § 668.46(a) of these final regulations. It is important to note that the Department's Clery Compliance staff will verify an institution's compliance with both §§ 668.46(a) and (j) during a Clery Act compliance review.

We do not agree that we should redefine who would be considered a “student” for the purposes of providing primary prevention and awareness programs and ongoing prevention and awareness campaigns. We believe that every enrolled student should be offered prevention training because anyone can be a victim of dating violence, domestic violence, sexual assault, or stalking, not just students regularly on campus. As we stated in the preamble to the NPRM, under §§ 668.41 and 668.46, institutions must distribute the annual security report to all “enrolled” students, as defined in § 668.2. Applying that same standard for prevention training makes it clear that the same students who must receive the annual security report must also be offered the training.

Without further explanation by the commenter, we cannot see any reason why collective bargaining agreements could be a barrier to offering prevention training to employees who belong to a union. We note that institutions have distributed their annual security reports to “current employees” under §§ 668.41 and 668.46 for many years regardless of whether an employee is a member of a union, and we expect that these employees will now be offered the new prevention training in the same manner as they were offered the training in the past.

In response to the question about whether an institution must require mandatory attendance at primary and ongoing prevention programs and campaigns, we note that neither the statute nor the regulations require that every incoming student, new employee, current student, or faculty member, take or attend the training. The regulations require only that institutions offer training to all of these specified parties and that the training includes the

contents of § 668.46(j)(1)(i)(A)–(F) and meets the definition of “programs to prevent dating violence, domestic violence, sexual assault, and stalking”. Institutions must be able to document, however, that they have met these regulatory requirements. Although the statute and regulations do not require that all students and employees take or attend training, we encourage institutions to mandate such training to increase its effectiveness. Lastly, the final regulations do not require institutions to maintain statistical data on the frequency, type, duration, and attendance at the training, although if an institution believes that maintaining such data is informative, we would encourage such efforts.

We do not believe that we have the statutory authority to require institutions to work with local and State domestic violence and sexual assault coalitions to develop policies and programs. The statute requires only that institutions provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance and other services available for victims, both on-campus and in the community. However, we strongly encourage institutions and local and State domestic violence and sexual assault coalitions to form such relationships so that victims of sexual violence will be better served.

We disagree that the final regulations should be changed to emphasize the use of existing technology in prevention programs. The Department cannot require the specific content of an institution's prevention training, although we strongly encourage institutions to consider including information on existing technology so as to better inform their audiences.

*Changes:* None.

#### **Definition of “Applicable Jurisdiction” (§ 668.46(j)(1)(i)(B) and (C))**

*Comments:* Section 668.46(j)(1)(i)(B) and (C) requires an institution to include, in its annual security report policy statement on prevention programs, the applicable jurisdiction's definitions of “dating violence,” “domestic violence,” “sexual assault,” “stalking,” and “consent.” Several commenters asked for guidance on how to comply with § 668.46(j)(1)(i)(B) and (C) when those terms are not defined by the local jurisdiction. Several commenters requested that the Department clarify in the final regulations whether institutions must use the definitions in criminal statutes or whether institutions can reference definitions from other sources of law,

such as domestic abuse protection order requirements, or from State and local agencies. These commenters noted that applicable criminal codes often do not define these terms, but that reference to the definitions in statutes outside the criminal law or from State and local agencies are appropriate to provide in this policy statement. One commenter requested that the proposed regulations be changed to allow institutions to incorporate by reference the definitions in the applicable jurisdiction, to avoid confusing language in their prevention program materials. This commenter noted that legal definitions can be long and complicated, and that allowing incorporation by reference would increase the chance that these definitions will remain accurate.

*Discussion:* If an institution's applicable jurisdiction does not define “dating violence,” “domestic violence,” “sexual assault,” “stalking,” and “consent” in reference to sexual activity, in its criminal code, an institution has several options. An institution must include a notification in its annual security report policy statement on prevention programs that the institution has determined, based on good-faith research, that these terms are not defined in the applicable jurisdiction. An institution would need to document its good-faith efforts in this regard. In addition, where the applicable jurisdiction does not define one or more of these terms in its criminal code, the institution could choose to provide definitions of these terms from laws other than the criminal code, such as State and local administrative definitions. For example, an institution could provide a definition officially announced by the State's Attorney General to provide relevant information about what constitutes a crime in the jurisdiction.

We do not believe that simply referencing the definition meets the requirement that institutions provide the definition of the terms “dating violence,” “domestic violence,” “sexual assault,” “stalking,” and “consent” in reference to sexual activity in the applicable jurisdiction. Section 485(f)(8)(B)(i)(I)(bb) and (cc) of the Clery Act, as amended by VAWA, require an institution to provide the definitions, not a cross-reference or link, to the definition of these terms.

*Changes:* None.

*Definitions of “Awareness Programs,” “Bystander Intervention,” “Ongoing Prevention and Awareness Campaigns,” “Primary Prevention Programs,” and “Risk Reduction” (§ 668.46(j)(2)(i)-(v))*

*Comments:* One commenter stated that the definitions of “awareness programs,” “bystander intervention,” “ongoing prevention and awareness campaigns,” “primary prevention programs,” and “risk reduction” in paragraphs 668.46(j)(2)(i)-(v) assume a context of student-on-student sexual assault, making the definitions inadequate in cases in which the offender is an employee of the institution. The commenter stated that prevention activities should include instruction on healthy boundaries, power differentials, and exploitation to address situations where the perpetrator is an employee.

One commenter asked for clarification of the terms “institutional structures and cultural conditions that facilitate violence,” and “positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality,” in § 668.46(j)(2)(ii) and (iv). Another commenter stated that bystander intervention trainings should be mandatory for incoming students and that the Department should establish basic guidelines and strategies to ensure uniformity and quality of bystander intervention training across institutions. Lastly, one commenter recommended that the definition of “risk reduction” in § 668.46(j)(2)(v) be removed from the regulations because risk reduction efforts, unless coupled with empowerment approaches, leave potential victims with the false impression that victimization can be avoided. The commenter believed that this was tantamount to victim blaming.

*Discussion:* We disagree that the definitions of “awareness programs,” “bystander intervention,” “ongoing prevention and awareness campaigns,” “primary prevention programs,” and “risk reduction” in § 668.46(j)(2)(i)-(v) assume a context of student-on-student sexual assault. We believe that the language in the definitions is broad and covers situations where the perpetrator is an employee and the commenter did not specifically identify any language for us to revise.

In response to the commenter who asked for clarification of certain terms in § 668.46(j)(2), we believe that examples of “institutional structures and cultural conditions that facilitate violence,” might include the fraternity and sports cultures at some institutions. We believe that examples of “positive and healthy behaviors that foster healthy, mutually

respectful relationships and sexuality,” might include the promotion of good listening and communication skills, moderation in alcohol consumption, and common courtesy.

As for the commenter who suggested that bystander intervention training be mandatory for incoming students and that the Department should establish basic guidelines and strategies to ensure uniformity and quality for that training, the statute does not mandate student or employee participation in prevention training, nor does the statute authorize the Department to specify what an institution’s training must contain. The statute and the regulations contain broad guidelines and definitions to assist institutions in developing training that takes into consideration the characteristics of each campus.

Lastly, we disagree with the commenter who recommended that the definition of “risk reduction” in § 668.46(j)(2)(v) be removed. Empowering victims is incorporated into the definition of risk reduction. The term “risk reduction” means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

*Changes:* None.

*Institutional Disciplinary Proceedings in Cases of Alleged Dating Violence, Domestic Violence, Sexual Assault, or Stalking (§ 668.46(k))*

*Comments:* Many commenters supported proposed § 668.46(k) regarding institutional disciplinary proceedings. These commenters believed that the proposed regulations properly reflected the importance of transparent, equitable procedures for complainants and accused students, provided clear and concise guidance on the procedures an institution must follow to comply with the VAWA requirements, and would lead to more accurate reporting of campus crime statistics. Several commenters also expressed appreciation for the Department’s statements in the NPRM that an institution’s responsibilities under the Clery Act are separate and distinct from those under title IX, and that nothing in the proposed regulations alters or changes an institution’s obligations or duties under title IX as interpreted by OCR.

Other commenters did not support proposed § 668.46(k). These commenters stated that only the criminal justice system is capable of handling alleged incidents of dating violence, domestic violence, sexual

assault, and stalking, not institutions of higher education. These commenters also believed that the proposed regulations eliminate essential due process protections, and entrust unqualified campus employees and students to safeguard the interests of the parties involved in adjudicating allegations. Several commenters also stated that the proposed regulations would place a considerable compliance burden on small institutions and asked the Department to consider mitigating that burden in the final regulations.

One commenter asked the Department to clarify in the final regulations that disciplinary procedures apply more broadly than just to student disciplinary procedures and suggested adding language specifying that the procedures apply to student, employee, and faculty discipline systems.

One commenter asked the Department to clarify whether an institution’s disciplinary procedures must always comply with § 668.46(k) or just the procedures related to incidents of dating violence, domestic violence, sexual assault, and stalking. Another commenter asked that we clarify that there need not be an allegation of crime reported to law enforcement for the accused or accuser to receive the procedural protections afforded through a campus disciplinary proceeding. This commenter suggested that we replace “allegation of dating violence, domestic violence, sexual assault, or stalking” in proposed § 668.46(k)(1)(ii) with “incident arising from behaviors that may also be allegations of the crimes of dating violence, domestic violence, sexual assault, or stalking.”

Finally, one commenter requested that the final regulations affirm that a complainant bringing forth a claim of dating violence, domestic violence, sexual assault, or stalking cannot be subject to any legal investigation of their immigration status because that would discourage undocumented students from reporting incidents and participating in a disciplinary proceeding.

*Discussion:* We appreciate the commenters’ support. In response to the commenters who objected to institutional disciplinary procedures in cases involving dating violence, domestic violence, sexual assault, or stalking under the regulations, section 485(f)(8)(B)(iv) of the Clery Act clearly requires institutions to have disciplinary procedures in place for these incidents. We disagree with the comments that the procedures under § 668.46(k) violate due process rights and entrust unqualified employees with adjudicatory responsibility. The statute

and these final regulations require that: an institution's disciplinary proceedings be fair, prompt, and impartial to both the accused and the accuser; the proceedings provide the same opportunities to both parties to have an advisor of their choice present; and the proceedings be conducted by officials who receive training on sexual assault issues and on how to conduct a proceeding that protects the safety of victims and promotes accountability. Thus, these procedures do provide significant protections for all parties. We also note that institutions are not making determinations of criminal responsibility but are determining whether the institution's own rules have been violated. We note that there is no basis to suggest that students and employees at small institutions should have fewer protections than their counterparts at larger institutions.

We do not agree that the final regulations should be revised to clarify that disciplinary procedures apply to student, employee, and faculty discipline systems. Section 668.46(k)(1)(i) requires an institution's annual security report policy statement addressing procedures for institutional disciplinary action in cases of dating violence, domestic violence, sexual assault, and stalking to describe each type of disciplinary proceeding used by the institution. If an institution has a disciplinary proceeding for faculty and staff, the institution would be required to describe it in accordance with § 668.46(k)(1)(i).

We agree with the commenters who suggested that we clarify which incidents trigger a "disciplinary" proceeding under § 668.46(k) because many institutions have a disciplinary process for incidents not involving dating violence, domestic violence, sexual assault, and stalking. We have revised the introductory language in § 668.46(k) to specify that an institution's policy statement must address disciplinary procedures for cases of alleged dating violence, domestic violence, sexual assault, and stalking, as defined in § 668.46(a). We believe that making this clear up front best clarifies the scope of the paragraph.

Lastly, with respect to the suggestion that § 668.46(k) state that a complainant bringing forth a claim of dating violence, domestic violence, sexual assault, or stalking is not subject to any legal investigation of their immigration status, the Department does not have the authority to provide or require such an assurance, though the Department reminds institutions of the Clery Act's prohibition against retaliation in this regard. Specifically, institutions should

be aware that threatening an individual with deportation or invoking an individual's immigration status in an attempt to intimidate or deter the individual from filing or participating in a complaint of dating violence, domestic violence, sexual assault, or stalking would violate the Clery Act's protection against retaliation as reflected in § 668.46(m).

*Changes:* We have revised the introductory language in § 668.46(k) to specify that an institution's policy statement must address disciplinary procedures for cases of alleged dating violence, domestic violence, sexual assault, and stalking, as defined in § 668.46(a).

*Standard of Evidence (§ 668.46(k)(1)(ii))*

*Comments:* Proposed § 668.46(k)(1)(ii) requires an institution to describe in its annual security report policy statement the standard of evidence that will be used during any institutional disciplinary proceeding arising from an allegation of dating violence, domestic violence, sexual assault, or stalking. Several commenters supported requiring institutions to use the preponderance of evidence standard for institutional disciplinary proceedings under the Clery Act to be consistent with the standard of evidence required to comply with title IX. The commenters believed that requiring the use of the preponderance of evidence standard would reduce confusion and would eliminate disputes over whether a criminal standard of proof should be applied. One commenter felt that using any other standard of proof, such as "clear and convincing" or "beyond a reasonable doubt" would send a message that one student's presence at the institution is more valued than the other's. Other commenters did not believe the preponderance of evidence standard should be specified in the regulations because they asserted that Congress considered requiring the use of the preponderance of evidence standard and rejected it when debating the VAWA amendments to the Clery Act. One commenter stated that the "clear and convincing" standard of evidence should be used because this standard better safeguards due process.

*Discussion:* We disagree that final § 668.46(k)(1)(ii) should require that to comply with the Clery Act, institutions use the preponderance of evidence standard or any other specific standard when conducting a disciplinary proceeding. Unlike title IX, the Clery Act only requires that an institution describe the standard of evidence it will use in a disciplinary proceeding. A recipient can comply with both title IX

and the Clery Act by using a preponderance of evidence standard in disciplinary proceedings regarding title IX complaints and by disclosing this standard in the annual security report required by the Clery Act.

*Changes:* None.

*Sanctions Resulting From a Disciplinary Proceeding (§ 668.46(k)(1)(iii))*

*Comments:* Several commenters supported the requirement in § 668.46(k)(1)(iii) that institutions list all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking in its annual security report policy statement. These commenters stated that some institutions use sanctions such as suspensions for a summer semester only or expulsions issued after the perpetrator has graduated which minimize the perpetrator's accountability. These commenters believed that listing all possible sanctions would make the imposition of inappropriate sanctions untenable.

Other commenters did not support listing all possible sanctions because they believe that such a listing would limit an institution's ability to effectively adjudicate these cases on an individual basis, hamper the institution's ability to strengthen sanctions, and limit the institution's ability to be innovative in imposing sanctions. Other commenters requested that this requirement be phased in to give institutions additional time to review current practices relating to sanctions and so that institutions are not forced to list hypothetical penalties to address situations of dating violence, domestic violence, sexual assault, and stalking that they have not imposed before.

*Discussion:* We appreciate the commenters' support for § 668.46(k)(1)(iii), which requires institutions to list all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking in its annual security report policy statement.

We have not been persuaded to change this requirement. We believe that listing all possible sanctions that an institution may impose following the results of a disciplinary proceeding in cases of dating violence, domestic violence, sexual assault, and stalking will deter institutions from listing (and subsequently imposing) inappropriately

light sanctions. As noted in the NPRM, § 668.46(k)(1)(iii) does not prohibit an institution from using a sanction not listed in its most recently issued annual security report, provided the institution's list is updated in its next annual security report. We do not believe that phasing in this requirement is appropriate. The regulations are effective on July 1, 2015, which will give institutions at least seven months to implement the requirement to list all possible sanctions that an institution may impose following the results of a disciplinary proceeding.

*Changes:* None.

*Training for Officials Who Conduct Disciplinary Proceedings (§ 668.46(k)(2)(ii))*

*Comments:* Several commenters supported the requirement that an institution's disciplinary proceedings be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. The commenters believed that proper training will minimize reliance on stereotypes about victims' behavior and will ensure that officials are educated on the effects of trauma.

Other commenters did not support the training requirement because they considered it to be an unfunded mandate. One commenter stated that the training requirement goes beyond congressional intent. Another commenter believed that the costs to obtain the training would have a negative impact on small institutions and asked the Department to provide a waiver of the annual training requirement for small institutions. Alternatively, the commenter asked that the Department develop and provide the required training at no cost to institutions through a Webinar or computer-assisted modular training.

*Discussion:* The Department appreciates the support of commenters and agrees that ensuring that officials are properly trained will greatly assist in protecting the safety of victims and in promoting accountability.

We disagree with the commenter who asserted that the training requirement goes beyond congressional intent. The training requirement in § 668.46(k)(2)(ii) reflects what is required by section 485(f)(8)(B)(iv)(I)(bb) of the Clery Act as amended by VAWA. We acknowledge that there will be costs associated with the training requirement and we urge institutions to work with rape crisis

centers and State sexual assault coalitions to develop training that addresses the needs and environments on small campuses. Lastly, we cannot waive this requirement for small institutions or provide the training as requested. We note that all title IV institutions are already required to ensure that their officials are trained and are knowledgeable in areas such as Federal student financial aid regulations. Congress added this new training requirement to protect students. We note that these final regulations are effective July 1, 2015, which will give institutions ample time to implement this requirement in a compliant and cost-effective manner.

*Changes:* None.

*Advisor of Choice (§ 668.46(k)(2)(iii) and (iv))*

*Comments:* We received many comments on proposed § 668.46(k)(2)(iii) and (iv). Proposed § 668.46(k)(2)(iii) would require that an institution's disciplinary proceeding provide the accuser and the accused with the same opportunities to have others present, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice. Proposed § 668.46(k)(2)(iv) would prohibit the institution from limiting the choice of advisor, or an advisor's presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding, although the institution may establish restrictions on an advisor's participation as long as the restrictions apply equally to both parties.

Many commenters supported proposed § 668.46(k)(2)(iii) and (iv) but asked that the regulations allow institutions to remove or dismiss advisors who are disruptive or who do not abide by the restrictions on their participation to preserve the decorum, civility, and integrity of the proceeding. Other commenters asked that the regulations be revised to detail the extent to which an advisor can participate in a disciplinary proceeding or the type of restrictions an institution can place on an advisor's participation in the proceeding, such as prohibiting an advisor to speak or to address the disciplinary tribunal, or question witnesses, to ensure an efficient and fair process. One commenter asked that the regulations be revised to allow an institution to define a pool of individuals, including members of the campus community, who may serve as an advisor. Another commenter asked that the regulations require that an advisor be willing and able to attend

disciplinary proceedings in person as scheduled by the institution and that an advisor can be present in meetings or disciplinary proceedings only when the advisee is present to ensure that disciplinary proceedings are not unnecessarily delayed. One commenter stated that the regulations should allow an advisor only at an initial meeting or documentation review of a disciplinary proceeding. Another commenter believed that allowing an advisor to be present at "any related meeting or proceeding" would cause unreasonable delays if an institution was forced to schedule meetings at an advisor's convenience. One commenter asked that the regulations prohibit an advisor from acting as a proxy for either the accused or the accuser so as to not compromise their privacy rights. One commenter asked that § 668.46(k)(2)(iv) be revised to prohibit immigration agents from serving in a disciplinary proceeding as an advisor. This commenter was concerned that if, for example, the accused had an immigration agent as an advisor and the accuser was not a U.S. citizen, the threat of an immigration enforcement action would pose a significant barrier to participation in a disciplinary proceeding for the accuser.

*Discussion:* We do not believe that any changes to the regulations are necessary. Institutions may restrict an advisor's role, such as prohibiting the advisor from speaking during the proceeding, addressing the disciplinary tribunal, or questioning witnesses. An institution may remove or dismiss advisors who become disruptive or who do not abide by the restrictions on their participation. An institution may also form a pool of individuals, including members of the campus community, who may serve as advisors as long as the choice of an advisor by the accused or the accuser is not limited to such a pool. We believe that regulating an institution's actions in these areas would restrict their flexibility to protect the interests of all parties.

We do not believe that the regulations should specify that an advisor must attend disciplinary proceedings in person. Section 668.46(k)(2)(iii) does not require an advisor to be present but merely requires that each party have the same opportunity to have an advisor present. An institution would not need to cancel or delay a meeting simply because an advisor could not be present, so long as the institution gave proper notice of the meeting under § 668.46(k)(3)(i)(B)(2); however we encourage institutions to consider reasonable requests to reschedule. We also do not believe that the final regulations should specify that an

advisor cannot be present in meetings or disciplinary proceedings unless the advisee is present. An institution is not required to permit an advisor to attend without the advisee but may find that permitting an advisor to attend with the advisee's agreement will make it easier to arrange procedural meetings.

We do not believe that permitting an institution to limit an advisor to attend only an initial meeting or documentation review of a disciplinary proceeding is supported by the statute. Section 485(f)(8)(B)(iv)(II) of the Clery Act provides that the accuser and the accused are entitled to the opportunity to be accompanied "to any related meeting or proceeding" by an advisor of their choice.

We do not believe that the regulations need to prohibit an advisor from acting as a proxy for either the accused or the accuser in the interest of protecting the parties' privacy. Assuming an institution allowed an advisor to act as a proxy, if the accused or accuser authorized their advisor to serve as a proxy and consented to any disclosures of their records to their advisor, this would alleviate any privacy concerns.

Lastly, we believe that including in the final regulations a general prohibition on immigration agents serving as an advisor to the accused or the accuser in a disciplinary proceeding is not supported by the statute. As stated above, section 485(f)(8)(B)(iv)(II) of the Clery Act, as amended by VAWA, provides that the accuser and the accused are entitled to the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice. However, institutions should be aware that allowing an immigration agent to serve as an advisor in order to intimidate or deter the accused or the accuser from participating in a disciplinary proceeding to resolve an incident of dating violence, domestic violence, sexual assault, or stalking would violate the Clery Act's protection against retaliation as reflected in § 668.46(m).

*Changes:* None.

*Attorney as Advisor of Choice*  
(§§ 668.46(k)(2)(iii) and (iv))

*Comments:* Many commenters supported the Department's interpretation of the statutory language in section 485(f)(8)(B)(iv)(II) of the Clery Act, as amended by VAWA, that the accuser or the accused may choose to have an attorney act as their advisor in an institution's disciplinary proceeding. The commenters believed that this interpretation protects the rights of both parties and the integrity of the proceedings. Several commenters stated

that the final regulations should detail the type of restrictions an institution may impose on an attorney advisor; other commenters believed that no restrictions on an attorney should be permitted.

Other commenters did not support allowing attorneys to act as advisors and stated that such an interpretation goes beyond the statutory intent. These commenters stated that section 485(f)(8)(B)(iv)(II) of the Clery Act provides only "the opportunity" for the accused or the accuser to have an advisor present during meetings or proceedings. Commenters believed that allowing attorneys to participate as advisors in an institution's disciplinary proceeding will create inequities in the process if one party has an attorney advisor and the other party does not and the presence of attorneys will make the campus disciplinary proceeding more adversarial and more like a courtroom than an administrative proceeding. One commenter believed that allowing attorney advisors would create a chilling effect for complainants and discourage them from reporting or going forward with a disciplinary process to resolve that complaint. Another commenter believed that allowing attorney advisors would force schools to hire court reporters and have legal representation present, which would drain resources. Another commenter believed that allowing attorneys to act as advisors would compromise the privacy rights of individuals involved in the process. One commenter asked that the final regulations require institutions to provide legal representation in any meeting or disciplinary proceeding in which the accused or the accuser has legal representation but the other party does not. One commenter stated that the proposed regulations incorrectly suggest that State laws providing students with a right to counsel in disciplinary hearings, like North Carolina's Student and Administration Equality Act, are inconsistent with VAWA and requested that the language be amended in the final rule.

*Discussion:* We are not persuaded that any changes are necessary to the regulations with regard to allowing attorneys to participate in an institution's disciplinary proceeding as advisors. Section 485(f)(8)(B)(iv)(II) of the Clery Act clearly and unambiguously supports the right of the accused and the accuser to be accompanied to any meeting or proceeding by "an advisor of their choice," which includes an attorney. Section 668.46(k)(2)(iv) allows an institution to establish restrictions on an advisor's participation in a disciplinary

proceeding. As stated earlier in the preamble, we believe that specifying what restrictions are appropriate or removing the ability of an institution to restrict an advisor's participation would unnecessarily limit an institution's flexibility to provide an equitable and appropriate disciplinary proceeding. Nothing in the regulations requires institutions to hire court reporters or have their own legal representation. Nor do we believe that allowing attorneys to act as advisors would compromise the privacy rights of individuals involved in the process, as explained previously. We do not believe that the statute permits us to require institutions to provide legal representation in any meeting or disciplinary proceeding in which the accused or the accuser has legal representation but the other party does not. Absent clear and unambiguous statutory authority, we would not impose such a burden on institutions. We would note, however, that the statute does require institutions to provide written notification to students and employees about legal assistance available for victims, both on-campus and in the community. We encourage institutions to also provide information about available legal assistance to the accused. We also note that the ability of the institution to restrict the role of all advisors means that all advisors are equal and that the presence of an attorney should not have a chilling effect on complainants. Before a proceeding is scheduled, schools should inform the parties of any limitations on the advisor's role so that both parties understand and respect these limitations. Lastly, we do not believe that the proposed regulations incorrectly suggested that State laws providing students with a right to counsel in disciplinary hearings are inconsistent with VAWA. The regulations do not require an institution to impose restrictions on the advisor's participation, they merely permit the institution to do so. Where State law prohibits such a restriction, State law would trump any institutional policy intended to restrict the advisor's participation that would otherwise be permissible under these regulations.

*Changes:* None.

*Simultaneous Notification*  
(§ 668.46(k)(2)(v))

*Comments:* Several commenters supported proposed § 668.46(k)(2)(v) which would require simultaneous notification, in writing, to both the accuser and the accused of the result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence,

sexual assault, or stalking; the institution's procedures for appeal of the result; any change to the result; and when the result becomes final. The commenters stated that having simultaneous notification will eliminate the possibility of unannounced, secret proceedings at which testimony or evidence adverse to the accused is gathered without his or her knowledge. Another commenter asked the Department to issue public guidance that incorporates the preamble discussion in the NPRM on what constitutes "written simultaneous notification".

*Discussion:* We appreciate the support of commenters. We also intend to include guidance on what constitutes "written simultaneous notification" in the updated *Handbook for Campus Safety and Security Reporting*.

*Changes:* None.

*Definition of "Prompt, Fair, and Impartial" (§§ 668.46(k)(3)(i))*

*Comments:* One commenter argued that the requirement in § 668.46(k)(3)(i)(B)(1) that an institution's disciplinary proceeding must be "transparent" to the accuser and the accused does not have legal meaning, and creates ambiguities and unrealistic expectations.

One commenter believed that the requirement for timely notice of meetings in § 668.46(k)(3)(i)(B)(2) should be revised to specify that the timely notice applies only to meetings in which both the accused and the accuser will be present. Several commenters believed the timely notice provision interferes with an institution's ability to contact the accused student upon receipt of an incident report to schedule a meeting and, if necessary, take immediate action such as imposing an interim suspension, relocation from a dormitory, or removal from class. The commenters considered this a safety issue for both the accuser and the community.

Several commenters were concerned that the requirement in § 668.46(k)(3)(i)(C) that an institution's disciplinary proceeding be conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused does not address situations in which inappropriately partial or ideologically inspired people dominate the pool of available participants in a proceeding. This commenter suggested that the accused or the accuser be afforded an appeal or opportunity to object if a member of the adjudicating body is biased. Several commenters suggested that the final regulations should prohibit adjudicating

officials with responsibility for administering informal resolution procedures from having any involvement in, or contact with, a formal disciplinary board that has responsibility for resolving the same complaint, to reduce the appearance that officials are trying to influence the outcome of a proceeding in favor of either party.

Lastly, one commenter recommended that the final regulations should provide that the accused or the accuser have the right to appeal the results of an institutional disciplinary proceeding, for an institution's proceeding to be considered prompt, fair, and impartial. This commenter stated that appeals are part of any well-functioning disciplinary process and ensure that any unfairness in the process is addressed by university leadership.

*Discussion:* We do not believe it is necessary to clarify the term "transparent." With respect to a disciplinary proceeding, the term "transparent" means a disciplinary proceeding that lacks hidden agendas and conditions, makes appropriate information available to each party, and is fair and clear to all participants.

We do not believe that the requirement for timely notice of meetings in § 668.46(k)(3)(i)(B)(2) should be modified to apply to only meetings in which both the accused and the accuser will be present. We believe that an institution should provide timely notice for meetings at which only the accused or the accuser will be present so that the parties are aware of meetings before they occur. Furthermore, we do not believe that the timely notice provision compromises an institution's ability to schedule a meeting with an accused student after receiving an incident report. In this context, "timely" just means that the institution must notify the accuser of this meeting as quickly as possible, but it does not mean that the institution must unreasonably delay responsive action to provide advance notice to the accuser.

We are not persuaded that we should revise the requirement in § 668.46(k)(3)(i)(C) that an institution's disciplinary proceeding be conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused to be considered prompt, fair, and impartial. With respect to the specific scenarios described by the commenters where they believe certain institutions' proceedings are being conducted by officials with bias, without more facts we cannot declare here that such scenarios present a conflict of interest, but if they did,

§ 668.46(k)(3)(i)(C) would prohibit this practice. The Clery compliance staff will monitor the presence of any conflicts of interest and we may revisit these regulations if we identify significant problems in this area.

Lastly, we disagree with the commenters who recommended that the final regulations should provide the accused or the accuser with the right to appeal the results of an institutional disciplinary proceeding. We do not believe we have the statutory authority to require institutions to provide an appeal process.

*Changes:* None.

*Definition of "Proceeding" (§ 668.46(k)(3)(iii))*

*Comments:* One commenter recommended that the definition of "proceeding" should expressly exclude communications between complainants and officials regarding interim protective measures for the complainant's protection. Another commenter suggested changing the definition to clarify that "proceeding" includes employee and faculty disciplinary proceedings as well as student disciplinary proceedings.

*Discussion:* We agree that the definition of "proceeding" should be modified to not include communications regarding interim protective measures. In many cases protective measures may be necessary for the protection of the accuser and treating these communications as "proceedings" could lessen that protection. We do not agree that changing the definition of "proceeding" to reflect employee and faculty disciplinary proceedings is necessary. Nothing in the definition limits a proceeding to only one involving students, and an institution is already required to describe each type of disciplinary proceeding used by the institution in its annual security report policy statement in accordance with § 668.46(k)(1)(i).

*Changes:* We have revised the definition of "proceeding" by adding that a "proceeding" does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.

*Definition of "Result" (§ 668.46(k)(3)(iv))*

*Comments:* Several commenters believed that the Department's reasoning in the NPRM for defining "result" to include the rationale for the result, that the accused or the accuser could use the result as the basis for an appeal, was flawed and not supported

by statute. The commenters requested that the Department change the definition of “result” to require institutions to provide the rationale for the result to the accuser if it does so for the accused.

*Discussion:* We do not agree that the reasoning in the NPRM for defining “result” to include the rationale for the result is flawed. That either the accused or the accuser could use the result for the basis of an appeal is common sense. We also do not agree that the definition of “result” needs to be modified because § 668.46(k)(2)(v)(A) requires an institution to simultaneously notify both the accuser and the accused of the result of any institutional disciplinary proceeding.

*Changes:* None.

#### § 668.46(m) Prohibition on Retaliation

*Comments:* One commenter expressed support for incorporating section 485(f)(17) of the Clery Act into the regulations.

*Discussion:* We appreciate the commenter’s support.

*Changes:* None.

### Executive Orders 12866 and 13563

#### Regulatory Impact Analysis

##### Introduction

Institutions of higher education that participate in the Federal student financial aid programs authorized by title IV of the HEA are required to comply with the Clery Act. According to the most current Integrated Postsecondary Education Data System (IPEDS) data, a total of 7,508 institutions were participating in title IV programs in 2012.<sup>2</sup> The Department reviews institutions for compliance with the Clery Act and has imposed fines for significant non-compliance. The Department expects that these proposed changes will be beneficial for students, prospective students, and employees, prospective employees, the public and the institutions themselves.

Under Executive Order 12866, the Secretary must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy,

productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an “economically significant” rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles stated in the Executive order.

This final regulatory action is a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological

innovation or anticipated behavioral changes.”

We are issuing these final regulations only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that these final regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, or tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

This Regulatory Impact Analysis is divided into six sections. The “Need for Regulatory Action” section discusses why these implementing regulations are necessary to define terms and improve upon the methods by which institutions count crimes within their Clery geography and provide crime prevention and safety information to students and employees.

The section titled “Summary of Changes from the NPRM” summarizes the most important revisions the Department made in these final regulations since the NPRM. These changes were informed by the Department’s consideration of over approximately 2,200 parties who submitted comments on the proposed regulations, along with approximately 3,600 individuals who submitted a petition expressing support for comments submitted by the American Association of University Women. The changes are intended to clarify the reporting of stalking across calendar years, remove the requirement by institutions to report stalking as a new and distinct crime after an official intervention, and clarify cases in which an institution may remove from its crime statistics reports of crimes that have been unfounded.

The “Discussion of Costs and Benefits” section considers the cost and benefit implications of these regulations for students and institutions. There would be two primary benefits of the regulations. First, we expect students and prospective students and employees and prospective employees to be better

<sup>2</sup> U.S. Department of Education. Institute of Education Sciences, National Center for Education Statistics. <http://nces.ed.gov/ipeds/datacenter/InstitutionList.aspx>.

informed and better able to make choices in regards to higher education attendance and employment because the regulations would improve the method by which crimes on campuses are counted and reported. Second, we would provide further clarity on students' and employees' rights and institutional procedures by requiring institutions to design and disclose policies and institutional programs to prevent sexual assault.

Under "Net Budget Impacts," the Department presents its estimate that the final regulations would not have a significant net budget impact on the Federal government.

In "Alternatives Considered," we describe other approaches the Department considered for key features of the regulations, including definitions of "outcomes," "initial and final determinations," "resolution," "dating violence," "employees," and "consent."

Finally, the "Final Regulatory Flexibility Analysis" considers issues relevant to small businesses and nonprofit institutions.

Elsewhere in this section under *Paperwork Reduction Act of 1995*, we identify and explain burdens specifically associated with information collection requirements.

#### *Need for Regulatory Action*

Executive Order 12866 emphasizes that Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people. In this case, there is indeed a compelling public need for regulation. The Department's goal in regulating is to incorporate the VAWA provisions into the Department's Clery Act regulations.

On March 7, 2013, President Obama signed VAWA into law. Among other provisions, this law amended the Clery Act. The statutory changes made by VAWA require institutions to compile statistics for certain crimes that are reported to campus security authorities or local police agencies including incidents of dating violence, domestic violence, sexual assault, and stalking. Additionally, institutions will be required to include certain policies, procedures, and programs pertaining to these crimes in their annual security reports.

During the negotiated rulemaking process, non-Federal negotiators discussed issues relating to the new provisions in the Clery Act addressing

dating violence, domestic violence, sexual assault and stalking including:

- Methods of compiling statistics of incidents that occur within Clery geography and are reported to campus security authorities.
- Definitions of terms.
- Programs to prevent dating violence, domestic violence, sexual assault, and stalking.
- Procedures that will be followed once an incident of these crimes has been reported, including a statement of the standard of evidence that will be used during any institutional disciplinary proceeding arising from the report.
- Educational programs to promote the awareness of dating violence, domestic violence, sexual assault, and stalking, which shall include primary prevention and awareness programs for incoming students and new employees, as well as ongoing prevention and awareness programs for students and faculty.
- The right of the accuser and the accused to have an advisor of their choice present during an institutional disciplinary proceeding.
- Simultaneous notification to both the accuser and the accused of the outcome of the institutional disciplinary proceeding.
- Informing victims of options for victim assistance in changing academic, living, transportation, and working situations, if requested by the victim and such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.

As a result of these discussions, the regulations would require institutions to compile statistics for certain crimes (dating violence, domestic violence, sexual assault, and stalking) that are reported to campus security authorities or local police agencies. Additionally, institutions would be required to include certain policies, procedures, and programs pertaining to these crimes in their annual security reports.

The purpose of the disclosures required by the Clery Act is to give prospective and current students information to help them make decisions about their potential or continued enrollment in a postsecondary institution. Prospective and current students and their families, staff, and the public use the information to assess an institution's security policies and the level and nature of crime on its campus. Institutions are required to disclose this data to students, employees, and prospective students and employees and to provide

the crime statistics to the Department, which then makes it available to the public.

#### **Summary of Changes From the NPRM**

##### *Reporting Stalking Crossing Calendar Years*

The Department modified § 668.46(c)(6)(i) to clarify that stalking which crosses calendar years should be recorded in each and every year in which the stalking is reported to a campus security authority or local police. While commenters supported the approach in the proposed regulations, arguing that it would provide an accurate picture of crime on campus for each calendar year, they also suggested modifying the language to clarify that an institution must include a statistic for stalking in each and every year in which a particular course of conduct is reported to a local police agency or campus security authority. The modification was made to address this concern.

##### *Stalking After an "Official Intervention"*

The Department removed proposed § 668.46(c)(6)(iii) which would have required institutions to record a report of stalking as a new and distinct crime, and not associated with a previous report of stalking, when the stalking behavior continues after an official intervention.

Some of the commenters supported the approach in the NPRM under which stalking would be counted separately after an official intervention, including formal and informal intervention and those initiated by school officials or a court.

Other commenters urged the Department to remove § 668.46(c)(6)(iii) and argued that the proposed approach would be inconsistent with treating stalking as a course of conduct. They explained that stalking cases often have numerous points of intervention, but that despite one or multiple interventions, it is still the same pattern or course of conduct, and that recording a new statistic after an "official intervention" would be arbitrary. The Department agreed with this argument.

##### *Recording All Reported Crimes (§ 668.46(c)(2))*

The Department received comments asking us to clarify how the regulation that provides that all crimes reported to a campus security authority must be included in an institution's crime statistics relates to "unfounded" crime reports. The Department has clarified in the final regulations that an institution may remove from its crime statistics

(but not from its crime log) reports of crimes that have been determined to be “unfounded.” We have also added a requirement that institutions report to the Department and disclose in the annual security report statistics the number of crime reports that were “unfounded” and subsequently withheld from its crime statistics during each of the three most recent calendar years. This information will enable the Department to monitor the extent to which reports of Clery Act crimes are unfounded so that we can provide additional guidance about how to properly “unfound” a crime report or intervene if necessary.

#### Discussion of Costs and Benefits

A benefit of these regulations is that they will strengthen the rights of campus victims of dating violence, domestic violence, sexual assault, and stalking. Institutions would be required to collect statistics for crimes reported to campus security authorities and local police agencies that involve incidents of dating violence, domestic violence, sexual assault, and stalking. This would improve crime reporting. In addition, students, prospective students, families, and employees and potential employees of the institutions, would be better informed about each campus’s safety and procedures.

These regulations will require institutions to include in their annual security report information about the institution’s policies and programs to prevent sexual assault, which would include information about programs that address dating violence, domestic violence, sexual assault, and stalking. This information would help students and employees understand these rights, procedures and programs. Prevention and awareness programs for all new students and employees, as well as ongoing prevention and awareness campaigns for enrolled students and faculty would be beneficial in providing additional information to students and employees.

The revised provisions related to institutional disciplinary proceedings in cases of alleged dating violence, domestic violence, sexual assault, and stalking would protect the accuser and the accused by ensuring equal opportunities for the presence of advisors at meetings and proceedings, an equal right to appeal if appeals are available, and the right to learn of the outcome of the proceedings. Victims of these crimes would gain the benefit of a written explanation of their rights and options.

Institutions would largely bear the costs of these regulations, which will

fall into two categories: paperwork costs of complying with the regulations, and other compliance costs that institutions may incur as they attempt to improve security on campus. Under the regulations, institutions will have to include in the annual security report descriptions of the primary prevention and awareness programs offered for all incoming students and new employees and descriptions of the ongoing prevention and awareness programs provided for enrolled students and employees. To comply, some institutions will have to create or update the material or the availability of prevention programs while others may have sufficient information and programs in place. Awareness and prevention programs can be offered in a variety of formats, including electronically, so the costs of any changes institutions would make in response to the regulations can vary significantly and the Department has not attempted to quantify additional costs associated with awareness and prevention programs.

Another area in which institutions could incur costs related to the regulations involves institutional disciplinary proceedings in cases of alleged dating violence, domestic violence, sexual assault, or stalking. The policy statement describing the proceedings will have to include: a description of the standard of evidence that applies; a description of the possible sanctions; a statement that the accused and the accuser will have an equal right to have others present, including an advisor of their choice; and a statement that written notice of the outcome of the proceedings would be given simultaneously to both the accused and the accuser. The proceedings would be conducted by officials who receive annual training on issues related to dating violence, domestic violence, sexual assault, and stalking as well as training on how to conduct investigations and hearings in a way to protect the safety of victims. Depending upon their existing procedures, some institutions would have to make changes to their disciplinary proceedings. The Department has not attempted to quantify those potential additional costs, which could vary significantly among institutions.

In addition to the costs described above, institutions will incur costs associated with the reporting and disclosure requirements of the regulations. This additional workload is discussed in more detail under the *Paperwork Reduction Act of 1995* section. We expect this additional

workload would result in costs associated with either the hiring of additional employees or opportunity costs related to the reassignment of existing staff from other activities. Under the regulations, these costs will involve: updating the annual security reports; changing crime statistics reporting to capture additional crimes, categories of crimes, differentiation of hate crimes, and expansion of categories of bias reported; and the development of statements of policy about prevention programs and institutional disciplinary actions. In total, the regulations are estimated to increase burden on institutions participating in the title IV, HEA programs by 77,725 hours annually. The monetized cost of this additional burden on institutions, using wage data developed using BLS data available at: [www.bls.gov/nsc/ect/sp/ecsuhst.pdf](http://www.bls.gov/nsc/ect/sp/ecsuhst.pdf), is \$2,840,849. This cost was based on an hourly rate of \$36.55 for institutions.

#### Net Budget Impacts

The regulations are not estimated to have a significant net budget impact in the title IV, HEA student aid programs over loan cohorts from 2014 to 2024. Consistent with the requirements of the Credit Reform Act of 1990, budget cost estimates for the student loan programs reflect the estimated net present value of all future non-administrative Federal costs associated with a cohort of loans. (A cohort reflects all loans originated in a given fiscal year.)

In general, these estimates were developed using the Office of Management and Budget’s (OMB) Credit Subsidy Calculator. The OMB calculator takes projected future cash flows from the Department’s student loan cost estimation model and produces discounted subsidy rates reflecting the net present value of all future Federal costs associated with awards made in a given fiscal year. Values are calculated using a “basket of zeroes” methodology under which each cash flow is discounted using the interest rate of a zero-coupon Treasury bond with the same maturity as that cash flow. To ensure comparability across programs, this methodology is incorporated into the calculator and used government-wide to develop estimates of the Federal cost of credit programs. Accordingly, the Department believes it is the appropriate methodology to use in developing estimates for these regulations.

We are not estimating that the regulations will have a net budget impact on the title IV aid programs. We assume that institutions will generally continue to comply with Clery Act

reporting requirements and such compliance has no net budget impact on the title IV aid programs. In the past, the Department has imposed fines on institutions that violate the Clery Act but those fines do not have a net budget impact. Therefore, we estimate that the regulations will have no net budget impact on the title IV, HEA programs.

#### Alternatives Considered

The Department determined that regulatory action was needed to implement the changes made to the Clery Act by VAWA, reflect the statutory language in the regulations and make some technical and clarifying changes to the Department's existing Clery Act regulations.

During the development of the regulations, a number of different regulatory approaches were discussed by the Department and the non-Federal negotiators during the negotiated rulemaking process. Some of these approaches included the addition of clarifying definitions for "outcomes," "initial and final determinations," "resolution," "dating violence," "employees," and "consent." The alternative approaches to these definitions considered by the Department are discussed in the following section.

#### Definitions of Outcomes, Initial and Final Determinations, and Resolution

The Department considered harmonizing the terms, "outcomes," "initial and final determinations," and "resolution," used throughout the Clery Act regulations for internal consistency and to provide clarity for institutions. These terms are often used interchangeably, along with the term "results." The Department considered defining "outcomes" to be one or more parts of the results. An alternative definition of "initial determinations" was also considered by the Department and would have referred to decisions made before the appeals process, if the institution had such a process, meaning prior to a final determination. A "final determination" would have been defined as the decision made after the appeals process had been completed. Adding a definition of the term "resolution" was also considered by the Department. The Department ultimately decided to use the term "results" in the regulations to include the initial, interim, and final decisions.

#### Alternative Definition of Dating Violence

The Department considered several alternatives in the definition of "dating violence." The inclusion of emotional

and psychological abuse, along with sexual and physical abuse, was considered. The Department decided to include only sexual or physical abuse or the threat of such abuse in the definition. The Department decided that emotional and psychological abuse did not always elevate into violence and had concerns over the ability of campus security authorities to identify this abuse.

The Department also took into consideration the definition of "dating violence" as a crime when it is not a prosecutable crime in some jurisdictions. To address this concern, the Department added a statement that any incident meeting the definition of "dating violence" is considered a crime for the purposes of Clery Act reporting.

#### Definition of Employees

The Department considered adding a definition of "employees" to the regulations. This definition would clarify whether contractors and other employees, such as hospital employees affiliated with the hospital of the institution, were included as employees since they had a presence on campus. The Department decided not to include this definition as the statute already requires institutions to determine who current employees are for the purposes of distributing their annual security reports.

#### Definition of Consent

The Department considered adding a definition of "consent" for purposes of the Clery Act. Some of the negotiators argued that a definition of "consent" would provide clarity for institutions, students, and employees for when a reported sex offense would need to be included in the institution's Clery Act statistics. However, a definition of "consent" would also create ambiguity in jurisdictions which either do not define "consent," or have a definition that differs from the one that would be in the regulations. The Department decided against including the definition of "consent" in the regulations as we were not convinced that it would be helpful to institutions in complying with the Clery Act.

For purposes of Clery Act reporting, all sex offenses that are reported to a campus security authority must be recorded in an institution's Clery Act statistics and, if reported to the campus police or the campus security department, must be included in the crime log, regardless of the issue of consent.

#### Final Regulatory Flexibility Act Analysis

The regulations would apply to institutions of higher education that participate in the title IV, HEA Federal student financial aid programs, other than foreign institutions of higher education. The U.S. Small Business Administration (SBA) Size Standards define for-profit institutions as "small businesses" if they are independently owned and operated and not dominant in their field of operation with total annual revenue below \$7,000,000. The SBA Size Standards define nonprofit institutions as "small organizations" if they are independently owned and operated and not dominant in their field of operation, or as "small entities" if they are institutions controlled by governmental entities with populations below 50,000. We do not consider any institution dominant in the field of higher education, so all non-profit institutions and for-profit institutions with total revenues under \$7 million in IPEDS are assumed to be small entities. No public institutions are assumed to be small entities.

#### Description of the Reasons That Action by the Agency Is Being Considered

This regulatory action would implement the changes made to the Clery Act by VAWA, reflect the statutory language in the regulations, and make some technical and clarifying changes to the Department's existing Clery Act regulations. The regulations would reflect the statutory requirement that institutions compile and report statistics for incidents of dating violence, domestic violence, sexual assault, and stalking that are reported to campus security authorities or local police agencies. Additionally, institutions would be required to include certain policies, procedures, and programs pertaining to these crimes in their annual security reports.

The purpose of these data collections is to give prospective and current students information to help them make decisions about their potential or continued enrollment in a postsecondary institution. Prospective and current students and their families, staff, and the public use the information to assess an institution's security policies and the level and nature of crime on its campus. In addition to the disclosure to students and employees, institutions must provide campus crime data to the Department annually.

**Succinct Statement of the Objectives of, and Legal Basis for, the Regulations**

On March 7, 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013 (VAWA) (Pub. L. 113–4). Among other provisions, this law amended section 485(f) of the HEA, otherwise known as the Clery Act. These statutory changes require institutions to compile statistics for incidents of dating violence, domestic violence, sexual assault, and stalking that are reported to campus security authorities or local police agencies. Additionally, the regulations would require institutions to include certain policies, procedures, and programs pertaining to these crimes in their annual security reports.

**Description of and, Where Feasible, an Estimate of the Number of Small Entities to Which the Regulations Would Apply**

The regulations would apply to institutions of higher education that participate in the title IV, HEA Federal

student financial aid programs, other than foreign institutions of higher education. From the most recent data compiled in the 2012 Campus Safety and Security Survey, we estimate that approximately 7,230 institutions would be subject to the regulations, including 2,011 public, 1,845 private not-for-profit, and 3,365 private for-profit institutions. Of these institutions, we consider all of the private not-for-profit institutions and approximately 40 percent of private for-profit institutions as small entities. We do not believe any of the public institutions meet the definition of “small entity.”

**Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Regulations, Including an Estimate of the Classes of Small Entities That Would Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record**

Table 1 shows the estimated burden of each information collection

requirement to the hours and costs estimated and discussed in more detail in the *Paperwork Reduction Act of 1995* section. Additional workload would normally be expected to result in estimated costs associated with either the hiring of additional employees or opportunity costs related to the reassignment of existing staff from other activities. In total, by taking 100 percent (for the private non-profit institutions) and 40 percent (for the private for-profit institutions) of the estimated burden hours for § 668.46(b), (c), (j), and (k), detailed in the Paperwork Reduction Act section of this preamble, these changes are estimated to increase the burden on small entities participating in the title IV, HEA programs by 34,401 hours annually. The monetized cost of this additional paperwork burden on institutions, using a \$36.55 wage rate developed using BLS data available at [www.bls.gov/ncs/ect/sp/ecsuhst.pdf](http://www.bls.gov/ncs/ect/sp/ecsuhst.pdf), is \$1,257,357.

TABLE 1—ESTIMATED PAPERWORK BURDEN ON SMALL ENTITIES

Provision	Reg section	OMB Control No.	Hours	Costs
Annual Security Report .....	668.46(b)	1845–0022	8,000	292,407
Crime Statistics .....	668.46(c)	1845–0022	4,800	175,447
Statement of Policy—awareness and prevention programs .....	668.46(j)	1845–0022	12,800	467,840
Statement of Policy—institutional disciplinary proceedings .....	668.46(k)	1845–0022	8,801	321,662
Total .....			34,401	1,257,357

**Identification, to the Extent Practicable, of All Relevant Federal Regulations That May Duplicate, Overlap, or Conflict With the Regulations**

The regulations are unlikely to conflict with or duplicate existing Federal regulations.

**Alternatives Considered**

As discussed in the “Regulatory Alternatives Considered” section of the *Regulatory Impact Analysis*, several different definitions for key terms were considered. The Department did not consider any alternatives specifically targeted at small entities.

**Paperwork Reduction Act of 1995**

The Paperwork Reduction Act of 1995 does not require you to respond to a collection of information unless it displays a valid OMB control number. We display the valid OMB control numbers assigned to the collections of information in these final regulations at the end of the affected sections of the regulations.

Section 668.46 contains information collection requirements. Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3507(d)), the Department has submitted a copy of these sections, related forms, and Information Collections Requests (ICRs) to the Office of Management and Budget (OMB) for its review.

*Section 668.46 Institutional Security Policies and Crimes Statistics*

*Requirements:* Under the final regulations in § 668.46(b) *Annual security report*, we are revising and expanding existing language and adding new requirements for items to be reported annually. We are revising § 668.46(b)(4)(i) to require institutions to, in addition to the existing required information, address in their statements of current policies concerning campus law enforcement the jurisdiction of security personnel, as well as any agreements, such as written memoranda of understanding between the institution and State and local police agencies, for the investigation of alleged

criminal offenses. This change incorporates modifications made to the Clery Act by the Higher Education Opportunity Act.

We are revising and restructuring § 668.46(b)(11). Specifically, we require institutions to include in their annual security report a statement of policy regarding the institution’s programs to prevent dating violence, domestic violence, sexual assault, and stalking as well as the procedures that the institutions will follow when one of these crimes is reported. This change incorporates modifications made to the Clery Act by VAWA.

Under § 668.46(b)(11)(ii), institutions must provide written information to the victim of dating violence, domestic violence, sexual assault, and stalking. Institutions are required to provide information regarding: the preservation of evidence to assist in proving the alleged criminal offense or obtaining a protective order; how and to whom an alleged offense is to be reported; options for the involvement of law enforcement and campus authorities; and, where

applicable, the victim's rights or institution's responsibilities for orders of protection. This change incorporates modifications made to the Clery Act by VAWA, discussions during the negotiations, and input we received from public comments.

In § 668.46(b)(11)(iii), we are adding a provision to specify that institutions must address in their annual security report how they will complete publicly available record-keeping for the purposes of the Clery Act reporting while not including identifying information about the victim and while maintaining the confidentiality of any accommodations or protective measures given to the victim, to the extent that such exclusions would not impair the ability of institutions to provide such accommodations or protective measures. This change incorporates modifications made to the Clery Act by VAWA, discussions during the negotiations, and input we received from public comments.

In § 668.46(b)(11)(iv), we are requiring institutions to specify in their annual security report that they will provide a written notification of the services that are available to victims of dating violence, domestic violence, sexual assault and stalking. The notice must provide information on existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration services, and other services that may be available at the institution and in the community. This change incorporates modifications made to the Clery Act by VAWA, discussions during negotiations, and input we received from public comments.

We are revising § 668.46(b)(11)(v) to require institutions to specify in their annual security report that written notification will be provided to victims of dating violence, domestic violence, sexual assault, and stalking regarding their options for, and the availability of changes to academic, living, transportation, and working situations. These options will be afforded any victim, regardless of whether the victim reports the crime to campus policy or law enforcement. This change incorporates modifications made to the Clery Act by VAWA, discussions during negotiations, and input we received from public comments.

In § 668.46(b)(11)(vi), we are adding a new provision to require institutions to specify in their ASR that when a student or employee of the institution reports to the institution that a person is a victim of dating violence, domestic violence, sexual assault, or stalking that the victim will be provided a written explanation of their rights and options,

whether the offense occurred on campus or off campus. This change incorporates modifications made to the HEA by VAWA.

*Burden Calculation:* We estimate that the changes in § 668.46(b)(11) will add 2.5 hours of additional burden for an institution. As a result, reporting burden at public institutions will increase by 5,028 hours (2,011 public institutions times 2.5 hours per institution). Reporting burden at private non-profit institutions will increase by 4,635 hours (1,854 private non-profit institutions times 2.5 hours per institution). Reporting burden at private for-profit institutions will increase by 8,413 hours (3,365 private for-profit institutions times 2.5 hours per institution).

Collectively, burden will increase by 18,076 hours under OMB Control Number 1845-0022.

*Requirements:* Under the final regulations in § 668.46(c), *Crime statistics*, we will revise and expand existing language and add new reporting requirements for items to be reported in the annual survey.

The final revisions to § 668.46(c)(1) will add the VAWA crimes of dating violence, domestic violence and stalking to the list of crimes about which institutions must collect and disclose statistics in their annual crime statistics reports. The Department is also modifying its approach for the reporting and disclosing of sex offenses to reflect updates to the FBI's Uniform Crime Reporting (UCR) Program. The Department is making other changes to improve the clarity of this paragraph.

While institutions will continue to be required to report statistics for the three most recent calendar years, the reporting requirements in these final regulations are expanded because of the addition of new crimes added by VAWA.

Under the final regulations in § 668.46(c)(2)(iii), an institution may withhold, or subsequently remove, a reported crime from its crime statistics if, after a full investigation, a sworn or commissioned law enforcement officer makes a formal determination that the crime is false or baseless and therefore "unfounded." Under the final regulations in § 668.46(c)(2)(iii)(A), an institution must report to the Department and disclose in its annual security report statistics the total number of crimes that were "unfounded" and subsequently withheld from its crime statistics during each of the three most recent calendar years. We have determined that the burden associated with §§ 668.46(c)(2)(iii) and (iii)(A), is de minimus in nature. "Unfounding" a

crime report is a long-standing process and, as indicated in the preamble to this final rule, the Department has required institutions to maintain accurate documentation of the investigation and the basis for "unfounding" a crime report when removing it from their crime statistics for compliance purposes for some time. Institutions are already expected to have documentation in the situation in which a crime has been "unfounded," and they already report crime report statistics to the Department through our electronic, Web-based reporting system. Because this provision requires institutions to report information that they must already collect through an existing system, there is no burden associated with this provision.

The final regulations under §§ 668.46(c)(4)(iii) and 668.46(c)(vii) will include gender identity and national origin as two new categories of bias that serve as the basis for a determination of a hate crime.

Under the final regulations in § 668.46(c)(6), we added stalking as a reportable crime and defined it in the regulations.

These changes implement the modifications VAWA made to the HEA, and improve the overall clarity of this paragraph. We believe that burden will be added because there are additional crimes, categories of crimes, differentiation of hate crimes, and expansions of the categories of bias that must be reported.

*Burden Calculation:* On average, we estimate that the changes to the reporting of crime statistics will take each institution 1.50 hours of additional burden. As a result, reporting burden at public institutions will increase by 3,017 hours (2,011 reporting public institutions times 1.50 hours per institution). Reporting burden at private non-profit institutions would increase by 2,781 hours (1,854 private non-profit institutions times 1.50 hours). Reporting burden at private for-profit institutions will increase by 5,048 hours (3,365 private for-profit institutions times 1.50 hours per institution).

Collectively, burden will increase by 10,846 hours under OMB Control Number 1845-0022.

*Requirements:* The final regulations in § 668.46(j), *Programs to prevent dating violence, domestic violence, sexual assault, and stalking*, specify the elements of the required statement of policy on the institution's programs and ongoing campaigns about prevention and awareness regarding these crimes that must be included in the institution's annual security report.

The final regulations in § 668.46(j)(1)(i) require the institution's

statement to contain certain elements in the description of the primary prevention and awareness programs for incoming students and new employees including: The prohibition of dating violence, domestic violence, sexual assault, or stalking, definitions of those crimes and a definition of consent according to the applicable jurisdiction, and descriptions of safe and positive options for bystander intervention, information on risk reduction, as well as other elements of §§ 668.46(b)(11)(ii)–(vii) and (k)(2). These changes incorporate modifications made to the HEA by VAWA.

The final regulations in § 668.46(j)(1)(ii) require that the institution's statement must contain certain elements in the description of the ongoing prevention and awareness campaigns for students and employees including: The institution's prohibition of dating violence, domestic violence, sexual assault, or stalking, definitions of those crimes and a definition of consent according to the applicable jurisdiction, a description of safe and positive options for bystander intervention, information on risk reduction, and as well as other elements of §§ 668.46(b)(11)(ii)–(vii) and (k)(2). This amendatory language is required to incorporate changes made to the HEA by VAWA.

*Burden Calculation:* On average, we estimate that the changes to the institution's statements of policy and description of programs and ongoing campaigns will take each institution four hours of additional burden. As a result, reporting burden at public institutions will increase by 8,044 hours (2,011 reporting public institutions times 4 hours per institution). Reporting burden at private non-profit institutions will increase by 7,416 hours (1,854 private non-profit institutions times four hours). Reporting burden at private for-profit institutions will increase by 13,460 hours (3,365 private for-profit institutions times four hours per institution).

Collectively, burden will increase by 28,920 hours under OMB Control Number 1845–0022.

*Requirements:* Under the final regulations in § 668.46(k), *Procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking*, we are implementing the statutory changes requiring an institution that participates in any title IV, HEA program, other than a foreign

institution, to include a statement of policy in its annual security report addressing the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking.

The final regulations in § 668.46(k)(1) require various additions to the institution's statement of policy that must be included in the annual security report. While a statement of policy is required under current regulations (see § 668.46(b)(11)(vii)), the final regulations require the following additions to the statement of policy.

The final regulations in § 668.46(k)(1)(i) provide that the statement of policy must describe each type of disciplinary proceeding used by the institution, including the steps, anticipated timelines, and decision-making process for each, and how the institution determines which type of disciplinary hearing to use.

The final regulations in § 668.46(k)(1)(ii) provide that the statement of policy must describe the standard of evidence that will be used during any disciplinary proceeding.

The final regulations in § 668.46(k)(1)(iii) provide that the statement of policy must list all possible sanctions an institution may impose following the results of any disciplinary proceeding.

The final regulations in § 668.46(k)(1)(iv) provide that the policy statement must describe the range of protective measures that the institution may offer following an allegation of dating violence, domestic violence, sexual assault, or stalking.

Under the final regulations in § 668.46(k)(2), the institution will have to provide additional information regarding its disciplinary proceedings in the statement of policy. Section 668.46(k)(2)(i) requires that an institution's statement of policy must provide that its disciplinary proceeding includes a prompt, fair, and impartial process from the initial investigation to the final result. The policy statement must provide that the proceeding will be conducted by officials who receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and annual training on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability under the final regulations in § 668.46(k)(2)(ii).

Under the final regulations in § 668.46(k)(2)(iii), an institution's

statement of policy must provide that its disciplinary proceeding will afford the accuser and the accused the same opportunities to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice. The final regulations in § 668.46(k)(2)(iv), provide that an institution cannot limit the choice or presence of an advisor, however, the institution may establish restrictions regarding the advisor's participation in the proceedings as long as those restrictions apply equally to both the accuser and the accused. Finally, under the final regulations in § 668.46(k)(2)(v), an institution's statement of policy must require simultaneous notification, in writing, to both the accuser and the accused of the result of any institutional disciplinary proceeding, the institution's procedures for the accused and the victim to appeal the result, any change to the result, and when such results become final.

*Burden Calculation:* On average, we estimate that the changes to the institution's statement of policy will take each institution 2.75 hours of additional burden. As a result, reporting burden at public institutions will increase by 5,530 hours (2,011 reporting public institutions times 2.75 hours per institution). Reporting burden at private non-profit institutions will increase by 5,099 hours (1,854 private non-profit institutions times 2.75 hours). Reporting burden at private for-profit institutions will increase by 9,254 hours (3,365 private for-profit institutions times 2.75 hours per institution).

Collectively, burden will increase by 19,883 hours under OMB Control Number 1845–0022.

Consistent with the discussion above, the table below describes the final regulations involving information collections, the information being collected, and the collections that the Department will submit to OMB for approval and public comment under the PRA, and the estimated costs associated with the information collections. The monetized net costs of the increased burden on institutions and borrowers, using wage data developed using BLS data, available at [www.bls.gov/ncs/ect/sp/ecsuhpst.pdf](http://www.bls.gov/ncs/ect/sp/ecsuhpst.pdf), is \$2,840,848.75, as shown in the following chart. This cost was based on an hourly rate of \$36.55 for institutions.

## COLLECTION OF INFORMATION

Regulatory section	Information collection	OMB control number and estimated burden [change in burden]	Estimated costs
§ 668.46(b) Annual security report .....	Revises and expands existing language and adds new requirements for items to be reported annually.	OMB 1845–0022. We estimate that the burden will increase by 18,076 hours.	\$660,677.80
§ 668.46(c) Crime statistics .....	Revises and expands existing language and adds new reporting requirements for items to be reported in the annual crime statistics report.	OMB 1845–0022. We estimate that the burden will increase by 10,846 hours.	396,421.30
§ 668.46(j) Programs to prevent dating violence, domestic violence, sexual assault, and stalking.	Specifies the elements of the required statement of policy on and description of the institution's programs and ongoing campaigns about prevention and awareness regarding these crimes that must be included in the institution's annual security report.	OMB 1845–0022. We estimate that the burden will increase by 28,920 hours.	\$,057,026.00
§ 668.46(k) Procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, and stalking.	Implements the statutory changes requiring an institution that participates in any title IV, HEA program to include a statement of policy in its annual security report addressing the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking.	OMB 1845–0022. We estimate that the burden will increase by 19,883 hours.	726,723.65

**Assessment of Educational Impact**

In the NPRM we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and on our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

**Accessible Format:** Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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(Catalog of Federal Domestic Assistance Number does not apply.)

**List of Subjects in 34 CFR Part 668**

Administrative practice and procedure, Aliens, Colleges and universities, Consumer protection, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Selective Service System, Student aid, Vocational education.

Dated: October 7, 2014.

**Arne Duncan**,  
Secretary of Education.

For the reasons discussed in the preamble, the Secretary of Education amends part 668 of title 34 of the Code of Federal Regulations as follows:

**PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS**

■ 1. The authority citation for part 668 continues to read as follows:

**Authority:** 20 U.S.C. 1001, 1002, 1003, 1070g, 1085, 1088, 1091, 1092, 1094, 1099c, and 1099c–1, unless otherwise noted.

■ 2. Revise § 668.46 to read as follows:

**§ 668.46 Institutional security policies and crime statistics.**

(a) *Definitions.* Additional definitions that apply to this section:

*Business day.* Monday through Friday, excluding any day when the institution is closed.

*Campus.* (i) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

(ii) Any building or property that is within or reasonably contiguous to the area identified in paragraph (i) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

*Campus security authority.* (i) A campus police department or a campus security department of an institution.

(ii) Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department under paragraph (i) of this definition, such as an individual who is responsible for monitoring entrance into institutional property.

(iii) Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.

(iv) An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial

proceedings. If such an official is a pastoral or professional counselor as defined below, the official is not considered a campus security authority when acting as a pastoral or professional counselor.

**Clery geography.** (i) For the purposes of collecting statistics on the crimes listed in paragraph (c) of this section for submission to the Department and inclusion in an institution's annual security report, Clery geography includes—

(A) Buildings and property that are part of the institution's campus;

(B) The institution's noncampus buildings and property; and

(C) Public property within or immediately adjacent to and accessible from the campus.

(ii) For the purposes of maintaining the crime log required in paragraph (f) of this section, Clery geography includes, in addition to the locations in paragraph (i) of this definition, areas within the patrol jurisdiction of the campus police or the campus security department.

**Dating violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

(i) The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

(ii) For the purposes of this definition—

(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

(B) Dating violence does not include acts covered under the definition of domestic violence.

(iii) For the purposes of complying with the requirements of this section and § 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

**Domestic violence.** (i) A felony or misdemeanor crime of violence committed—

(A) By a current or former spouse or intimate partner of the victim;

(B) By a person with whom the victim shares a child in common;

(C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;

(D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or

(E) By any other person against an adult or youth victim who is protected

from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

(ii) For the purposes of complying with the requirements of this section and § 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

**Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) program.** A nationwide, cooperative

statistical effort in which city, university and college, county, State, Tribal, and federal law enforcement agencies voluntarily report data on crimes brought to their attention. The UCR program also serves as the basis for the definitions of crimes in Appendix A to this subpart and the requirements for classifying crimes in this subpart.

**Hate crime.** A crime reported to local police agencies or to a campus security authority that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. For the purposes of this section, the categories of bias include the victim's actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability.

**Hierarchy Rule.** A requirement in the FBI's UCR program that, for purposes of reporting crimes in that system, when more than one criminal offense was committed during a single incident, only the most serious offense be counted.

**Noncampus building or property.** (i) Any building or property owned or controlled by a student organization that is officially recognized by the institution; or

(ii) Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

**Pastoral counselor.** A person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor.

**Professional counselor.** A person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of the counselor's license or certification.

**Programs to prevent dating violence, domestic violence, sexual assault, and**

**stalking.** (i) Comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that—

(A) Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and

(B) Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

(ii) Programs to prevent dating violence, domestic violence, sexual assault, and stalking include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees, as defined in paragraph (j)(2) of this section.

**Public property.** All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

**Referred for campus disciplinary action.** The referral of any person to any campus official who initiates a disciplinary action of which a record is kept and which may result in the imposition of a sanction.

**Sexual assault.** An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program and included in Appendix A of this subpart.

**Stalking.** (i) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(A) Fear for the person's safety or the safety of others; or

(B) Suffer substantial emotional distress.

(ii) For the purposes of this definition—

(A) **Course of conduct** means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

(B) **Reasonable person** means a reasonable person under similar circumstances and with similar identities to the victim.

(C) **Substantial emotional distress** means significant mental suffering or anguish that may, but does not

necessarily, require medical or other professional treatment or counseling.

(iii) For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

*Test.* Regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities.

(b) *Annual security report.* An institution must prepare an annual security report reflecting its current policies that contains, at a minimum, the following information:

(1) The crime statistics described in paragraph (c) of this section.

(2) A statement of policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus. This statement must include the institution's policies concerning its response to these reports, including—

(i) Policies for making timely warning reports to members of the campus community, as required by paragraph (e) of this section, regarding the occurrence of crimes described in paragraph (c)(1) of this section;

(ii) Policies for preparing the annual disclosure of crime statistics;

(iii) A list of the titles of each person or organization to whom students and employees should report the criminal offenses described in paragraph (c)(1) of this section for the purposes of making timely warning reports and the annual statistical disclosure; and

(iv) Policies or procedures for victims or witnesses to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

(3) A statement of policies concerning security of and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(4) A statement of policies concerning campus law enforcement that—

(i) Addresses the enforcement authority and jurisdiction of security personnel;

(ii) Addresses the working relationship of campus security personnel with State and local police agencies, including—

(A) Whether those security personnel have the authority to make arrests; and

(B) Any agreements, such as written memoranda of understanding between the institution and such agencies, for the investigation of alleged criminal offenses.

(iii) Encourages accurate and prompt reporting of all crimes to the campus

police and the appropriate police agencies, when the victim of a crime elects to, or is unable to, make such a report; and

(iv) Describes procedures, if any, that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

(5) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(6) A description of programs designed to inform students and employees about the prevention of crimes.

(7) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity by students at noncampus locations of student organizations officially recognized by the institution, including student organizations with noncampus housing facilities.

(8) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws.

(9) A statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws.

(10) A description of any drug or alcohol-abuse education programs, as required under section 120(a) through (d) of the HEA, otherwise known as the Drug-Free Schools and Communities Act of 1989. For the purpose of meeting this requirement, an institution may cross-reference the materials the institution uses to comply with section 120(a) through (d) of the HEA.

(11) A statement of policy regarding the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking, as defined in paragraph (a) of this section, and of procedures that the institution will follow when one of these crimes is reported. The statement must include—

(i) A description of the institution's educational programs and campaigns to promote the awareness of dating violence, domestic violence, sexual assault, and stalking, as required by paragraph (j) of this section;

(ii) Procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred, including written information about—

(A) The importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;

(B) How and to whom the alleged offense should be reported;

(C) Options about the involvement of law enforcement and campus authorities, including notification of the victim's option to—

(1) Notify proper law enforcement authorities, including on-campus and local police;

(2) Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and

(3) Decline to notify such authorities; and

(D) Where applicable, the rights of victims and the institution's responsibilities for orders of protection, "no-contact" orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by the institution;

(iii) Information about how the institution will protect the confidentiality of victims and other necessary parties, including how the institution will—

(A) Complete publicly available recordkeeping, including Clery Act reporting and disclosures, without the inclusion of personally identifying information about the victim, as defined in section 40002(a)(20) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)(20)); and

(B) Maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures;

(iv) A statement that the institution will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community;

(v) A statement that the institution will provide written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures. The institution must make such accommodations or provide such protective measures if the victim requests them and if they are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement;

(vi) An explanation of the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as required by paragraph (k) of this section; and

(vii) A statement that, when a student or employee reports to the institution that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options, as described in paragraphs (b)(11)(ii) through (vi) of this section.

(12) A statement advising the campus community where law enforcement agency information provided by a State under section 121 of the Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16921), concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

(13) A statement of policy regarding emergency response and evacuation procedures, as required by paragraph (g) of this section.

(14) A statement of policy regarding missing student notification procedures, as required by paragraph (h) of this section.

(c) *Crime statistics*—(1) *Crimes that must be reported and disclosed.* An institution must report to the Department and disclose in its annual security report statistics for the three most recent calendar years concerning the number of each of the following crimes that occurred on or within its Clery geography and that are reported to local police agencies or to a campus security authority:

(i) Primary crimes, including—

(A) Criminal homicide:

(1) Murder and nonnegligent manslaughter; and

(2) Negligent manslaughter.

(B) Sex offenses:

(1) Rape;

(2) Fondling;

(3) Incest; and

(4) Statutory rape.

(C) Robbery.

(D) Aggravated assault.

(E) Burglary.

(F) Motor vehicle theft.

(G) Arson.

(ii) Arrests and referrals for disciplinary actions, including—

(A) Arrests for liquor law violations, drug law violations, and illegal weapons possession.

(B) Persons not included in paragraph (c)(1)(ii)(A) of this section who were

referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession.

(iii) Hate crimes, including—

(A) The number of each type of crime in paragraph (c)(1)(i) of this section that are determined to be hate crimes; and

(B) The number of the following crimes that are determined to be hate crimes:

(1) Larceny-theft.

(2) Simple assault.

(3) Intimidation.

(4) Destruction/damage/vandalism of property.

(iv) Dating violence, domestic violence, and stalking as defined in paragraph (a) of this section.

(2) *All reported crimes must be recorded.* (i) An institution must include in its crime statistics all crimes listed in paragraph (c)(1) of this section occurring on or within its Clery geography that are reported to a campus security authority for purposes of Clery Act reporting. Clery Act reporting does not require initiating an investigation or disclosing personally identifying information about the victim, as defined in section 40002(a)(20) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)(20)).

(ii) An institution may not withhold, or subsequently remove, a reported crime from its crime statistics based on a decision by a court, coroner, jury, prosecutor, or other similar noncampus official.

(iii) An institution may withhold, or subsequently remove, a reported crime from its crime statistics in the rare situation where sworn or commissioned law enforcement personnel have fully investigated the reported crime and, based on the results of this full investigation and evidence, have made a formal determination that the crime report is false or baseless and therefore “unfounded.” Only sworn or commissioned law enforcement personnel may “unfound” a crime report for purposes of reporting under this section. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with the prosecution, and the failure to make an arrest do not “unfound” a crime report.

(A) An institution must report to the Department and disclose in its annual security report statistics the total number of crime reports listed in paragraph (c)(1) of this section that were “unfounded” and subsequently withheld from its crime statistics pursuant to paragraph (c)(2)(iii) of this section during each of the three most recent calendar years.

(B) [Reserved]

(3) *Crimes must be recorded by calendar year.* (i) An institution must record a crime statistic for the calendar year in which the crime was reported to local police agencies or to a campus security authority.

(ii) When recording crimes of stalking by calendar year, an institution must follow the requirements in paragraph (c)(6) of this section.

(4) *Hate crimes must be recorded by category of bias.* For each hate crime recorded under paragraph (c)(1)(iii) of this section, an institution must identify the category of bias that motivated the crime. For the purposes of this paragraph, the categories of bias include the victim's actual or perceived—

(i) Race;

(ii) Gender;

(iii) Gender identity;

(iv) Religion;

(v) Sexual orientation;

(vi) Ethnicity;

(vii) National origin; and

(viii) Disability.

(5) *Crimes must be recorded by location.* (i) An institution must specify whether each of the crimes recorded under paragraph (c)(1) of this section occurred—

(A) On campus;

(B) In or on a noncampus building or property; or

(C) On public property.

(ii) An institution must identify, of the crimes that occurred on campus, the number that took place in dormitories or other residential facilities for students on campus.

(iii) When recording stalking by location, an institution must follow the requirements in paragraph (c)(6) of this section.

(6) *Recording reports of stalking.* (i) When recording reports of stalking that include activities in more than one calendar year, an institution must record a crime statistic for each and every year in which the course of conduct is reported to a local police agency or to a campus security authority.

(ii) An institution must record each report of stalking as occurring at only the first location within the institution's Clery geography in which:

(A) A perpetrator engaged in the stalking course of conduct; or

(B) A victim first became aware of the stalking.

(7) *Identification of the victim or the accused.* The statistics required under paragraph (c) of this section do not include the identification of the victim or the person accused of committing the crime.

(8) *Pastoral and professional counselor.* An institution is not required

to report statistics under paragraph (c) of this section for crimes reported to a pastoral or professional counselor.

(9) *Using the FBI's UCR program and the Hierarchy Rule.* (i) An institution must compile the crime statistics for murder and nonnegligent manslaughter, negligent manslaughter, rape, robbery, aggravated assault, burglary, motor vehicle theft, arson, liquor law violations, drug law violations, and illegal weapons possession using the definitions of those crimes from the "Summary Reporting System (SRS) User Manual" from the FBI's UCR Program, as provided in Appendix A to this subpart.

(ii) An institution must compile the crime statistics for fondling, incest, and statutory rape using the definitions of those crimes from the "National Incident-Based Reporting System (NIBRS) User Manual" from the FBI's UCR Program, as provided in Appendix A to this subpart.

(iii) An institution must compile the crime statistics for the hate crimes of larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property using the definitions provided in the "Hate Crime Data Collection Guidelines and Training Manual" from the FBI's UCR Program, as provided in Appendix A to this subpart.

(iv) An institution must compile the crime statistics for dating violence, domestic violence, and stalking using the definitions provided in paragraph (a) of this section.

(v) In counting crimes when more than one offense was committed during a single incident, an institution must conform to the requirements of the Hierarchy Rule in the "Summary Reporting System (SRS) User Manual.

(vi) If arson is committed, an institution must always record the arson in its statistics, regardless of whether or not it occurs in the same incident as another crime.

(vii) If rape, fondling, incest, or statutory rape occurs in the same incident as a murder, an institution must record both the sex offense and the murder in its statistics.

(10) *Use of a map.* In complying with the statistical reporting requirements under this paragraph (c) of this section, an institution may provide a map to current and prospective students and employees that depicts its campus, noncampus buildings or property, and public property areas if the map accurately depicts its campus, noncampus buildings or property, and public property areas.

(11) *Statistics from police agencies.* (i) In complying with the statistical

reporting requirements under paragraph (c) of this section, an institution must make a reasonable, good-faith effort to obtain statistics for crimes that occurred on or within the institution's Clery geography and may rely on the information supplied by a local or State police agency.

(ii) If the institution makes such a reasonable, good-faith effort, it is not responsible for the failure of the local or State police agency to supply the required statistics.

(d) *Separate campus.* An institution must comply with the requirements of this section for each separate campus.

(e) *Timely warning and emergency notification.* (1) An institution must, in a manner that is timely and that withholds as confidential the names and other identifying information of victims, as defined in section 40002(a)(20) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)(20)), and that will aid in the prevention of similar crimes, report to the campus community on crimes that are—

(i) Described in paragraph (c)(1) of this section;

(ii) Reported to campus security authorities as identified under the institution's statement of current campus policies pursuant to paragraph (b)(2) of this section or local police agencies; and

(iii) Considered by the institution to represent a threat to students and employees.

(2) An institution is not required to provide a timely warning with respect to crimes reported to a pastoral or professional counselor.

(3) If there is an immediate threat to the health or safety of students or employees occurring on campus, as described in paragraph (g)(1) of this section, an institution must follow its emergency notification procedures. An institution that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances; however, the institution must provide adequate follow-up information to the community as needed.

(f) *Crime log.* (1) An institution that maintains a campus police or a campus security department must maintain a written, easily understood daily crime log that records, by the date the crime was reported, any crime that occurred within its Clery geography, as described in paragraph (ii) of the definition of *Clery geography* in paragraph (a) of this section, and that is reported to the campus police or the campus security department. This log must include—

(i) The nature, date, time, and general location of each crime; and

(ii) The disposition of the complaint, if known.

(2) The institution must make an entry or an addition to an entry to the log within two business days, as defined under paragraph (a) of this section, of the report of the information to the campus police or the campus security department, unless that disclosure is prohibited by law or would jeopardize the confidentiality of the victim.

(3)(i) An institution may withhold information required under paragraphs (f)(1) and (2) of this section if there is clear and convincing evidence that the release of the information would—

(A) Jeopardize an ongoing criminal investigation or the safety of an individual;

(B) Cause a suspect to flee or evade detection; or

(C) Result in the destruction of evidence.

(ii) The institution must disclose any information withheld under paragraph (f)(3)(i) of this section once the adverse effect described in that paragraph is no longer likely to occur.

(4) An institution may withhold under paragraph (f)(2) and (3) of this section only that information that would cause the adverse effects described in those paragraphs.

(5) The institution must make the crime log for the most recent 60-day period open to public inspection during normal business hours. The institution must make any portion of the log older than 60 days available within two business days of a request for public inspection.

(g) *Emergency response and evacuation procedures.* An institution must include a statement of policy regarding its emergency response and evacuation procedures in the annual security report. This statement must include—

(1) The procedures the institution will use to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus;

(2) A description of the process the institution will use to—

(i) Confirm that there is a significant emergency or dangerous situation as described in paragraph (g)(1) of this section;

(ii) Determine the appropriate segment or segments of the campus community to receive a notification;

(iii) Determine the content of the notification; and

(iv) Initiate the notification system.

(3) A statement that the institution will, without delay, and taking into

account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency;

(4) A list of the titles of the person or persons or organization or organizations responsible for carrying out the actions described in paragraph (g)(2) of this section;

(5) The institution's procedures for disseminating emergency information to the larger community; and

(6) The institution's procedures to test the emergency response and evacuation procedures on at least an annual basis, including—

(i) Tests that may be announced or unannounced;

(ii) Publicizing its emergency response and evacuation procedures in conjunction with at least one test per calendar year; and

(iii) Documenting, for each test, a description of the exercise, the date, time, and whether it was announced or unannounced.

(h) *Missing student notification policies and procedures.* (1) An institution that provides any on-campus student housing facility must include a statement of policy regarding missing student notification procedures for students who reside in on-campus student housing facilities in its annual security report. This statement must—

(i) Indicate a list of titles of the persons or organizations to which students, employees, or other individuals should report that a student has been missing for 24 hours;

(ii) Require that any missing student report must be referred immediately to the institution's police or campus security department, or, in the absence of an institutional police or campus security department, to the local law enforcement agency that has jurisdiction in the area;

(iii) Contain an option for each student to identify a contact person or persons whom the institution shall notify within 24 hours of the determination that the student is missing, if the student has been determined missing by the institutional police or campus security department, or the local law enforcement agency;

(iv) Advise students that their contact information will be registered confidentially, that this information will be accessible only to authorized campus officials, and that it may not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation;

(v) Advise students that if they are under 18 years of age and not emancipated, the institution must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student; and

(vi) Advise students that the institution will notify the local law enforcement agency within 24 hours of the determination that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.

(2) The procedures that the institution must follow when a student who resides in an on-campus student housing facility is determined to have been missing for 24 hours include—

(i) If the student has designated a contact person, notifying that contact person within 24 hours that the student is missing;

(ii) If the student is under 18 years of age and is not emancipated, notifying the student's custodial parent or guardian and any other designated contact person within 24 hours that the student is missing; and

(iii) Regardless of whether the student has identified a contact person, is above the age of 18, or is an emancipated minor, informing the local law enforcement agency that has jurisdiction in the area within 24 hours that the student is missing.

(i) [Reserved]

(j) *Programs to prevent dating violence, domestic violence, sexual assault, and stalking.* As required by paragraph (b)(11) of this section, an institution must include in its annual security report a statement of policy that addresses the institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking.

(1) The statement must include—

(i) A description of the institution's primary prevention and awareness programs for all incoming students and new employees, which must include—

(A) A statement that the institution prohibits the crimes of dating violence, domestic violence, sexual assault, and stalking, as those terms are defined in paragraph (a) of this section;

(B) The definition of "dating violence," "domestic violence," "sexual assault," and "stalking" in the applicable jurisdiction;

(C) The definition of "consent," in reference to sexual activity, in the applicable jurisdiction;

(D) A description of safe and positive options for bystander intervention;

(E) Information on risk reduction; and

(F) The information described in paragraphs (b)(11) and (k)(2) of this section; and

(ii) A description of the institution's ongoing prevention and awareness campaigns for students and employees, including information described in paragraph (j)(1)(i)(A) through (F) of this section.

(2) For the purposes of this paragraph (j)—

(i) *Awareness programs* means community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

(ii) *Bystander intervention* means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

(iii) *Ongoing prevention and awareness campaigns* means programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution and including information described in paragraph (j)(1)(i)(A) through (F) of this section.

(iv) *Primary prevention programs* means programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

(v) *Risk reduction* means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

(3) An institution's programs to prevent dating violence, domestic violence, sexual assault, and stalking must include, at a minimum, the

information described in paragraph (j)(1) of this section.

(k) *Procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking.* As required by paragraph (b)(11)(vi) of this section, an institution must include in its annual security report a clear statement of policy that addresses the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, as defined in paragraph (a) of this section, and that—

(1)(i) Describes each type of disciplinary proceeding used by the institution; the steps, anticipated timelines, and decision-making process for each type of disciplinary proceeding; how to file a disciplinary complaint; and how the institution determines which type of proceeding to use based on the circumstances of an allegation of dating violence, domestic violence, sexual assault, or stalking;

(ii) Describes the standard of evidence that will be used during any institutional disciplinary proceeding arising from an allegation of dating violence, domestic violence, sexual assault, or stalking;

(iii) Lists all of the possible sanctions that the institution may impose following the results of any institutional disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault, or stalking; and

(iv) Describes the range of protective measures that the institution may offer to the victim following an allegation of dating violence, domestic violence, sexual assault, or stalking;

(2) Provides that the proceedings will—

(i) Include a prompt, fair, and impartial process from the initial investigation to the final result;

(ii) Be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;

(iii) Provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;

(iv) Not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; however, the institution may establish restrictions

regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties; and

(v) Require simultaneous notification, in writing, to both the accuser and the accused, of—

(A) The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking;

(B) The institution's procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding, if such procedures are available;

(C) Any change to the result; and

(D) When such results become final.

(3) For the purposes of this paragraph (k)—

(i) A prompt, fair, and impartial proceeding includes a proceeding that is—

(A) Completed within reasonably prompt timeframes designated by an institution's policy, including a process that allows for the extension of timeframes for good cause with written notice to the accuser and the accused of the delay and the reason for the delay;

(B) Conducted in a manner that—

(1) Is consistent with the institution's policies and transparent to the accuser and accused;

(2) Includes timely notice of meetings at which the accuser or accused, or both, may be present; and

(3) Provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and

(C) Conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused.

(ii) *Advisor* means any individual who provides the accuser or accused support, guidance, or advice.

(iii) *Proceeding* means all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, factfinding investigations, formal or informal meetings, and hearings. *Proceeding* does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.

(iv) *Result* means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution. The result must include any sanctions imposed by the institution. Notwithstanding section 444 of the General Education Provisions Act (20

U.S.C. 1232g), commonly referred to as the Family Educational Rights and Privacy Act (FERPA), the result must also include the rationale for the result and the sanctions.

(l) Compliance with paragraph (k) of this section does not constitute a violation of FERPA.

(m) *Prohibition on retaliation.* An institution, or an officer, employee, or agent of an institution, may not retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising their rights or responsibilities under any provision in this section.

3. Revise Appendix A to Subpart D to read as follows:

**APPENDIX A TO SUBPART D OF PART 668—CRIME DEFINITIONS IN ACCORDANCE WITH THE FEDERAL BUREAU OF INVESTIGATION'S UNIFORM CRIME REPORTING PROGRAM**

The following definitions are to be used for reporting the crimes listed in § 668.46, in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Program. The definitions for *murder, rape, robbery, aggravated assault, burglary, motor vehicle theft, weapons: carrying, possessing, etc., law violations, drug abuse violations, and liquor law violations* are from the "Summary Reporting System (SRS) User Manual" from the FBI's UCR Program. The definitions of fondling, incest, and statutory rape are excerpted from the "National Incident-Based Reporting System (NIBRS) User Manual" from the FBI's UCR Program. The definitions of *larceny-theft (except motor vehicle theft), simple assault, intimidation, and destruction/damage/vandalism of property* are from the "Hate Crime Data Collection Guidelines and Training Manual" from the FBI's UCR Program.

**Crime Definitions From the Summary Reporting System (SRS) User Manual From the FBI's UCR Program**

*Arson*

Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

*Criminal Homicide—Manslaughter by Negligence*

The killing of another person through gross negligence.

*Criminal Homicide—Murder and Nonnegligent Manslaughter*

The willful (nonnegligent) killing of one human being by another.

*Rape*

The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**Robbery**

The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated Assault**

An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)

**Burglary**

The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

**Motor Vehicle Theft**

The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned—including joyriding.)

**Weapons: Carrying, Possessing, Etc.**

The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments,

explosives, incendiary devices, or other deadly weapons.

**Drug Abuse Violations**

The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrests for violations of State and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs.

**Liquor Law Violations**

The violation of State or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness.

**Crime Definitions From the National Incident-Based Reporting System (NIBRS) User Manual from the FBI's UCR Program****Sex Offenses**

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

A. *Fondling*—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

B. *Incest*—Sexual intercourse between persons who are related to each other within

the degrees wherein marriage is prohibited by law.

C. *Statutory Rape*—Sexual intercourse with a person who is under the statutory age of consent.

**Crime Definitions From the Hate Crime Data Collection Guidelines and Training Manual From the FBI's UCR Program****Larceny-Theft (Except Motor Vehicle Theft)**

The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

**Simple Assault**

An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

**Intimidation**

To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**Destruction/Damage/Vandalism of Property**

To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

[FR Doc. 2014-24284 Filed 10-17-14; 8:45 am]

**BILLING CODE 4000-01-P**

## **Use of Force form - supervisor checklist.pdf**

# Lorain Police Department

## Use of Force Report

Entered in Data Base by:

**Body Worn Camera:** Video Downloaded: Yes \_\_\_ No \_\_\_      Officer Reviewed: Yes \_\_\_ No \_\_\_

**PRINT LEGIBLY PLEASE**

Date	Time	# of Officers Involved	K9 Bite Applied <input type="checkbox"/> Yes <input type="checkbox"/> No	Drugs / Alcohol <input type="checkbox"/> Yes <input type="checkbox"/> No	Case #
Location of Occurrence			City	District <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5	

Subjects Name (Last, First)	DOB
-----------------------------	-----

Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race <input type="checkbox"/> American Indian/Alaskan <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Black <input type="checkbox"/> Unknown <input type="checkbox"/> White <input type="checkbox"/> Hispanic <input type="checkbox"/> Middle Eastern
--	---

Subject Injured? <input type="checkbox"/> Yes <input type="checkbox"/> No	Injured When? <input type="checkbox"/> During Incident <input type="checkbox"/> Prior to Aggression Response <input type="checkbox"/> Not Injured	Officer Injured? <input type="checkbox"/> Yes <input type="checkbox"/> No
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<p style="text-align: center;"><b>Type of Situation (Only Select 1)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Resistance to Arrest</li> <li><input type="checkbox"/> Detention w/out Arrest</li> <li><input type="checkbox"/> Control of Prisoner</li> <li><input type="checkbox"/> Control of EDP</li> <li><input type="checkbox"/> Crowd Control</li> <li><input type="checkbox"/> Assault on Police Officer</li> <li><input type="checkbox"/> Assault on Citizen</li> <li><input type="checkbox"/> Suicide Attempt</li> </ul>	<p style="text-align: center;"><b>Reason for Using Force (Only Select 1)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Physically Resisting</li> <li><input type="checkbox"/> Violent</li> <li><input type="checkbox"/> Potential to harm self/others</li> <li><input type="checkbox"/> Defense of Police Officer</li> <li><input type="checkbox"/> Defense of Citizen</li> <li><input type="checkbox"/> Words or actions - intends to be violent or physically resist.</li> </ul>
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<p style="text-align: center;"><b>Final Disposition of Subject (Only Select 1)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Arrested</li> <li><input type="checkbox"/> Not Arrested</li> <li><input type="checkbox"/> Left Scene / Escaped Custody</li> <li><input type="checkbox"/> Deceased</li> <li><input type="checkbox"/> Summoned and Released</li> </ul>	<p style="text-align: center;"><b>Officer Action Taken (Select <u>all</u> that apply)</b></p> <p>E N/E</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> <input type="checkbox"/> Joint Manipulation/Pain Compliance/ Take Downs</li> <li><input type="checkbox"/> <input type="checkbox"/> Taser</li> <li><input type="checkbox"/> <input type="checkbox"/> OC</li> <li><input type="checkbox"/> <input type="checkbox"/> Pepperball</li> <li><input type="checkbox"/> <input type="checkbox"/> Chemical Agents/ CN or CS</li> <li><input type="checkbox"/> <input type="checkbox"/> Hard Empty Hand Control / Throws</li> <li><input type="checkbox"/> <input type="checkbox"/> K-9 Bite</li> <li><input type="checkbox"/> <input type="checkbox"/> Impact Weapons/Improvised Objects</li> <li><input type="checkbox"/> <input type="checkbox"/> Impact Weapons/Special Munitions</li> <li><input type="checkbox"/> <input type="checkbox"/> Impact Weapons/Baton</li> <li><input type="checkbox"/> <input type="checkbox"/> Deadly Force</li> </ul>
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<p style="text-align: center;"><b>Medical Treatment</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Treated by EMS Personnel</li> <li><input type="checkbox"/> Treated / Released at Medical Facility</li> <li><input type="checkbox"/> Admitted to Medical Facility</li> </ul> <p>(regardless of when injury occurred)</p>	<p>E=Effective    N/E= Not Effective</p>
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Officer's Name and ID # (Print and Initial)	Date
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Shift Supervisor's Name and ID # (Print and Initial)	<input type="checkbox"/> Audio/Video Reviewed <input type="checkbox"/> No Audio/Video Available <input type="checkbox"/> Not Use of Force	<input type="checkbox"/> Within UOF Policy <input type="checkbox"/> Request Review
--	---	--

Shift Commander's Name and ID # (Print and Initial)	<input type="checkbox"/> Audio/Video Reviewed <input type="checkbox"/> No Audio/Video Available <input type="checkbox"/> Not Use of Force	<input type="checkbox"/> Within UOF Policy <input type="checkbox"/> Request Review
---	---	--

Operations Commander's Name and ID # (Print and Initial)	<input type="checkbox"/> Audio/Video Reviewed <input type="checkbox"/> No Audio/Video Available <input type="checkbox"/> Not Use of Force	<input type="checkbox"/> Within UOF Policy <input type="checkbox"/> Request Review
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\*\*Audio/Video Recordings are to be included with packet when a review by the Use of Force Board is requested \*\*

# Lorain Police Department

## Supervisor's Use of Force Checklist

Case #
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Supervisors receiving an Use of Force Report Form will review and sign off on the form indicating that the ~~use of force~~ conforms to policy 300. This checklist will assist the supervisor / commander to ensure that a thorough and complete preliminary investigation was conducted. The approving supervisor must ensure the **Who, What, When, Where, How and Why** of the particular incident is clearly articulated, and an officer(s) actions were objectively reasonable.

All Incident and supplemental reports written are complete, thorough and grammatically correct. All pertinent facts and circumstances that support a criminal allegation, and arrest, officer's tactics, aggression response and decision making are clearly articulated in the report.

1 = Shift Supervisor   2 = Shift Commander   3 = Division Commander

- The officer who uses force against a subject will articulate, in narrative format, facts concerning the **who, what, when, where, how** and **why** of the incident in his/her report.
- The **who, what, when, where** and **how** the scope of the officer's employment is established.
- The **who, what, when, where, how** and **why** concerning reasonable suspicion / probable cause for the contact with the subject, his/her state of mind, and facts known to the officer at the time of the incident is articulated in the incident report.
- Does the subject **possess the capacity to resist** the officer or to cause physical harm to the officer or third party?
- Does the subject have the **opportunity** to resist the officer or to cause the officer or a third party physical harm?
- Has the subject demonstrated the **intent** to resist the officer or to cause the officer or a third party physical harm?
- Was a warning reasonably given or withheld prior to force being used.
- The subject's level of resistance is thoroughly documented in the incident report and the use of force report prior to the end of the officer's tour of duty.
- The officer using force clearly articulated his/her lawful purpose to **effect an arrest, overcome resistance, to prevent escape or in defense of self or others.**
- In incidents which resulted in **SERIOUS INJURY**, if practical, were all possible witnesses identified, interviewed separately and statements obtained.
- Questions concerning **who, what, when, where, how** and **why** involved parties received medical care are documented in an incident report.
- All physical evidence that corroborates criminal behavior or actions and decisions of an officer and others, have been collected, photographed and entered into evidence.
- Does the officer's report articulate the need for immediate action in lieu of disengagement as a more reasonable option? Disengagement, area containment, surveillance, waiting out a subject, summoning reinforcement or calling in specialized unit may be an appropriate response in some situations.
- Were notifications made if required by policy?
- All pages of the incident report, evidence and other related documents have been completed, reviewed, and submitted as required.
- All photographs and video/audio recordings are attached to the Use of Force packet when a review by the Use of Force Review Board is requested or anticipated.
- Request review for other policy issue: \_\_\_\_\_

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\_\_\_\_\_  
Approving Supervisor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Approving Shift Commander

\_\_\_\_\_  
Date

\_\_\_\_\_  
Approving Division Commander

\_\_\_\_\_  
Date

## **Salary Continuation Agreement C-55.pdf**



Instructions

- This form is used to acknowledge an agreement to pay salary/wage continuation in lieu of temporary total or living maintenance compensation.
Regular (full) salary/wages includes any benefits which the employee would normally be entitled to if the employee was working.
This form must be signed by the employee and the employer.
Fax or mail this completed agreement to your local BWC service office.

Table with 3 columns: Employee name, Claim number, Employer name, Policy number, Employer telephone number

On the \_\_\_ day of \_\_\_, \_\_\_, \_\_\_, the employer and the employee named above executed the following terms and conditions pertaining to the payment of salary continuation.

The employer, since the inception of the employee's disability resulting from an accident/occupational disease suffered by the employee on \_\_\_/\_\_\_/\_\_\_, while in course of their employment, has been or is paying regular (full) salary/wages in lieu of temporary total or living maintenance compensation, to the employee during the period of disability as indicated below:

Continuation of regular (full) salary/wages and any benefits the injured worker would otherwise have been entitled to has been/will be paid. Salary continuation will be paid at the rate of \$\_\_\_ per \_\_\_ (week, two weeks, etc.) for the period of time from \_\_\_/\_\_\_/\_\_\_ to \_\_\_/\_\_\_/\_\_\_, (a period of time not to exceed 45 days per C-55 submission).

Does the amount paid include salary/wages from other employment? [ ] Yes [ ] No

Should salary continuation payment continue a new C-55 must be submitted within five days of the end date of this agreement. The employer must notify BWC immediately if salary continuation will be discontinued and/or if the injured worker returns to work.

Table with 2 columns: Employee signature, Date, Employer signature and title, Date

## **I Speak language identification guide.pdf**



Language  
Identification  
Guide

# *I speak...*

This language identification guide is a tool for law enforcement and other criminal justice agencies to identify the language of individuals they encounter who do not speak English.



Summit County Sheriff's Office  
The National Association of Judiciary  
Interpreters and Translators  
American Translators Association



2nd Edition – 7/15

## *The Purpose of This Language Identification Guide*



As the limited English proficient (LEP) population continues to increase in the state of Ohio and nationwide, the number of LEP defendants, victims, and witnesses processed through the Ohio criminal justice system will also increase. This guide can help to obtain interpretive services, which is the first step in working with LEP persons. It is also intended as a resource for the criminal justice community to ensure consistent and effective interaction with LEP persons.

# *I speak ...*

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## *A*

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### **Arabic**

أنا أتحدث اللغة العربية

### **Armenian**

Ես խոսում եմ հայերեն

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## *B*

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### **Bengali**

আমি বাংলা কথা বোলতে পারি

### **Bosnian**

Ja govorim bosanski

### **Bulgarian**

Аз говоря български

### **Burmese**

ကျွန်တော်/ကျွန်မ မြန်မာလို ပြောတတ်ပါတယ်။

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# C

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## Cambodian

ខ្ញុំនិយាយភាសាខ្មែរ

## Cantonese

我講廣東話 (Traditional)

我讲广东话 (Simplified)

## Catalan

Parlo català

## Croatian

Govorim hrvatski

## Czech

Mluvím česky



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## *D*

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### **Dari**

من دری حرف می زنم

### **Dutch**

Ik spreek het Nederlands

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## *F*

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### **Farsi**

من فارسی صحبت می کنم

### **French**

Je parle français

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## *G*

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### **German**

Ich spreche Deutsch



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## G

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### Greek

Μιλώ τα ελληνικά

### Gujarati

હુ ગુજરાતી બોલુ છુ

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## H

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### Haitian Creole

M pale kreyòl ayisyen

### Hebrew

אני מדבר עברית

### Hindi

मैं हिंदी बोलता हूँ ।



## **Hmong**

Kuv has lug Moob

## **Hungarian**

Beszélek magyarul

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## *I*

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## **Ilocano**

Agsaonak ti Ilokano

## **Italian**

Parlo italiano

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## *J*

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## **Japanese**

私は日本語を話す



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## *K*

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### **Kackchiquel**

Quin chagüic'ká chábal' ruin' rí  
tzújon cakchiquel

### **Korean**

한국어 합니다

### **Kurdish**

man Kurdii zaanim

### **Kurmanci**

man Kurmaanji zaanim

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## *L*

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### **Laotian**

ຂອຍປາກພາສາລາວ



## Latvian

Es runāju latviski

## Lithuanian

Aš kalbu lietuviškai

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# M

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## Mandarin

我講國語 (Traditional)

我讲国语/普通话 (Simplified)

## Mam

Bán chiyola tuj kíyol mam

## Mon

အဲဟို အင်္ဂလိပ်



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## N

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### Norwegian

Jeg snakker norsk

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## P

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### Persian

من فارسی صحبت می کنم.

### Polish

Mówię po polsku

### Portuguese

Eu falo português do Brasil  
(for Brazil)

Eu falo português de Portugal  
(for Portugal)

### Punjabi

ਮੈਂ ਪੰਜਾਬੀ ਬੋਲਦਾ/ਬੋਲਦੀ ਹਾਂ।



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## Q

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### **Qanjobal**

Ayin tí chí wal q'anjob'al

### **Quiche**

In kinch'aw k'uin ch'e quiche

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## R

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### **Romanian**

Vorbesc românește

### **Russian**

Я говорю по-русски

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## S

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### **Serbian**

Ja говорим српски



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# S

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## Sign Language (American)



## Slovak

Hovorím po slovensky

## Somali

Waxaan ku hadlaa af-Soomaali

## Spanish

Yo hablo español

## Swahili

Ninaongea Kiswahili

## Swedish

Jag talar svenska



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## T

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### Tagalog

Marunong akong mag-Tagalog

### Thai

พูดภาษาไทย

### Turkish

Türkçe konuşurum

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## U

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### Ukrainian

Я розмовляю українською мовою

### Urdu

میں اردو بولتا ہوں



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## V

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### **Vietnamese**

Tôi nói tiếng Việt

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## W

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### **Welsh**

Dwi'n siarad

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## X

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### **Xhosa**

Ndithetha isiXhosa

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## Y

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### **Yiddish**

איך רעד יידיש



**Yoruba**

Mo nso Yooba

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**Z**

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**Zulu**

Ngiyasikhuluma isiZulu





**Ohio Office of  
Criminal Justice Services**

1970 W. Broad St.  
Columbus, OH 43223  
Phone: (614) 466-7782  
Toll-Free: (888) 448-4842  
[www.ocjs.ohio.gov](http://www.ocjs.ohio.gov)



## 604.4 line up form .pdf

**OHLEG Lineup Wizard Checklist for Folder System Method**  
(requires 10 folders, 1 suspect photo, 5 filler photos, and 4 blanks)

**Out of the presence of the eyewitness:**

- 1. Print off the suspect photo and five “filler” photographs of persons matching the suspect’s description on individual pages. Keep the photo key separate and away from the witness.
- 2. Place one filler photograph into an empty folder and mark that folder number 1.
- 3. Place the suspect photo and the remaining filler photos into five folders.
- 4. Close the folders and shuffle them **so that you are not aware** which folder contains the suspect photo
- 5. Once shuffled, number the folders as 2 through 6 without looking at the contents.
- 6. Place the four blanks into folders, and number them 7 through 10.

**In the presence of the witness:**

- 7. Explain to the witness that you are going to provide the witness with 10 folders that may or may not contain the photograph of the alleged perpetrator.
- 8. Inform the witness that you do not know which, if any, folder contains the photograph of the alleged perpetrator.
- 9. Instruct the witness that you can not and will not view any of the photographs in the folders.
- 10. Inform the witness that if he or she identifies a photograph as being the person the witness saw, then the witness shall identify that photograph only by the number on the folder.
- 11. Hand each folder to the witness individually without looking at the photo within the folder.
- 12. After the witness reviews the folder, have the witness indicate whether the photograph is the person they saw, and have them indicate their degree of confidence in the identification.
- 13. Have the witness return the photograph and folder to you, and then repeat steps 11 and 12 for the remaining folders.
- 14. The witness can view the folders for a second time if he/she requests. If the witness requests a second viewing, repeat steps 7 through 14 after documenting the results of the first viewing.

- 15. After the witness has viewed the folders, and prior to allowing a second viewing, you must document and record the procedures that you have followed.
- 16. Document the date, time, and location of the lineup.
- 17. List your name and the names of everyone present for the lineup.
- 18. Record the number of photographs used and the source of each photograph.
- 19. Include in the documentation copies of each photograph used and the key that is printed out along with them. You may also want to document which folder contained each photograph once the lineup is concluded.
- 20. Include a statement of the witness' confidence in his or her own words as to the witness' certainty that the photograph is the person the witness saw immediately after making the identification.
- 21. If the witness requests a second viewing, repeat step 20 and note that the identification was made during a second viewing.
- 22. **Do not give any oral or nonverbal cues as to whether or not the witness has identified the suspect photograph until after you document and record the results and the lineup has been concluded.**

**Photo Lineup (Folder Method) Results**

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Location \_\_\_\_\_

**1. Identification and non-identification results:**

- |             |   |   |
|-------------|---|---|
| Folder #1:  | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Folder #2:  | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Folder #3:  | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Folder #4:  | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Folder #5:  | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Folder #6:  | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Folder #7:  | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Folder #8:  | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Folder #9:  | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Folder #10: | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |

Witness (printed name) \_\_\_\_\_  
Witness signature \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_

**2. Confidence Statement:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness (printed name) \_\_\_\_\_  
Witness signature \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_

**3. Names of persons present at lineup:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Source of Photo #1: \_\_\_\_\_  
Source of Photo #2: \_\_\_\_\_  
Source of Photo #3: \_\_\_\_\_  
Source of Photo #4: \_\_\_\_\_  
Source of Photo #5: \_\_\_\_\_  
Source of Photo #6: \_\_\_\_\_

Photo Lineup Preparer: \_\_\_\_\_ Date: \_\_\_\_\_

Photo Lineup Administrator: \_\_\_\_\_ Date: \_\_\_\_\_



## OHLEG Lineup Wizard Photo Array Checklist

- After printing out the suspect photo and filler photos, do not allow the witness or lineup administrator to view the key.
- Select Administrator. Every law enforcement agency should use a blind administrator whenever it is possible.

A "blind administrator" is one who does not know the identity of the suspect (or who is using a "folder" lineup). If you cannot find an administrator who does not know the identity of the suspect, **you must explain why in writing**. You should then select a "blinded administrator."

A "blinded administrator" is one who knows the identity of the suspect, but does not know which suspect the eyewitness is looking at. If you cannot use a blinded administrator, **you must explain why in writing**.

### For the Lineup Administrator:

- If you do not know the identity of the suspect, inform the witness that the suspect photograph may or may not be in the lineup, and that you do not know who the suspect is.
- Before you show the array to the eyewitness, familiarize yourself with the information that **must** be recorded in writing:
  - All identification and non-identification results that occur during the lineup, signed by the witness
  - Confidence statements, signed by the witness and in their own words, made immediately at the time of identification
  - The date and time of the lineup
  - Any identifications by the witness of non-suspects in the lineup
  - Names of all persons present at the lineup
  - The names of the lineup members and other identifying information.
- Once the lineup is completed, retrieve the lineup key and include it in the documentation.

**Photo Lineup (Photo Array Method) Results**

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**1. Identification and non-identification results:**

- |           |   |   |
|-----------|---|---|
| Photo #1: | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Photo #2: | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Photo #3: | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Photo #4: | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Photo #5: | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |
| Photo #6: | <input type="checkbox"/> Identification | <input type="checkbox"/> Non-Identification |

Witness (printed name) \_\_\_\_\_  
Witness signature \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_

**2. Confidence Statement:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness (printed name) \_\_\_\_\_  
Witness signature \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_

**3. Identifications of non-suspects:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness (printed name) \_\_\_\_\_  
Witness signature \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_

**4. Names of persons present at lineup:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Photo Lineup Preparer: \_\_\_\_\_ Date: \_\_\_\_\_

Photo Lineup Administrator: \_\_\_\_\_ Date: \_\_\_\_\_

**LEOSA WAIVER.pdf**



# LORAIN POLICE DEPARTMENT

100 West Erie Avenue

Lorain, Ohio 44052-1646

PH: (440) 204-2103 FAX: (440) 204-2519

www.lorainpolice.com

*Jim McCann, Chief of Police*

**HONOR • RESPECT • PUBLIC SERVICE**

\_\_\_\_\_, 20\_\_\_\_

## Law Enforcement Officer Safety Act (LEOSA) Waiver and Release

I certify that I am a retired officer the Lorain Police Department of who is eligible to carry a concealed firearm, pursuant to the Law Enforcement Officers Safety Act of 2004 (18 U.S. Code 926C).

I recognize that the Lorain Police Department is not legally required to provide a firearms qualification course or provide me with firearms instruction. I understand that to do so, I will be required to fire my weapon under the direct supervision of the Lorain Police Department Firearms Training Unit. I agree to indemnify and hold harmless the Lorain Police Department, or its agents and employees, for any injury caused by my participation in this qualification process.

I further waive any claim for damages against the Lorain Police Department, or its agents and employees, for any injury suffered by me while participating in this qualification process.

Further, I hereby specifically agree to indemnify and hold harmless the Lorain Police Department and the City of Lorain and/or its officers and employees, from any and all liability resulting from my carrying and/or use of any weapon allowed under the Law Enforcement Officers Safety Act of 2004 or Ohio law.

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
WITNESS NAME

\_\_\_\_\_  
SIGNATURE

## **OCLEAC Standard 2.pdf**



## OHIO COLLABORATIVE LAW ENFORCEMENT AGENCY CERTIFICATION

### STANDARDS COMPLIANCE CHECKLIST

Standard Number: 2

**AGENCY EMPLOYEE RECRUITMENT AND HIRING** The goal of every Ohio law enforcement agency is to recruit and hire qualified individuals while providing equal employment opportunity. Ohio law enforcement agencies should consist of a diverse workforce. Communities with diverse populations should strive to have a diverse work force that reflects the citizens served.

Non-discrimination and equal employment opportunity is the policy. Law enforcement agencies shall provide equal terms and conditions of employment regardless of race, color, religion, sex, sexual orientation, gender identity, age, national origin, veteran status, military status, or disability. This applies to all terms or conditions associated with the employment process, including hiring, promotions, terminations, discipline, performance evaluations, and interviews.

Agencies should utilize due diligence in ensuring that their prospective employees have the proper temperament, knowledge and attitude to handle this very difficult job. Agencies should have appropriate mechanisms in place in order to achieve this mission. Further, agencies should ensure their employment requirements are related to the skills that are necessary to be a successful employee.

**2.1 Policy statement**

A directive establishes the agency's recruitment and hiring policy statement for sworn personnel and

- a.** agency personnel that are involved in recruitment and hiring activities are issued copies of the agency's employee recruitment and hiring policy statement.
- b.** agency personnel that are involved in recruitment and hiring activities are annually trained and tested on the agency's employee recruitment and hiring policy statement.
- c.** agency provides documentation showing compliance.

Comments: \_\_\_\_\_  
\_\_\_\_\_

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**2.2 Recruitment plan**

A directive establishes the agency’s recruitment plan for sworn personnel and

- a. agency personnel that are involved in recruitment and hiring activities are issued copies of the agency’s recruitment plan.
- b. agency personnel that are involved in recruitment and hiring activities are annually trained and tested on the agency’s recruitment plan.
- c. agency provides documentation showing compliance.

Comments: \_\_\_\_\_

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**2.3 Employee recruitment and hiring equal employment opportunity plan**

A directive states the agency’s plan on equal employment opportunity for sworn personnel and

- a. agency personnel that are involved in recruitment and hiring activities are issued copies of the agency’s equal employment opportunity plan.
- b. agency personnel that are involved in recruitment and hiring activities are annually trained and tested on the agency’s equal employment opportunity plan.
- c. agency provides documentation showing compliance.

Comments: \_\_\_\_\_

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**2.4 Employee recruitment and hiring qualifications**

A directive establishes the agency's qualifications for sworn applicants and

- a.** agency personnel that are involved in recruitment and hiring activities are issued copies of the agency's employee recruitment and hiring qualifications.
  
- b.** agency personnel that are involved in recruitment and hiring activities are annually trained and tested on the agency's employee recruitment and hiring qualifications.
  
- c.** agency provides documentation showing compliance.

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2.5 Application process**

A directive establishes the agency's sworn application process including but not limited to physical examinations, emotional/psychological examinations, and background checks and

- a.** agency personnel that are involved in recruitment and hiring activities are issued copies of the agency's application process.
  
- b.** agency personnel that are involved in recruitment and hiring activities are annually trained and tested on the agency's application process.
  
- c.** agency provides documentation showing compliance.

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2.6 Selection process**

A directive establishes the agency's selection process for hiring sworn personnel and

- a. agency personnel that are involved in recruitment and hiring activities are issued copies of the agency's selection process.
- b. agency personnel that are involved in recruitment and hiring activities are annually trained and tested on the agency's selection process.
- c. agency provides documentation showing compliance.

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**2.7 Annual review/analysis of recruitment and hiring process**

A directive requires the agency to conduct a documented annual review/analysis of its sworn personnel recruitment and hiring process and

- a. agency personnel that are involved in recruitment and hiring activities are issued copies of the agency's selection process.
- b. agency personnel that are involved in recruitment and hiring activities are annually trained and tested on the agency's annual review/analysis of recruitment and hiring process.
- c. agency provides documentation showing compliance.

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Agency Name: \_\_\_\_\_ ORI # \_\_\_\_\_

Agency Contact: \_\_\_\_\_ Contact # \_\_\_\_\_

**OCLEAC Standard 1.pdf**



**OHIO COLLABORATIVE  
LAW ENFORCEMENT AGENCY CERTIFICATION**

**STANDARDS COMPLIANCE CHECKLIST**

**Standard Number: 1**

**USE OF FORCE** Employees may only use the force which is reasonably necessary to affect lawful objectives including: affecting a lawful arrest or overcoming resistance to a lawful arrest, preventing the escape of an offender, or protecting or defending others or themselves from physical harm.

**USE OF DEADLY FORCE** The preservation of human life is of the highest value in the State of Ohio. Therefore, employees must have an objectively reasonable belief deadly force is necessary to protect life before the use of deadly force. Deadly force may be used only under the following circumstances: 1. To defend themselves from serious physical injury or death; or 2. To defend another person from serious physical injury or death; or 3. In accordance with U.S. and Ohio Supreme Court decisions, specifically, *Tennessee v. Garner* and *Graham v. Connor*.

**1.1 Policy Statements**

A directive establishes the agency's use of force and use of deadly force policy statements and

- a.** agency sworn personnel are issued copies of the agency's use of force and use of deadly force policy statements.
- b.** agency sworn personnel are annually trained and tested on use of force and use of deadly force policy statements.
- c.** agency provides documentation showing compliance.

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**1.2 Training**

A directive states the agency's policy on use of force and use of deadly force training and

- a. agency sworn personnel are issued copies of the agency's use of force and use of deadly force training policy.
- b. agency sworn personnel are annually trained and tested on the agency's use of force and use of deadly force training policy.
- c. agency provides documentation showing compliance.

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**1.3 Reporting**

A directive requires a written report be taken when there is a use of force or use of deadly force incident and

- a. agency sworn personnel are issued copies of the agency's use of force and use of deadly force reporting policy.
- b. agency sworn personnel are annually trained and tested on the agency's use of force and use of deadly force reporting policy.
- c. agency provides documentation showing compliance.

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**1.4 Reviews/investigations**

A directive requires each use of force and use of deadly force report is reviewed/investigated by a defined level of authority to determine compliance with agency policies and

- a. agency sworn personnel are issued copies of the agency's use of force and use of deadly force reviews/investigations policy.
- b. agency sworn personnel are annually trained and tested on the agency's use of force and use of deadly force reviews/investigations policy.
- c. agency provides documentation showing compliance.

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MEMORANDUM - WORK GROUP - POLICE OFFICER  
TO SERGEANT TRANSITION - ADOPTION 1-4-21.pdf**



# LORAIN POLICE DEPARTMENT

*Chief of Police*

## MEMORANDUM

---

**Date:** 1/4/2021

**To:** ALL Sworn Personnel

**From:** Jim McCann  
Chief of Police

A handwritten signature in blue ink that reads "James P. McCann".

**Subj:** WORK GROUP – POLICE OFFICER TO POLICE SERGEANT TRANSITION

1. On December 10, 2020, I empaneled a Work Group to review how we as a department transition Police Officers to Police Sergeants. That Work Group, chaired by Sgt. Zapolski, met and made several recommendations on the successful transition from Police Officer to Police Sergeant. I concur with those recommendations and hereby adopt them as policy.
2. I have attached the Work Group's memorandum.

#



# LORAIN POLICE DEPARTMENT

*Chief of Police*

## MEMORANDUM

---

**Date:** 12/10/2020

**To:** Sgt. Zapolski - Chair  
Sgt. Morris - Vice Chair  
Sgt. Iannantuono  
Sgt. Angello  
Sgt. Orellano  
Officer Vrooman

**From:** Jim McCann  
Chief of Police

**Subj:** WORK GROUP – POLICE OFFICER TO POLICE SERGEANT TRANSITION

1. As you all know, every police officer that is promoted to sergeant will be re-assigned to the Uniform Road Patrol for at least one year. This practice will ensure the newly promoted sergeant gains first line supervisory experience in managing police officers, learns how to make timely critical decisions and gets experience dealing with the public in the capacity of a supervisor. This philosophy was put into place on December 2, 2019 when I became Chief of Police.
2. It is the opinion of the Command Staff, that if there is an anticipated sergeant vacancy, the police officer who will be promoted to sergeant will be re-assigned to the Uniform Road Patrol if that officer has not been actively assigned to a Uniform Road Patrol Team within 1 year. This reassignment should be no less than six months prior to the anticipated vacancy if that vacancy can reasonably be established. The Command Staff believe this will enhance the chances of a successful transition from police officer to sergeant.
3. Your task is to conduct a round table discussion as soon as practical but no later than December 21, 2020 and provide me feedback with recommendations in LPD memo format signed by the chair and vice chair. Several of you on this round table have specific experience in this matter because you were directly affected by your promotion and previous assignment.

#



# LORAIN POLICE DEPARTMENT

## *Patrol Operations Division*

### MEMORANDUM

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**Date:** 12/18/2020

**To:** Jim McCann  
Chief of Police

**From:** Kenneth Zapolski *KZ*  
Sergeant

**Subj:** WORK GROUP-POLICE OFFICER TO POLICE SERGEANT TRANSITION

1. You assigned a work group to conduct a discussion in regards to the promotion of Sergeants and making a successful transition from Police Officer to Sergeant. It is the majority opinion of the work group to reassign a police officer to uniform road patrol in anticipation of an upcoming promotion to Sergeant.
2. The police officer should work uniform road patrol for three to six months to familiarize themselves and gain experience with the road patrol function. The three to six month recommendation is based on the time the individual officer has been off of uniform road patrol. The police officer should be assigned to an FTO if needed after consultation with the Operations Commander and the Watch Commander.
3. If the police officer has been off of uniform road patrol from 0-24 months, at least 4 months of road familiarization is needed. In an attempt to make sure the police officer has a variety of calls for service to handle, the police officer should work at least one month on dayshift and one month on nightshift. After those two months are complete, the police officer can transition to Sergeant training with a road Sergeant. The time frame can be amended based on the ability of the police officer and prior performance on road patrol.
4. Any police officer with over two years plus off of road patrol should have six months to familiarize themselves with road patrol. Once again, to ensure a variety of calls, two months should be spent on dayshift and two months on nightshift. The last two months can consist of Sergeant training with a road patrol Sergeant.
5. The recommendations in points 3 and 4 can be amended based on the police officer's ability to adapt, grasp and learn the road patrol function. Meetings should be held with the Operations Commander, Watch Commander, police officer, and FTO if needed to determine the police officer's progress.
6. These changes are needed due to many changes in uniform road patrol over the years. If implemented, it is believed it will greatly enhance the successful transition from police officer to Sergeant.

#

## **First Report of Injury and City Forms.pdf**

By signing this form, I:

- Elect to only receive compensation and/or benefits that are provided for in this claim under Ohio workers' compensation laws;
- Waive and release my right to receive compensation and benefits under the workers' compensation laws of another state for the injury or occupational disease, or death resulting from an injury or occupational disease, for which I am filing this claim;
- Agree that I have not and will not file a claim in another state for the injury or occupational disease or death resulting from an injury or occupational disease for which I am filing this claim;
- Confirm that I have not received compensation and/or benefits under the workers' compensation laws of another state for this claim, and that I will notify BWC immediately upon receiving any compensation or benefits from any source for this claim.

### WARNING:

Any person who obtains compensation from BWC or self-insuring employers by knowingly misrepresenting or concealing facts, making false statements or accepting compensation to which he or she is not entitled, is subject to felony criminal prosecution for fraud.

(R.C. 2913.48)

Injured Worker and Injury/Disease/Death Info.	Last name, first name, middle initial			Social Security number		Marital Status <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Separated <input type="checkbox"/> Widowed		Date of birth		
	Home mailing address			Sex <input type="checkbox"/> Male <input type="checkbox"/> Female				Number of dependents		
	City	State	9-digit ZIP code		Country if different from USA				Department name	
	Wage rate \$	Per: <input type="checkbox"/> Hour <input type="checkbox"/> Month <input type="checkbox"/> Week <input type="checkbox"/> Year <input type="checkbox"/> Other	What days of the week do you usually work? <input type="checkbox"/> Sun <input type="checkbox"/> Mon <input type="checkbox"/> Tue <input type="checkbox"/> Wed <input type="checkbox"/> Thur <input type="checkbox"/> Fri <input type="checkbox"/> Sat		Regular work hours From To				Occupation or job title	
	Have you been offered or do you expect to receive payment or wages for this claim from anyone other than the Ohio Bureau of Workers' Compensation <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please explain.									
	Employer name <b>CITY OF LORAIN</b>									
	Mailing address (number and street, city or town, state, ZIP code and country) <b>200 W ERIE AVE STE 714, LORAIN, OH, 440521606</b>									
	Location, if different from mailing address									
	Was the place of accident or exposure on employer's premises? <input type="checkbox"/> Yes <input type="checkbox"/> No (If no, give accident location, street address, city, state and ZIP code)									
	Date of injury/disease	Time of injury <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.		If fatal, give date of death		Time employee began work <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.		Date last worked	Date returned to work	
Date hired		State where hired		Date employer notified		State where supervised				
Description of accident (Describe the sequence of events that directly injured the employee, or caused the disease or death.)						Type of injury/disease and part(s) of body affected (For example: sprain of lower left back)				
Benefit application release of information - I am applying for a claim under the Ohio Bureau of Workers' Compensation Act for work-related injuries that I did not inflict. I affirm that I elect to receive compensation and benefits under Ohio's workers' compensation laws for my claim, and I waive and release my right to file for and receive compensation and benefits under the laws of any other state for this claim. I request payment for compensation and/or medical benefits as allowable, and authorize direct payment to my medical providers. I permit and authorize any provider who attends, treats or examines me, the Ohio State Board of Pharmacy, the Ohio Department of Job and Family Services and the Ohio Rehabilitation Services Commission to release medical, psychological, psychiatric, pharmaceutical, vocational and social information. I understand this may include personally identifying information that is casually or historically related to my physical or mental injuries relevant to issues necessary for the administration of my claim to BWC, the Industrial Commission of Ohio, the employer in this claim, the employer's managed care organization and any authorized representatives. My previous or future BWC claims may affect decisions made in this claim. Proper administration of the present claim may require BWC to share claims information with the employers of record (or their authorized representatives) and/or my authorized representative for any and all such previous or future claims. The released claims information may include any record maintained in my claim files.										
Injured worker signature			Date	E-mail Address		Telephone number	Work number			
Treatment Info.	Health-care provider name				Telephone number		Fax number	Initial treatment date		
	Street address				City		State	9-digit ZIP code		
	Diagnosis(es): Include ICD code(s)									
	Will the incident cause the injured worker miss eight or more days of work? <input type="checkbox"/> Yes <input type="checkbox"/> No				Is the injury casually related to the industrial incident? <input type="checkbox"/> Yes <input type="checkbox"/> No					
	E code						11-digit BWC provider number	Date		
Health-care provider signature										
Employment Info.	Employer policy number <b>34705302000</b>			Check if <input type="checkbox"/> Employer is self-insuring <input type="checkbox"/> Injured worker is owner/partner/member of firm						
	Telephone number <b>(440) 204-2015</b>		Fax number	E-mail address		Federal ID number <b>34-6001700</b>		Manual number		
	Was employee treated in an emergency room? <input type="checkbox"/> Yes <input type="checkbox"/> No				Was employee hospitalized overnight as an inpatient? <input type="checkbox"/> Yes <input type="checkbox"/> No					
	If treatment was given away from work site, provider the facility name, street address, city, state and ZIP code									
	<input type="checkbox"/> <b>Certification</b> - The employer certifies that the facts in this application are correct and valid.			<input type="checkbox"/> <b>Rejection</b> - The employer rejects the validity of this claim for the reason(s) listed below:			<b>FOR SELF-INSURING EMPLOYERS ONLY:</b> <input type="checkbox"/> <b>Clarification</b> - The employer clarifies and allows the claim for the condition(s) below. <input type="checkbox"/> <b>Medical only</b> <input type="checkbox"/> <b>Lost Time</b>			
Employer signature and title						Date		OSHA case number		

**CITY OF LORAIN**  
**EMPLOYEE'S STATEMENT**

I, \_\_\_\_\_ certify that on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ (a.m. or p.m.), I  
(Name) (Date) (Time)

sustained an injury to my \_\_\_\_\_ that occurred as follows:  
(Part of Body)

(Describe the incident in detail, stating part of body injured) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has this body part been previously injured?  Yes  No If yes, when? \_\_\_\_\_

Place incident occurred \_\_\_\_\_

Did the incident occur while you were working (on the clock)?  Yes  No

Did the incident occur while you were performing your regularly assigned job/duty?  Yes  No

Did the incident occur on employer's property?  Yes  No

Name(s) of Witness(s) \_\_\_\_\_

Date/Time and to whom the accident was reported to \_\_\_\_\_

Name of Medical Provider and Treating Physician \_\_\_\_\_

Provider Address \_\_\_\_\_ Provider Phone # \_\_\_\_\_

Employee address \_\_\_\_\_

Phone Number \_\_\_\_\_ Date of Hire \_\_\_\_\_

Building/Occupation \_\_\_\_\_ Supervisor \_\_\_\_\_

Signature of Employee \_\_\_\_\_ Date: \_\_\_\_\_

**PLEASE SUBMIT TO THE HR DEPARTMENT WITHIN 24 HOURS**

# CITY OF LORAIN ANATOMY FORM

Instructions for Employee:

Please circle the injured body part(s) then sign and date this form.

\_\_\_\_\_  
Signature of Claimant

\_\_\_\_\_  
Date



**CITY OF LORAIN**

**SUPERVISOR'S REPORT**

Employee Name \_\_\_\_\_

Nature of Injury (State employee's complaints and body part injured) \_\_\_\_\_

How did the incident occur? \_\_\_\_\_

In view of a camera? \_\_\_\_\_

Cause of the incident? \_\_\_\_\_

Was the incident preventable?  Yes  No

If yes, explain \_\_\_\_\_

What actions have been taken to prevent a reoccurrence of incident? \_\_\_\_\_

Employee sent to \_\_\_\_\_

Did employee report back to work?  Yes  No

Does Employee have work restrictions? (List) \_\_\_\_\_

Date returned to work: \_\_\_\_\_ In what capacity?  Full Duty  Light Duty

Employer's Address \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_ Supervisor's Phone: \_\_\_\_\_

Signature of Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

**PLEASE SUBMIT TO THE HR DEPARTMENT WITHIN 24 HOURS**

**CITY OF LORAIN**  
**WITNESS STATEMENT**

Name of injured worker: \_\_\_\_\_

Date of injury \_\_\_\_\_ Time of injury: \_\_\_\_\_ (a.m. or p.m.)

Place of injury: \_\_\_\_\_

Description of injury: \_\_\_\_\_

Description of how injury occurred: \_\_\_\_\_

\_\_\_\_\_

Did you see the accident?  Yes  No

Describe how you became aware of the incident \_\_\_\_\_

\_\_\_\_\_

How did the injured person describe the accident to you? \_\_\_\_\_

\_\_\_\_\_

Who else was aware of the accident? \_\_\_\_\_

Was the injured employee on the clock or on duty when the incident occurred? \_\_\_\_\_

Describe any known previous injuries or problems this person has with the same part of the body:

\_\_\_\_\_

Any other information you wish to provide? \_\_\_\_\_

\_\_\_\_\_

Witness's Name \_\_\_\_\_ Witness's Address \_\_\_\_\_

Witness's Phone: \_\_\_\_\_

Signature of Witness: \_\_\_\_\_ Date: \_\_\_\_\_

**PLEASE SUBMIT TO THE HR DEPARTMENT WITHIN 24 HOURS**

# Injury reporting made easy!

## Injured employee steps:

- 1** Immediately notify your employer of the injury.
- 2** Seek medical treatment from the nearest medical facility. A BWC-certified health-care provider must provide medical services after the initial treatment.
- 3** Show the 1-888-OHIOCOMP ID card to all medical providers treating your injury.
- 4** Complete the BWC *First Report of Injury* (FROI) form and any accident report that may be required by your employer.

## Employer steps:

- 1** Complete the employer portion of BWC's *First Report of Injury* (FROI) form.
- 2** Fax the completed form to 1-888-OHIOCOMP at 1-888-644-7339.
- 3** Report the injury by phone to 1-888-OHIOCOMP at 1-888-644-6266 or 216-426-0646.



## INJURED WORKER IDENTIFICATION CARD

Please present to your medical provider when seeking initial medical treatment.

	<b>WORKERS' COMPENSATION IDENTIFICATION CARD</b>
<b>Employer Name:</b>	CITY OF LORAIN
<b>Employer Risk/Policy No:</b>	34705302000
<b>First Report of Injury • Case Management Billing Questions</b>	<b>1-888-644-6266</b>

In an emergency, immediately notify your employer and seek treatment at the nearest medical facility. A BWC-certified health-care provider must provide medical services after the initial treatment. Call 1-888-OHIOCOMP if you need help locating a BWC-certified medical provider.

# Lorain Police Department

## REQUEST FOR INJURED ON DUTY COMPENSATION



NAME: \_\_\_\_\_  
(please print)

REQUEST INJURED ON DUTY PAY FROM \_\_\_\_\_ TO \_\_\_\_\_

Copy of Police Incident/Accident Report Attached   
 Copy of Medical Documentation Attached   
 Copy of City of Lorain Injury Report Form Completed

SIGNATURE

DATE

Submitted by: .		
Received by Supervisor:		
Reviewed by Division Captain:		
Reviewed by Chief of Police:		
Approved by Safety Director:		

# CITY OF LORAIN ACCIDENT OR INJURY REPORT FORM

To be completed by injured employee

**MUST BE PRINTED IN INK**

NAME: _____		SEX: (CIRCLE ONE) MALE FEMALE.	
HOME ADDRESS: _____	CITY: _____	ZIP: _____	
DATE OF BIRTH: _____	HOME PHONE: _____	CELL: _____	
DEPARTMENT: _____	POSITION: _____	YEARS ON JOB: _____	
DATE OF INJURY: _____		TIME OF INJURY: _____	AM PM
STATE WHEN ONSET OF SYMPTOMS OCCURRED: DATE: _____		TIME: _____	AM PM
DESCRIBE WHAT CAUSED THE INJURY/SYMPTOMS, WHAT JOB WAS BEING PERFORMED PRIOR TO THE INCIDENT, LOCATION OF INCIDENT, WHAT STEPS WERE TAKEN AFTER THE INCIDENT. NAME OBJECTS OR SUBSTANCES INVOLVED. BE SPECIFIC WITH ALL INFORMATION. IF MORE SPACE IS NEEDED, USE THE BACK OF THIS FORM.			
WAS THIS INCIDENT REPORTED TO ANYONE? YES NO <u>IF NO, STATE REASON:</u> _____			
<u>IF YES, TO WHOM:</u>	NAME: _____	TITLE: _____	DATE/TIME: _____
WAS THERE A WITNESS TO THE INJURY? YES NO <u>IF YES, NAME OF WITNESS:</u> _____			
PART(S) OF BODY AFFECTED (BE SPECIFIC; EXAMPLE: RIGHT ELBOW, LEFT KNEE, LOWER BACK, ETC.) _____			
TYPE OF INJURY: (BE SPECIFIC; BRUISE, SCRAPE, LACERATION, PULL, STRAIN, ETC.) _____			
WAS ANY FIRST AID PROVIDED AT SCENE? YES NO <u>IF YES, DESCRIBE:</u> _____			
OTHER MEDICAL TREATMENT SOUGHT? YES NO <u>IF YES, STATE WHEN AND WHERE:</u> _____			
IF MEDICAL TREATMENT NOT SOUGHT IMMEDIATELY, STATE REASON: _____			
IS THIS AN AGGRAVATION OF A PREVIOUS INJURY/SYMPTOM: YES NO <u>IF YES, STATE WHEN YOU WERE LAST TREATED FOR THE PREVIOUS INJURY: DATE: _____ BY WHOM/WHERE: _____</u>			
HAVE YOU EVER HAD A SIMILAR INJURY TO THE SAME BODY PART FROM WHICH YOU WERE TOTALLY RECOVERED? YES NO			
<u>IF YES, EXPLAIN:</u> _____			

**MEDICAL RELEASE:** *Under current workers' compensation law, the employer is entitled to a signed medical release.*

I hereby authorize any person or persons who have in the past or will in the future medically attend, treat or examine me, or any person who may have information of any kind which may be used to reach a decision in any claim for injury or disease arising from injury/illness described above, to disclose such information to my employer, my employer's managed care organization, or to my employer's designated representative, CompManagement, Inc. A copy of this form will serve as the original.

Employee Name: (Print): \_\_\_\_\_

Employee Signature: \_\_\_\_\_ Date (required): \_\_\_\_\_



Instructions

- This form is used to acknowledge an agreement to pay salary/wage continuation in lieu of temporary total or living maintenance compensation.
Regular (full) salary/wages includes any benefits which the employee would normally be entitled to if the employee was working.
This form must be signed by the employee and the employer.
Fax or mail this completed agreement to your local BWC service office.

Table with 3 columns: Employee name, Employer name, Policy number, Claim number, Employer telephone number

On the \_\_\_ day of \_\_\_, \_\_\_, \_\_\_, the employer and the employee named above executed the following terms and conditions pertaining to the payment of salary continuation.

The employer, since the inception of the employee's disability resulting from an accident/occupational disease suffered by the employee on \_\_\_/\_\_\_/\_\_\_, while in course of their employment, has been or is paying regular (full) salary/wages in lieu of temporary total or living maintenance compensation, to the employee during the period of disability as indicated below:

Continuation of regular (full) salary/wages and any benefits the injured worker would otherwise have been entitled to has been/will be paid. Salary continuation will be paid at the rate of \$\_\_\_ per \_\_\_ (week, two weeks, etc.) for the period of time from \_\_\_/\_\_\_/\_\_\_ to \_\_\_/\_\_\_/\_\_\_, (a period of time not to exceed 45 days per C-55 submission).

Does the amount paid include salary/wages from other employment? [ ] Yes [ ] No

Should salary continuation payment continue a new C-55 must be submitted within five days of the end date of this agreement. The employer must notify BWC immediately if salary continuation will be discontinued and/or if the injured worker returns to work.

Table with 2 columns: Employee signature, Employer signature and title, Date



Injured worker name			Claim number
---------------------	--	--	--------------

Date of injury	Date of last appointment/examination	Date of this appointment/examination	Date of next appointment/examination
----------------	--------------------------------------	--------------------------------------	--------------------------------------

**MEDCO-14 submission (Select one of the options below.)**

- 1  I have never completed a MEDCO-14. *Proceed to section 2.*  
 I have previously completed a MEDCO-14, and all of the information remains the same. *Proceed to and complete section 8.*  
 I have previously completed a MEDCO-14, and I am providing updates appropriately checking Yes or No on each section.

**Employment/Occupation (Complete this section and proceed to section 3.)** (Updates Yes  No )

2 Have you reviewed the description of the injured worker's job held on the date of injury (former position of employment)? Yes  No   
 If yes - please indicate who (select all sources) provided the job description  Injured worker  Employer  MCO  BWC

**Work status/Injured worker's capabilities** (Updates Yes  No )

3A Does the injured worker have any physical or health restrictions related to allowed conditions in the claim? Yes  No   
 If yes, are the restrictions:  Permanent  Temporary *Proceed to section 3B.*  
 If no, please check the box to indicate the injured worker is released to work as of the date of this exam.  *Proceed to section 8.*

3B If there are restrictions, can the injured worker return to the full duties of his/her job held on the date of injury (former position of employment)? Yes  No   
 If yes, please check the box to indicate that the injured worker is released to work as of the date of this exam.  *Proceed to section 8.*  
 If no, please indicate when the injured worker could not do the job held on the date of injury for this period of restricted duty.  
 Date: \_\_\_\_\_  
 Please estimate when the injured worker should be able to return to the job held on the date of injury for this period of restricted duty.  
 Date: \_\_\_\_\_. *Proceed to section 3C.*

**Please indicate which of the activities listed below the injured worker can perform (even if the response to 3B is No.)**  
 If the injured worker is not released to the former position of employment but may return to available and appropriate work with restrictions, please indicate the possible return to work date: \_\_\_\_\_  
 The injured worker can perform simple grasping with:  Left hand  Right hand  Both  
 The injured worker can perform repetitive wrist motion with:  Left hand  Right hand  Both  
 The injured worker's dominant hand is:  Left  Right  
 The injured worker can perform repetitive actions to operate foot controls or motor vehicles with:  Left foot  Right foot  Both  
 If the injured worker is taking prescribed medications for the allowed conditions in this claim, can the injured worker safely:  
 \*Operate heavy machinery:  Yes  No \*Drive:  Yes  No \*Perform other critical job tasks as defined by any source listed above in section 2:  Yes  No

Please indicate the following: N = Never, O = Occasionally, F = Frequently, C = Continuously					Lifting/carrying				Pushing/pulling					
Activity	N	O	F	C	Activity	N	O	F	C	0 - 10 lbs.	N	O	F	C
Bend	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Reach above shoulder	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11 - 20 lbs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Squat/kneel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Type/keyboard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	21 - 40 lbs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Twist/turn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Work with cold substances	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	41 - 60 lbs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Climb	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Work with hot substances	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	61 - 100 lbs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
										100 + lbs.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3C How many total hours can the injured worker work: \_\_\_\_ per week \_\_\_\_ per day?  
 In an eight-hour workday, how many total hours can the injured worker: Sit: \_\_\_\_ hours  Continuously  With break  
 Walk: \_\_\_\_ hours  Continuously  With break Stand: \_\_\_\_ hours  Continuously  With break  
 Does the injured worker have any functional restrictions based only on allowed psychological conditions?  Yes  No If Yes, please describe in space provided below. Note: If Yes is indicated please reference the MEDCO-16 as needed.  
 Additionally, in this space, please provide any additional information addressing the injured worker's capabilities and/or job accommodations which may not be addressed above.

Injured worker name		Claim number	Date of injury	
<b>Disability information (If 3B above is "NO" or dates updated - all 4A fields, including site/location if applicable must be completed)</b>			(Updates Yes <input type="checkbox"/> No <input type="checkbox"/>	
Complete the chart below and furnish the narrative description of the diagnosis(es), site/location, if applicable, and International Classification of Diseases (ICD) code(s) for the condition(s) being treated due to the work-related injury/disease. Please indicate if the condition is preventing the injured worker from returning to job duties he/she held on the date of injury.				
4A	Narrative description of the work-related allowed condition	Site/location if applicable	ICD code	Is the condition preventing full duty release to the job injured worker held on the date of injury?
				Yes <input type="checkbox"/> No <input type="checkbox"/>
				Yes <input type="checkbox"/> No <input type="checkbox"/>
				Yes <input type="checkbox"/> No <input type="checkbox"/>
				Yes <input type="checkbox"/> No <input type="checkbox"/>
4B	List all other relevant conditions that impact treatment of the conditions listed above (e.g., co-morbidities or not yet allowed conditions).			
<b>Clinical findings: You can reference office notes in lieu of writing clinical findings below.</b>			(Updates Yes <input type="checkbox"/> No <input type="checkbox"/>	
5	<p>The injured worker is progressing: <input type="checkbox"/> As expected <input type="checkbox"/> Better than expected <input type="checkbox"/> Slower than expected</p> <p>Provide your clinical and objective findings supporting your medical opinion outlined on this form. List barriers to return to work and reason, for the injured worker's delay in recovery.</p>			
<b>Maximum medical improvement (MMI)</b>			(Updates Yes <input type="checkbox"/> No <input type="checkbox"/>	
6	<p>MMI is a treatment plateau (static or well-stabilized) at which no fundamental functional or physiological change can be expected within reasonable medical probability, in spite of continuing medical or rehabilitative procedures. Has the work-related injury(s) or occupational disease reached MMI based on the definition above? Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>If yes, give MMI date: _____ . If no, please provide the proposed treatment plan, including estimated duration of each treatment (attach additional sheet if necessary).</p> <p>Note: An injured worker may need supportive treatment to maintain his or her level of function after reaching MMI. Thus, periodic medical treatment may still be requested and provided.</p>			
<b>Vocational rehabilitation</b>			(Updates Yes <input type="checkbox"/> No <input type="checkbox"/>	
7	<p>Vocational rehabilitation is an individualized and voluntary program for an eligible injured worker who needs assistance in safely returning to work or in retaining employment. This program can be tailored around an injured worker's restrictions and may provide job seeking skills or necessary retraining. Is the injured worker a candidate for vocational rehabilitation services focusing on return to work?</p> <p>Yes <input type="checkbox"/> No <input type="checkbox"/> If no, please explain why and provide your recommendations to help the injured worker return to employment.</p>			
<b>Treating physician signature - mandatory</b>				
8	I certify the information on this form is correct to the best of my knowledge. I am aware that any person who knowingly makes a false statement, misrepresentation, concealment of fact or any other act of fraud to obtain payment as provided by BWC, or who knowingly accepts payment to which that person is not entitled, is subject to felony criminal prosecution and may be punished, under appropriate criminal provisions, by a fine or imprisonment or both.			
	Treating physician's name (please print legibly)		Address, city, state, nine-digit ZIP code	
	Treating physician's signature			
BWC provider (Peach) number		Date	Telephone number	Fax number

## Lorain Risk Assessment Form.pdf



# Lorain Police Department - S.W.A.T. Section

## PRE-RAID RISK ASSESSMENT

REQUESTING OFFICER / BUREAU / AGENCY \_\_\_\_\_  
CONTACT PHONE NUMBER: \_\_\_\_\_ (OFFICE) \_\_\_\_\_ (CELL) \_\_\_\_\_ (OTHER)

**Mission No.** \_\_\_\_\_

TYPE OF OPERATION:     SEARCH WARRANT                       BUY BUST                       PACKAGE DELIVERY

LOCATION (INCLUDE AVE. ST. ETC.): \_\_\_\_\_

TYPE OF OFFENSE: \_\_\_\_\_

IF NARCOTICS:  
LOCATION OF SALE:     FRONT DOOR     BACK DOOR     SIDE DOOR     OTHER: \_\_\_\_\_

TYPE OF DRUG:     CRACK     COCAINE     MARIJUANA     HEROIN     OTHER: \_\_\_\_\_

PREFERRED TIME OF SCOUT: \_\_\_\_\_

### **SUSPECT IDENTIFICATION**

NAME (PRIMARY SUSPECT FIRST)	SEX	RACE	AGE	HGT.	WGT.	HAIR	EYES
1.							
2.							
3.							
4.							
5.							

ID OR BMV PHOTO ATTACHED; IF NOT, WHY NOT? \_\_\_\_\_

### **SUSPECT ASSESSMENT**

	YES	NO	UNK
KNOWN / SUSPECTED RECORD OF VIOLENCE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SUSPECT ON PAROLE / PROBATION	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DRUG OR ALCOHOL ABUSER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MENTALLY UNSTABLE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MILITARY OR POLICE BACKGROUND	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CHARGES FILED?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ASSOCIATED WITH KNOWN OR SUSPECTED THREAT GROUP?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PARAMILITARY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TERRORIST	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RELIGIOUS EXTREMIST	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
GANG	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
OTHER:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\*PLACE APPROPRIATE SUSPECT NUMBER IN CORRESPONDING ASSESSMENT BOX  
IF YES TO ANY ABOVE, INDICATE WHICH SUSPECT(S) INVOLVED; EXPLAIN \_\_\_\_\_

NUMBER OF SUSPECTS DURING BUY(S) \_\_\_\_\_



# Lorain Police Department - S.W.A.T. Section

## PRE-RAID RISK ASSESSMENT

### WEAPONS ASSESSMENT – KNOWN OR SUSPECTED

	QUANTITY	TYPE OR BRAND	LOCATION
RIFLE			
SHOTGUN			
HANDGUN			
KNIVES			
EXPLOSIVES			
OTHER			

#### BUY MONEY INFORMATION

DATE OF BUY: \_\_\_\_\_ SERIAL #(s) \_\_\_\_\_

### ANIMAL ASSESSMENT

	QUANTITY	TYPE OR BRAND	LOCATION
DOG			
OTHER			
OTHER			

### VEHICLE ASSESSMENT

VEHICLE MAKE/MODEL	COLOR / LICENSE PLATE	ADDITIONAL DESCRIPTIONS

Vehicle Takedown Team? \_\_\_\_\_

Mobile? \_\_\_\_\_

### SITE ASSESSMENT

URBAN     RURAL     RESIDENTIAL     COMMERCIAL     OTHER \_\_\_\_\_

IF COMMERCIAL, NAME AND TYPE OF BUSINESS: \_\_\_\_\_

REQUESTED TIME OF SERVICE: \_\_\_\_\_ AM / PM    PROBABLE HOURS OF OPERATION: \_\_\_\_\_

SCHOOLS NEARBY:  YES     NO    IF YES, NAME AND TYPE: \_\_\_\_\_

DAYCARE     ELEMENTARY     HIGH SCHOOL     COLLEGE/UNIVERSITY     OTHER \_\_\_\_\_





# Lorain Police Department - S.W.A.T. Section

## PRE-RAID RISK ASSESSMENT

### PRE-RAID INTELLIGENCE

PRE-BUY       SURVEILLANCE       OTHER \_\_\_\_\_

DESCRIBE: \_\_\_\_\_  
\_\_\_\_\_

### SITE FORTIFICATIONS

	YES	NO	UNK
STRUCTURE BARRICADED?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DESCRIBE -			
STRUCTURE BOOBY-TRAPPED?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DESCRIBE -			
COUNTER SURVEILLANCE, SECURITY CAMERAS, SCANNERS?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DESCRIBE -			
ARMED?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DESCRIBE -			
CHILDREN NORMALLY INSIDE STRUCTURE?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HOW MANY CHILDREN -			
AGES OF CHILDREN -			
DESCRIBE -			
OTHER ADULTS NORMALLY INSIDE STRUCTURE?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DESCRIBE -			
ELDERLY NORMALLY INSIDE STRUCTURE?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HOW MANY ELDERLY -			
AGES OF ELDERLY -			
DESCRIBE -			
HANDICAPPED NORMALLY INSIDE STRUCTURE?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HOW MANY HANDICAPPED -			
AGES OF HANDICAPPED -			
DESCRIBE -			
ANY KNOWN MEDICAL CONDITIONS? (wheelchair, oxygen, bedridden, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DESCRIBE -			
OTHER MEDICAL INFORMATION? (communicable diseases, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DESCRIBE -			

### INFORMATION ASSESSMENT

LAW ENFORCEMENT OFFICER (UNDERCOVER DETECTIVE / CPD / CIA / DEA / FBI / HIDTA / ICE / IRS / OTHER AGENCY \_\_\_\_\_)

CONFIDENTIAL INFORMANT       CITIZEN       OTHER \_\_\_\_\_



# Lorain Police Department - S.W.A.T. Section

## PRE-RAID RISK ASSESSMENT

# WARRANT SERVICE

Date: Click to enter a date    Service #: Click to enter text    Officer: Click to enter text

Search Warrant

Arrest Warrant

I. Suspect Assessment	Yes	No	Unknown	Points
A. Known to use or propensity for violence:				
1. Homicide				
2. Armed Robbery				
3. Assault				
4. Resisting Arrest**				
5. Assault on Peace Officer**				
6. Other:				
B. Is suspect on parole?				
C. Is suspect on probation?				
D. Is suspect a drug abuser?				
<i>If yes, what type(s)?</i>				
E. Is suspect an alcohol abuser?				
<i>If yes, does suspect have a history of violence while intoxicated?</i>				
F. Is suspect mentally unstable?				
<i>If yes, describe condition:</i>				
<i>From where was this info obtained?</i>				
G. Does suspect have military/police background?*				
<i>If yes, describe branch of service/department, length of service, specialties, etc.</i>				
H. Is the suspect currently/historically associated with an organization which is known or suspected of violent criminal				
<i>If yes, what group or organization?</i>				
<i>Can the organization be classified as:</i>				
1. Paramilitary				
2. Terrorist				
3. Religious Extremist				
4. Gang				
5. Other:				
<b>Total from "Suspect Assessment"</b>				
<b>"Yes" = 2 points "No" = 0 points "Unknown" = 1 Point</b>				
<b>* If "Yes" MANDATORY activation of ERT, If "Unknown" 10 points    ** If "Yes" or "Unknown", double the point value</b>				



# Lorain Police Department - S.W.A.T. Section

## PRE-RAID RISK ASSESSMENT

II. Offense Assessment	Yes	No	Unknown	Points
A. Is the offense a felony? <i>If yes, list the offense:</i>				
B. Is the offense a violent felony?				
C. Was a weapon used in the commission of the offense?				
D. Were victims injured during the commission of the offense?				
E. Was/were an officer(s) injured during the commission of the offense?				
<b>Total from "Offense Assessment"</b>				
III. Weapon Assessment	Yes	No	Unknown	Points
A. Is suspect known or believed to possess:				
1. Rifle - Semi-auto or bolt/lever action				
2. Rifle - full-auto*				
3. Shotgun				
4. Handgun				
5. Explosives*				
6. Knives				
7. Other: <i>type:</i>				
<b>Total from "Weapon Assessment"</b>				
IV. Site Assessment	Yes	No	Unknown	Points
A. Are there geographic barriers or considerations? <i>If "yes", describe:</i>  <i>(may include upstairs apartments or rooms, terrain features, etc.)</i>				
B. Is the site fortified?*** <i>If "yes", describe:</i>  <i>(may include barricaded doors/windows, burglar bars, etc.)</i>				
C. Does the site have counter surveillance personnel or monitoring devices? <i>If "yes", describe:</i>				
F. Are <u>ARMED</u> counter surveillance personnel present?*				
D. Are there more than 4 adults present at the site?				
E. Are there children, elderly persons, or handicapped persons present at the site? <i>If "yes", describe:</i>				
<b>Total from "Site Assessment"</b>				
<b>"Yes" = 2 points "No" = 0 points "Unknown" = 1 Point</b>				
<b>* If "Yes" MANDATORY activation of ERT, If "Unknown" 10 points    ** If "Yes" or "Unknown", double the point value</b>				



# Lorain Police Department - S.W.A.T. Section

## PRE-RAID RISK ASSESSMENT

V. Time Assessment	<12 hrs	12-24 hrs	>24 hrs.	Points
Time allowed for operational planning:				
Total from "Time Assessment"				
"Less than 12 hours" = 4 points "12-24 hours" = 2 points "Greater than 24 hours" = 0 Point				
* If " Yes " <u>MANDATORY</u> activation of ERT, If " Unknown " 10 points    ** If "Yes" or "Unknown", double the point value				

Threat Assessment Score		
1-16 Points = ERT Optional	Total from "Suspect Assessment"	
17-24 Points = Consult ERT Commander	Total from "Offense Assessment"	
25+ Points = Mandatory ERT Activation	Total from "Weapon Assessment"	
ERT Not Activated	Total from "Site Assessment"	
ERT Commander Consulted	Total from "Time Assessment"	
ERT Activated	Overall Total	

Investigating Officer Signature: \_\_\_\_\_ ID # \_\_\_\_\_ Date: \_\_\_\_\_

Officer's Supervisor Signature: \_\_\_\_\_ ID # \_\_\_\_\_ Date: \_\_\_\_\_

ERT Commander's Signature: \_\_\_\_\_ ID # \_\_\_\_\_ Date: \_\_\_\_\_

*All Search Warrants MUST have a "Threat Assessment" completed prior to service of the warrant unless exigent circumstances exist for immediate service. Any pre-planned operation involving a Felony Arrest Warrant SHOULD have a "Threat Assessment" completed prior to warrant service IF POSSIBLE. Copies of ALL completed "Threat Assessments" SHALL be given to and reviewed by the ERT Commander or his designee within 24 hours of warrant service. Copies should include the actual warrant (or hit confirmation), CCH on the suspect and any other pertinent information used in completing the "Threat Assessment" for that case.*



# Lorain Police Department - S.W.A.T. Section PRE-RAID RISK ASSESSMENT

**INTERIOR DIAGRAM**

**LOCATION MAP**

<p><b>IF AVAILABLE, FAX A SEPARATE DIAGRAM TO UNIT EXECUTING WARRANT OR ATTACH AS A SEPARATE EMAIL DOCUMENT</b></p>	<p><b>FAX COUNTY AUDITORS PROPERTY PHOTO AND MAP TO UNIT EXECUTING WARRANT OR ATTACH AS A SEPARATE EMAIL DOCUMENT</b></p>
---	---

COMPLETED BY DETECTIVE: \_\_\_\_\_ Badge #: \_\_\_\_\_

TIME / DATE COMPLETED: \_\_\_\_\_

REVIEWED BY SERGEANT: \_\_\_\_\_ IBM: \_\_\_\_\_

TIME / DATE COMPLETED: \_\_\_\_\_

Forwarded/Assigned to: In Tac, SWAT, Other (List) \_\_\_\_\_

REVIEWED BY CAPTAIN: \_\_\_\_\_ IBM: \_\_\_\_\_

TIME / DATE COMPLETED: \_\_\_\_\_

Additional completed forms in the Mission Folder: \_\_\_\_\_

Forwarded/Assigned to: InTac, SWAT, Other (List) \_\_\_\_\_

All Search Warrants MUST have a "Pre-Raid Risk Assessment" completed prior to service of the warrant unless exigent circumstances exist for immediate service. Any pre-planned operations involving a Felony Arrest Warrant SHOULD have a "Pre-Raid Risk Assessment" completed prior to warrant service  
**IF POSSIBLE**

**ATTACH TO LEXIPOL 202 city hall  
emergency plan june 2020.pdf**



City of Lorain  
Emergency Action Plan  
Employee Emergency Guidelines  
For  
City Hall

The information contained in these guidelines is meant to provide overall emergency action/response guidelines for employees of facilities owned and operated by the City of Lorain. Orientation and understanding the requirements of this plan (including evacuation routes from buildings, extended evacuation locations, employee accountability, etc..) is the responsibility of the various elected officials and department heads.

Knowledge of this plan and what to do during an emergency situation is the responsibility of the individual employee. This document is considered secure under Ohio Revised Code Section 149.433. It is for official use only and is not to be released or posted in any form without permission.

All elected officials and department heads should use this EAP as guidance for your respective buildings outside of City Hall.

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## City Hall Emergency Action Plan

### ***Approval and Implementation:***

Emergencies and disasters can happen at any moment that may directly or indirectly impact the occupants of City of Lorain owned and operated buildings. It is the intent of this Emergency Action Plan (EAP) to assist all occupants of City of Lorain owned and operated buildings to the greatest extent possible in the planning and response to the most probable emergencies.

It may be necessary for the occupants of City owned and operated buildings to work with traditional first responder agencies (i.e. police, fire, ambulance, public health facilities and services) during an emergency. This EAP will outline the operational procedures necessary to facilitate the assistance of traditional first responder.

The applicability of the City of Lorain EAP will be specifically addressing the following types of emergencies:

- Fire
- Bomb Threat
- Tornado
- Flood
- Gas Leak/Fumes/Vapors
- Active Shooter/Active Threat
- Civil Disturbance
- Power Outage

### ***Authority of the plan:***

This plan is developed under the requirements and authority of the Ohio Administrative Code (1301:7-7-04-Emergency Planning and Preparedness) and the Ohio Fire Code. These codes list the requirements that both the building owners and occupants shall follow: These requirements include, but are not limited to:

- Emergency Plan Context
- Proper Notification of Emergency Forces
- Emergency Plan Training and Evacuation Drills
- Evacuee Accountability and Assembly/Gathering Points
- Emergency Drills (announced and unannounced)



## City Hall Emergency Action Plan

### *Local authority during an emergency:*

The Ohio Revised Code places the Fire Chief in charge of **any non-criminal incident where life, property, or the environment may be at risk.** Therefore, the Fire Chief of the City of Lorain or ranking fire officer of the City of Lorain Fire Department will be in command and control following any incident related to the above. When **any criminal action is involved,** command of the incident will be under the direction of the Chief of Police of the City of Lorain or ranking officer of the Lorain Police Department.

### *Chain of Command for building emergency operations:*

#### **FACILITY:**

#### **CITY REPRESENTATIVE:**

City Hall	Safety/Service Director Sanford Washington
Municipal Court	Court Administrator Scott Stewart
Police Department	Chief James McCann /designee
Treasurer/Income Tax	Treasurer Terri Soto/designee
Central Fire Station	Chief Chris Radman/designee
Fire Station #3	Station #3 Lieutenant
Fire Station #4	Station #4 Lieutenant
Fire Station #7	Station #7 Lieutenant
Utilities Administration Building	Utilities Director Paul Wilson/designee
PQM WWTP	Superintendent
Black River WWTP	Superintendent
Water Purification	Superintendent
Sewer	Superintendent
Water Distribution	Superintendent
Garage/Street Department	Public Property Director Lori Garcia/designee

The remaining City facilities will be under the immediate control of the individual department heads. The Safety/Service Director will assume responsibility upon arrival to the respective facility.



## City Hall Emergency Action Plan

### ***Scope:***

Reporting of emergencies, coordination with emergency response forces, emergency plans, and procedures for managing or responding to emergencies shall comply with the provisions of this paragraph.

### ***Application:***

This plan will be used in the event of an emergency requiring the timely and orderly evacuation of City of Lorain owned and operated buildings.

- Known hazards for fire in City of Lorain owned and operated buildings are as follows:
  - Paper, Electrical, Flammable chemicals in storage areas.
  - Sources of ignition are perceived to be arson and short circuits.
- This plan shall be reviewed at the following times:
  - Initial development, prior to any building renovation.
  - Monthly by all supervisors and employees.

### ***Floor Coordinators/Lorain City Hall Building:***

Each floor at Lorain City Hall will have a designated Floor Coordinator and an Assistant Floor Coordinator for all emergencies. The Floor Coordinator and Assistant Floor Coordinator will be responsible for the training of their respective co-workers and the review on this EAP on a monthly basis.

### ***Evacuation Procedures:***

Evacuation shall be done by floor with each floor following their designated route of egress (*see evacuation routes*). Employees should offer assistance to patrons and the general public during the evacuation. Any person not capable of descending via the stairs shall be brought to the designated point of rescue for the floor (*see Points of Rescue*).

***All employees are to report to their designated collection area upon exiting the building. Failure to do so may cause a search to be performed placing firefighters at a higher risk of injury. Floor Coordinators and/or Assistant Floor Coordinators will have a personnel count from their assigned floors upon arrival to their designated collection area.***



## City Hall Emergency Action Plan

### ***Points of Rescue:***

The landing at the head of the stairwell on each floor will be designated as the point of rescue for persons unable to leave the floor without assistance.

### ***Evacuation Routes, Collection Points & Assembly/Gathering Points:***

- 7<sup>th</sup> floor-*** North stairwells to the first floor; exiting out the main entrance and gathering at the north grass area of City Hall. The Floor Coordinator and/or the Assistant Floor Coordinator will assist employees with their designated evacuation route.
- 6<sup>th</sup> floor-*** South stairwells to the first floor; exiting out the main entrance and gathering at the north grass area of City Hall. The Floor Coordinator and/or the Assistant Floor Coordinator will assist employees with their designated evacuation route.
- 5<sup>th</sup> floor-*** North stairwells to the first floor; exiting out the main entrance and gathering at the north grass area of City Hall. The Floor Coordinator and/or the Assistant Floor Coordinator will assist employees with their designated evacuation route.
- 4<sup>th</sup> floor-*** South stairwells to the first floor; exiting out the main entrance and gathering at the north grass area of City Hall. The Floor Coordinator and/or the Assistant Floor Coordinator will assist employees with their designated evacuation route.
- 3<sup>rd</sup> floor-*** North stairwells to the first floor; exiting out the main entrance and gathering at the north grass area of City Hall. The Floor Coordinator and/or the Assistant Floor Coordinator will assist employees with their designated evacuation route. The Jail floor will follow established routes, using east/rear stairwells.
- 2<sup>nd</sup> floor-*** South stairwells to the first floor; exiting out the main entrance and gathering at the north grass area of City Hall. The Floor Coordinator and/or the Assistant Floor Coordinator will assist employees with their designated evacuation route. The Courts will use the designated stairwells to the east/rear stairwells.
- 1<sup>st</sup> floor-*** Main doors; exiting out the main entrance and gathering at the north grass area of City Hall. The Floor Coordinator and/or the Assistant Floor Coordinator will assist employees with their designated evacuation route. The Police Department will also use the designated routes, to include the east employee entrance. City Hall maintenance workers and police dispatch employees in the basement will use the first floor police employee entrance.



## City Hall Emergency Action Plan

*All employees are to report to their designated collection area exiting the building. No matter what floor they were located on at the time of the alarm. Failure to do so may cause a search to be performed placing firefighters at a higher risk of injury.*

### ***Employee Accountability:***

Each area of City Hall should be checked by the last employee leaving the area to ensure no one is being left behind. The fact that employees in City Hall are very transient in their jobs, accountability is next to impossible. In the event of a fire, the fire department will perform a thorough search of the building.

### ***Rescue and Medical Duties:***

The Lorain Fire Department and LifeCare Ambulance will perform all rescue and medical duties.

### ***Training:***

Training exercises shall be performed on a yearly basis as set by the Lorain Fire Department.

### ***Emergency Procedures:***

**Medical Emergency-**The person nearest a stricken or injured person should stay with them until help arrives or move to a safe area if able. Two individuals should be instructed to call "9-9-1-1 or 2100" (if using a city hall phone) to report the emergency. First Aid and CPR should only be given if the individual is trained and qualified to do so.

- The City Hall Emergency Management Team will convene at the appropriate location/s and be prepared to work in collaboration with the police and fire department, along with other local agencies.
- Floor Coordinators and/or Assistant Floor Coordinators will assist individuals in their area/s of responsibility to any designated tornado shelter locations if possible/necessary.



## City Hall Emergency Action Plan

- Floor Coordinators and/or Assistant Floor Coordinators will assist individuals with special needs to a designated tornado shelter location or area of rescue assistance if possible/necessary and if the person with the disability consents to such assistance.

### ***Means of Reporting Fire:***

All fires will be reported with the use of manual pull boxes located on each floor. Any and all fires reported with the fire pull stations will annunciate throughout the building and shall act as the notice for evacuation. Prior to pulling a box, go to the nearest office and tell an employee to dial "9-9-1-1" or "2100" and report the fire. Please give your name, the building floor and location of the fire.

### ***Do not use elevators during fire emergencies.***

**Fire Alarm**-Follow the procedure outlined above. Immediately evacuate the building. In the event you are trapped, enter an office, close the door and call "9-9-1-1" or "2100" and inform the dispatcher of your location and that you are trapped. Remain low to the floor and next to a window if possible until rescued. Place a wet cloth material around and under the door(s) to prevent smoke from entering.

The City Hall Emergency Management Team will convene at the appropriate location(s) and be prepared to work in collaboration with the Lorain Fire Department and Lorain Police Department, along with other local agencies.

- Floor Coordinators and/or Assistant Floor Coordinators will assist individuals in their area/s of responsibility to any designated tornado shelter locations if possible/necessary.
- Floor Coordinators and/or Assistant Floor Coordinators will assist individuals with special needs to a designated tornado shelter location or area of rescue assistance if possible/necessary and if the person with the disability consents to such assistance.



## City Hall Emergency Action Plan

### *Bomb Threat:*

If you receive a bomb threat (via the telephone):

- Stay calm and keep your voice calm.
- Pay close attention to details. Talk to the caller to obtain as much information as possible.
- Take notes. Ask questions.
  - When will it explode?
  - Where is it right now?
  - What does it look like?
  - What kind of bomb is it?
  - Where did you leave it?
  - Did you place the bomb?
  - Who is the target?
  - Why did you plant it?
  - What is your address?
  - What is your name?
- Observe the caller's:
  - Speech patterns (accent, tone)
  - Emotional state (angry, agitated, calm, etc.)
  - Background noise (traffic, people talking and accents, music and type, etc.)
  - Age and gender
- Write down other data:
  - Date and time of call
  - How threat was received (letter, note, telephone)
- Call "9-9-1-1" or "2100" and submit your notes from the telephone call or the bomb threat (letter or note) to Police.
- Follow police dispatch instructions.
- Check your work area for unfamiliar items. **Do not touch suspicious items;** report them to emergency responders.



## City Hall Emergency Action Plan

- Leave doors and windows open; do not turn light switches on or off.
- Use stairs only; do not use elevators.
- Move well away from the building and to your designated collection area, and follow instructions from emergency responders.
- The City Hall Emergency Management Team will convene at the appropriate location/s and be prepared to work in collaboration with the police and fire departments, along with other local agencies.
- Floor Coordinators and/or Assistant Floor Coordinators will assist individuals in their area/s of responsibility to an evacuation staging area/s or appropriate shelter-in-place location if possible/necessary.
- Floor Coordinators and/or Assistant Floor Coordinators will assist individuals with special needs to an area of rescue assistance, evacuation staging area/s or appropriate shelter-in-place location if possible/necessary and if the person with the disability consents to such assistance.

### ***Tornado:***

A Tornado Watch is issued when weather conditions are favorable for the development of severe thunderstorms that are capable of producing tornadoes. Remain alert for approaching storms and be prepared to seek shelter.

Tornado Warning means a tornado has been indicated by Doppler radar or reported by storm spotters.

If a Tornado Warning for your area is issued, do the following:

- Begin to assemble in a designated tornado shelter.
- Floor Coordinators will direct individuals in their area/s of responsibility to specific areas if possible/necessary.



## City Hall Emergency Action Plan

- Floor Coordinators will assist individuals with special needs to a designated tornado shelter location or area of rescue assistance if possible/necessary and if the person with the disability consents to such assistance.
- If sheltering in a designated tornado shelter location is not possible, move to an interior room on the lowest level (closet, interior hallways or restrooms).
- Stay away from windows and open spaces.
- Call “9-9-1-1 or 2100” to report your current location, the number of people at the location, any injuries and need for emergency assistance.
- Remain in the designated tornado shelter location until the danger has passed.
- Once the danger has passed, the City Hall Emergency Management Team will convene at the appropriate Command Post location/s and be prepared to work in collaboration with emergency workers.
- The area/s designated for City Hall are:
  - City Hall Basement
  - Hallways
  - Bathrooms

Please stay away from windows.

### ***Flood:***

When a flood is imminent, notify the Floor Coordinator and/or Assistant Floor Coordinator for specific instructions on how to proceed.

- If ordered to evacuate or if rising water is threatening, all building occupants will leave immediately and/or get to higher ground.
- Floor Coordinators and Assistant Floor Coordinators will assist individuals with special needs to an area of rescue assistance, evacuation staging area/s or appropriate shelter-in-place location if possible/necessary and if the person with the disability consents to such assistance.



## City Hall Emergency Action Plan

- Employees will secure vital equipment, records and hazardous materials by moving them to higher, safer ground.
- Employees will shut off non-essential electrical equipment.
- Building occupants should not return to the building until instructed to do so by a supervisor.
- Call 9-1-1 to report any injuries or need for emergency assistance.

The City Hall Emergency Management Team will convene at the appropriate location/s and be prepared to work in collaboration with the police and fire departments, along with other local agencies.

### ***Gas Leak/Fumes/Vapors***

If natural gas or any other identifiable or unidentifiable fumes/vapors are detected:

- Leave the immediate area and evacuate the building.
- Call "9-1-1" or "204-2100" to report the situation from a cell phone.
- Provide your location and the location of the odor to the dispatcher.
- Notify the Floor Coordinator and/or Assistant Floor Coordinator, who will assist individuals with special needs to an area of rescue assistance, evacuation staging area/s or appropriate shelter-in-place location if possible/necessary and if the person with the disability consents to such assistance.
- Floor Coordinators and/or Assistant Floor Coordinators will assist individuals in their area/s of responsibility to an evacuation staging area/s or appropriate shelter-in-place location if possible/necessary.
- The City Hall Emergency Management Team will convene at the appropriate location/s and be prepared to work in collaboration with the fire and police departments, along with other local emergency service agencies.



## City Hall Emergency Action Plan

### *Active Shooter/Active Threat:*

In the event of an active shooter/active threat and if the active shooter/active threat is inside of City Hall, all of these actions should only be done if/when it is safe to do so:

- Immediately exit the building via the safest possible route, away from the threat if possible.
- Notify the City Hall Emergency Management Team who will initiate internal notification messages with additional instructions on how to proceed and notify authorities via 9-1-1.
- Floor Coordinators and/or Assistant Floor Coordinators will assist individuals in their area/s of responsibility to an evacuation staging area/s or appropriate shelter-in-place location if possible/necessary.
- Floor Coordinators and/or Assistant Floor Coordinators will assist individuals with special needs to an area of rescue assistance, evacuation staging area/s or appropriate shelter-in-place location if possible/necessary and if the person with the disability consents to such assistance.

In the event that you cannot evacuate, or if the threat is not inside of City Hall:

Immediately initiate shelter-in-place procedures, specifically:

- Find the nearest location that provides safety.
- Close and lock doors; if doors cannot be locked, barricade/block the door with anything available.
- Move towards the area of the room where the threat cannot see you.
- Keep quiet! Do not talk until it is safe to do so.
- When safe to do so, call “9-9-1-1” or “2100” and tell the dispatcher where the active shooter/active threat is.
- Silence all cell phones.
- Do not open the door until a KNOWN law enforcement officer advises it is safe to do so, or other credible information is received advising the threat has been neutralized.



## City Hall Emergency Action Plan

### *Civil Disturbance:*

If the disturbance is inside of City Hall, call “9-9-1-1” or “2100” if the disturbance evolves into an emergency.

- Tell the dispatcher of the nature of the disturbance, location and if there are any weapons, or injuries and how many people are involved.
- Do not interfere, interrupt, or become involved in the disturbance.
- Secure your work area, log off computers, and secure sensitive files if safe to do so.
- Notify the City Hall Emergency Management Team members, who will initiate internal notification messages with additional instructions on how to proceed based on the severity of the disturbance.
- The City Hall Emergency Management Team will convene at the appropriate location/s and be prepared to work in collaboration with the police and fire departments, along with other local agencies.
- Floor Coordinators and/or Assistant Floor Coordinators will assist individuals in their area/s of responsibility to an evacuation staging area/s or appropriate shelter-in-place location if possible/necessary.
- Floor Coordinators and/or Assistant Floor Coordinators will assist individuals with special needs to an area of rescue assistance, evacuation staging area/s or appropriate shelter-in-place location if possible/necessary and if the person with the disability consents to such assistance.

If the disturbance is outside of City Hall, call “9-1-1” or “204-2100” and provide the dispatcher with the same information as mentioned above.



## City Hall Emergency Action Plan

### ***Power Outage:***

If a power outage occurs and creates an emergency, dial “9-9-1-1” or “2100” to report the emergency, otherwise notify First Energy/Ohio Edison at: 1-800-633-4766.

- Notify the City Hall Emergency Management Team member(s).
- The City Hall Emergency Management Team will convene at the appropriate location/s and prepare to work in collaboration with city and other local agencies.
- Notify the City Hall Emergency Management Team member(s), who will initiate internal notification messages with additional instructions on how to proceed based on the severity of the power outage.
- Floor Coordinators and/or Assistant Floor Coordinators will assist individuals in their area/s of responsibility to an evacuation staging area/s or appropriate shelter-in-place location if possible/necessary.
- Floor Coordinators and/or Assistant Floor Coordinators will assist individuals with special needs to an area of rescue assistance, evacuation staging area/s or appropriate shelter-in-place location if possible/necessary and if the person with the disability consents to such assistance.
- Secure all vital equipment, records, computers, etc., if safe to do so.
- Turn off electrical equipment, including computers, and light switches to prevent an electrical surge when power is restored.

### ***Shelter-In-Place Procedures:***

There may be emergencies that arise that do not afford individuals the opportunity to safely evacuate. During these emergencies, sheltering-in-place will be necessary by finding a safe interior shelter. Examples of emergencies where sheltering-in-place will be preferred include severe weather (i.e., tornado) and active shooter/active threat situations, where leaving a place of safety may be detrimental to personal safety. Desired shelter-in-place options will vary depending on the emergency, but may include bathrooms (during a tornado), and areas and rooms with lockable doors (during situations such as an active shooter).



## City Hall Emergency Action Plan

### ***Panic buttons:***

Panic buttons are located throughout the office buildings owned and operated by the City of Lorain. These buttons can be used during any emergency situation to notify the Lorain Police Department. In the event the panic button is used, you will be contacted by the Lorain Police Department Dispatch Center for further information.

### ***Emergency Management Team:***

The Emergency Management Team for the City of Lorain owned and operated buildings, including Lorain City Hall are designated to deal with the operational and policy-making aspects of the incident. The Emergency Management Team will convene during emergency situations and make applicable decisions regarding the safety of building occupants in conjunction with any traditional first responder agencies (i.e. police/fire/ambulance) on scene.

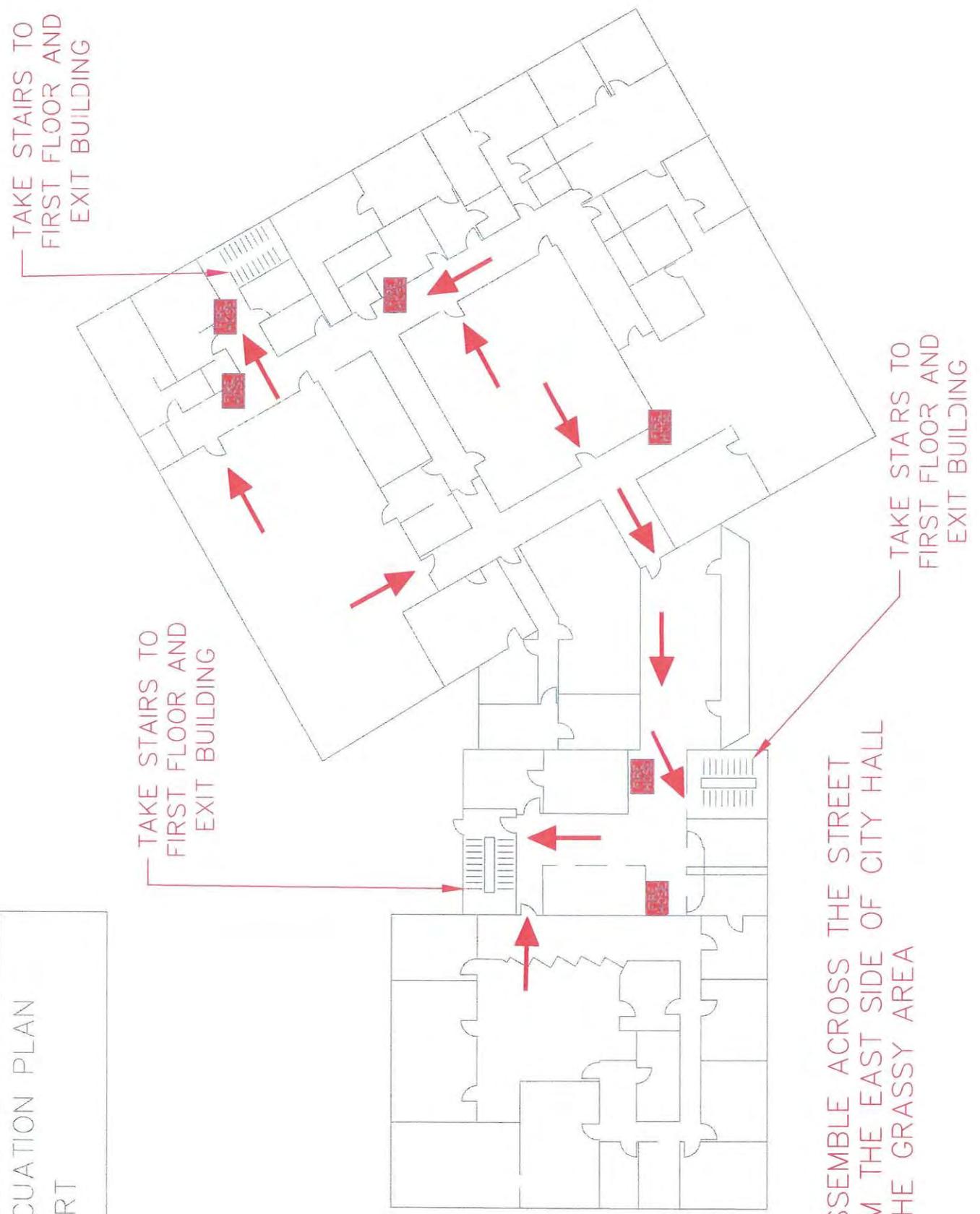
### **Emergency Management Team Members for City of Lorain owned and operated buildings, including Lorain City Hall:**

Sanford Washington-Safety/Service Director  
Rick Soto-Chief of Staff  
Mike Leopold-City Hall Building Manager  
Chief Jim McCann-Chief of Police, Lorain Police Department  
Scott Stewart-Lorain Municipal Court Administrator

*THE BEST PREPARATION FOR TOMORROW IS DOING  
YOUR BEST TODAY*

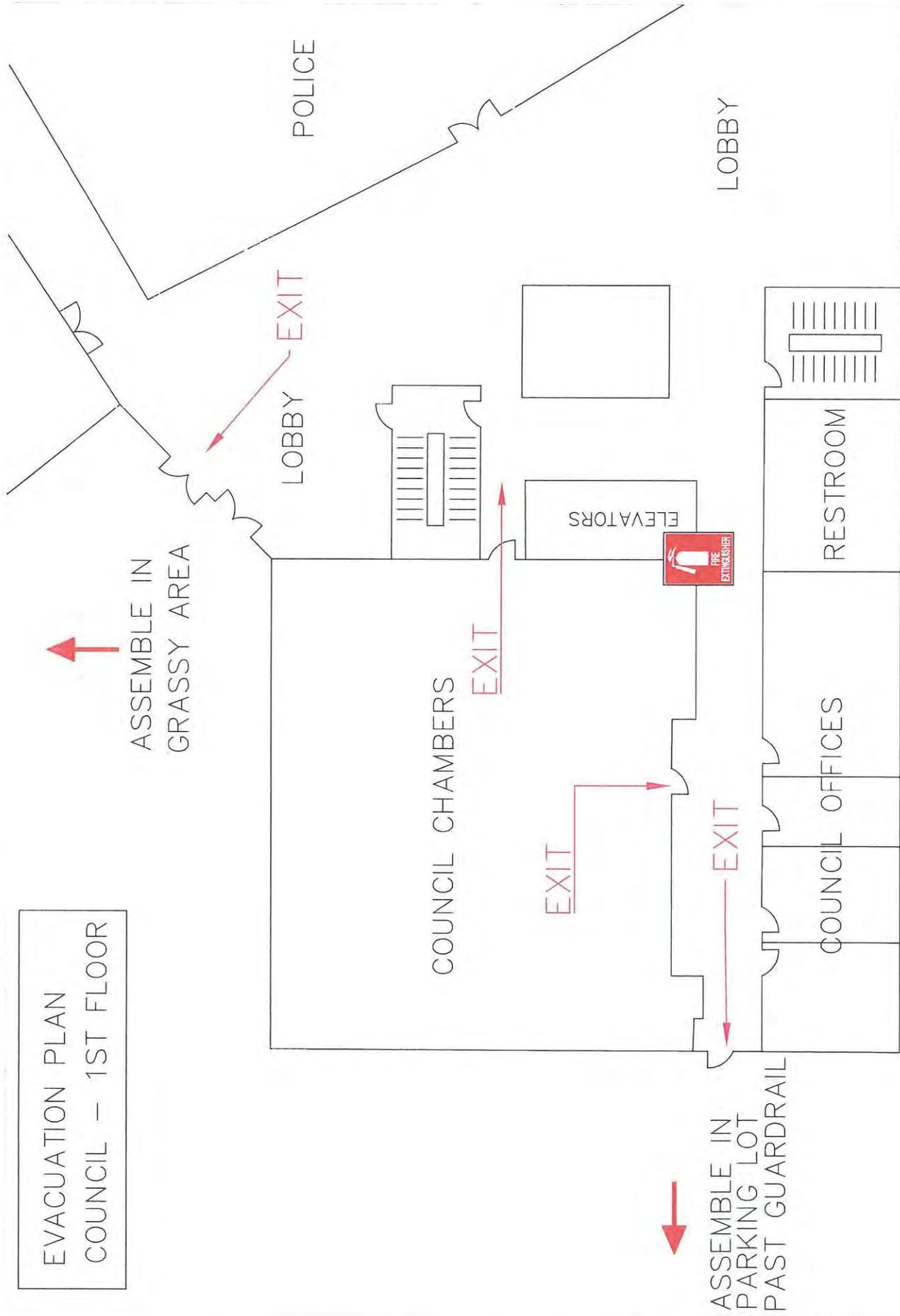
- H. Jackson Brown Jr.

EVACUATION PLAN  
COURT

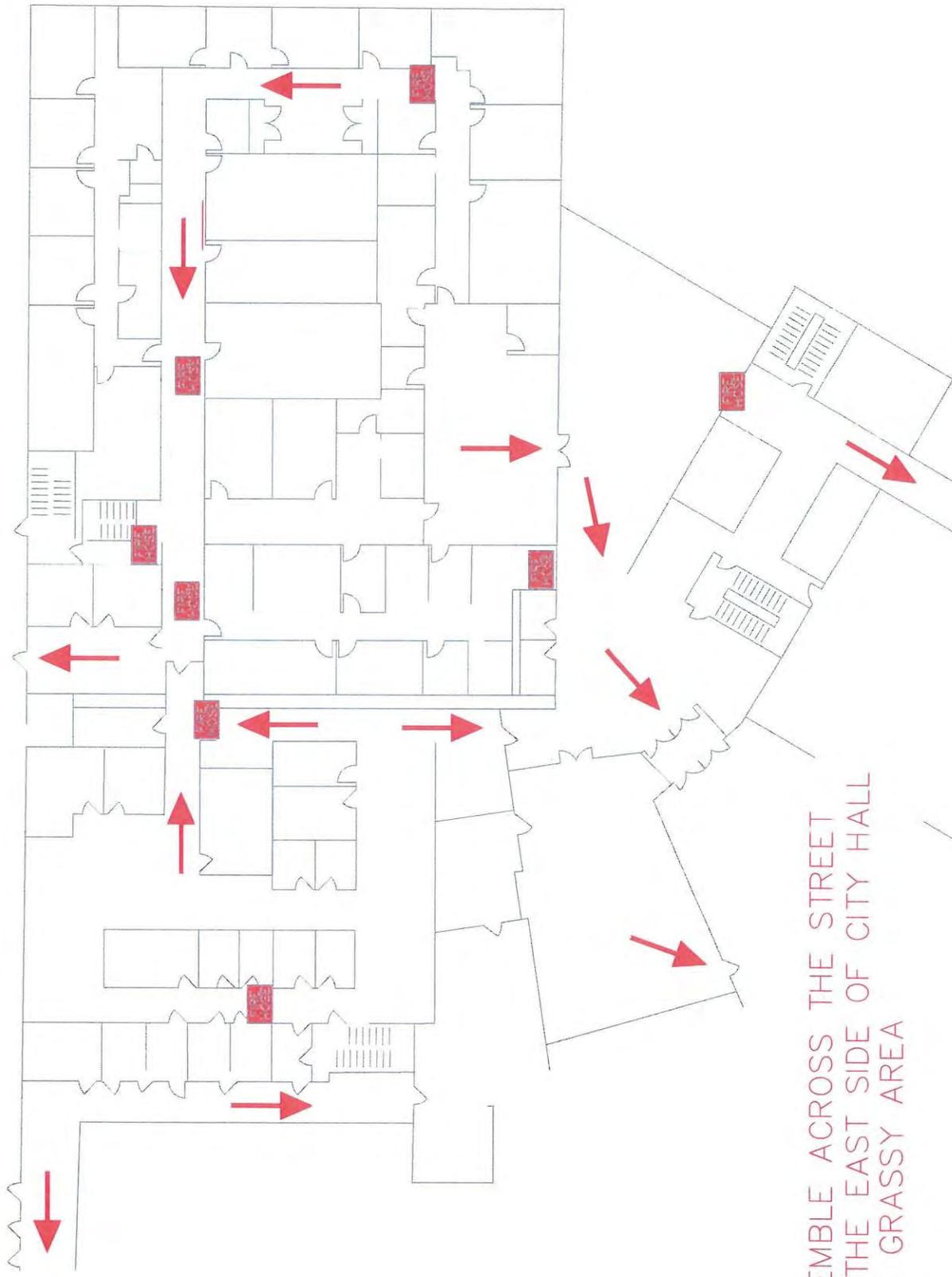


\*\*ASSEMBLE ACROSS THE STREET FROM THE EAST SIDE OF CITY HALL IN THE GRASSY AREA

EVACUATION PLAN  
COUNCIL - 1ST FLOOR

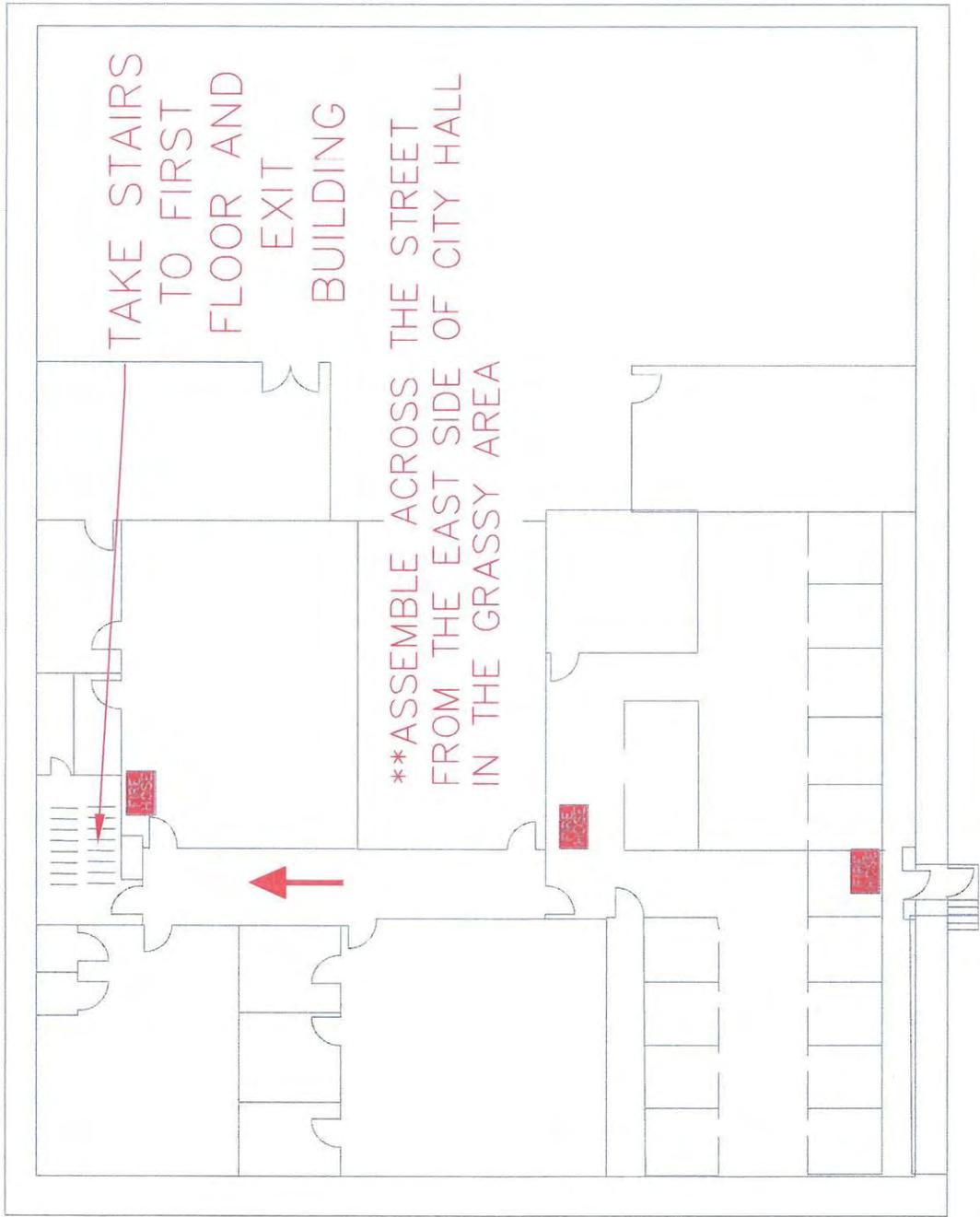


EVACUATION PLAN  
POLICE 1ST FLOOR



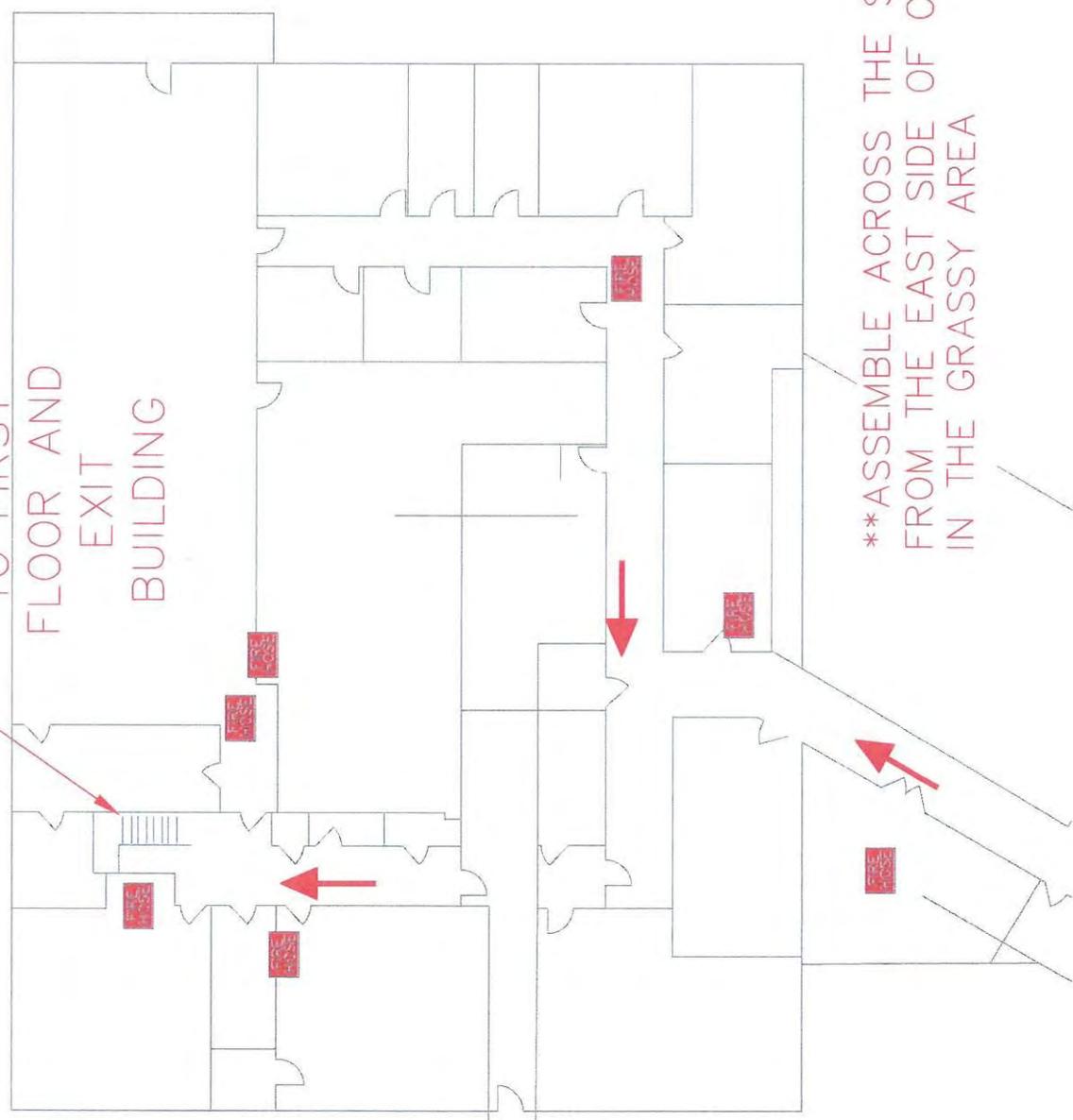
\*\*ASSEMBLE ACROSS THE STREET  
FROM THE EAST SIDE OF CITY HALL  
IN THE GRASSY AREA

EVACUATION PLAN  
POLICE 3RD FLOOR



EVACUATION PLAN  
POLICE BASEMENT

TAKE STAIRS  
TO FIRST  
FLOOR AND  
EXIT  
BUILDING



EVACUATION PLAN  
BASEMENT

ASSEMBLE IN  
GRASSY AREA



EXIT AT MAIN  
ENTRANCE ON 1ST  
FLOOR

EXIT TO STAIRS

EXIT TO STAIRS

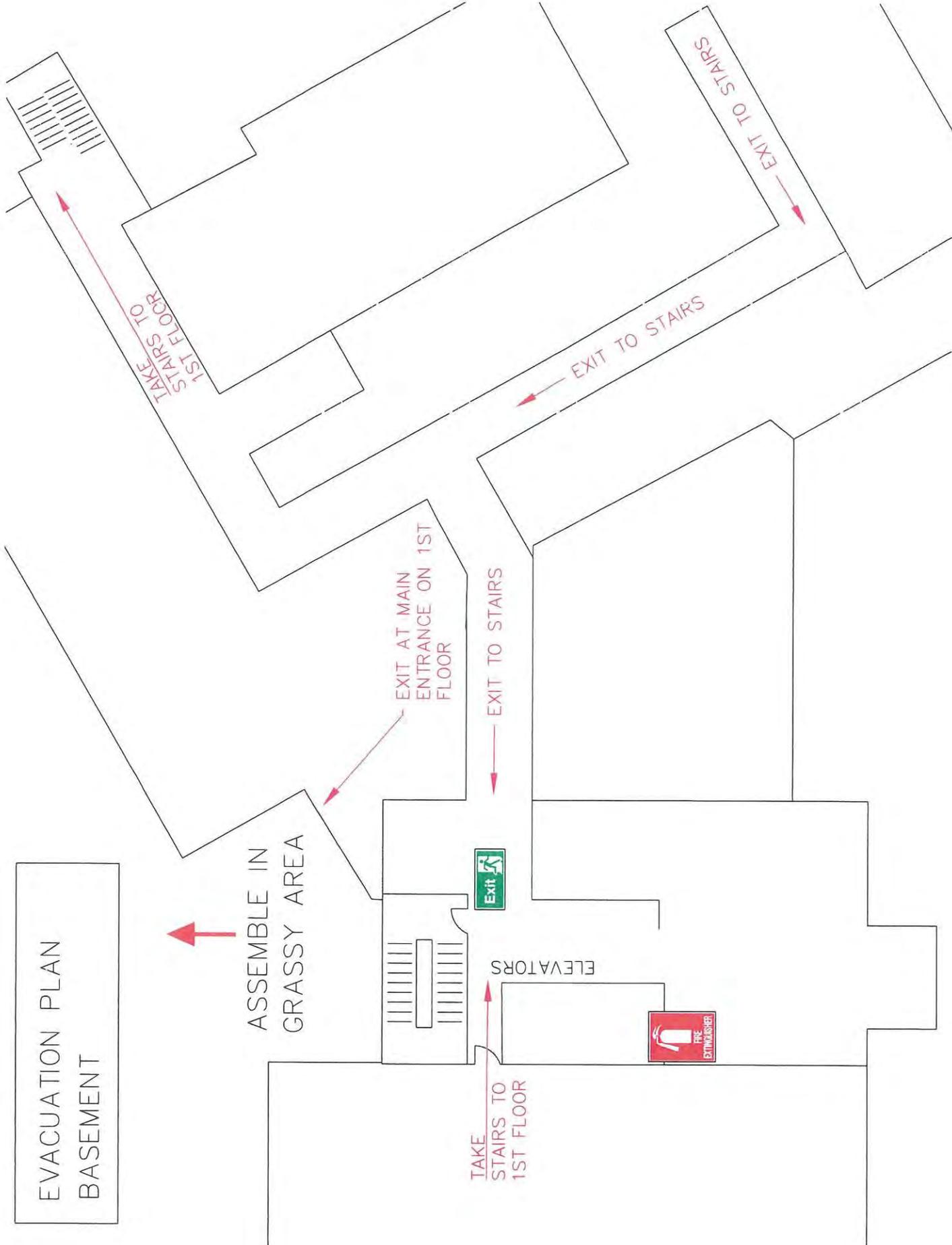
EXIT TO STAIRS

TAKE  
STAIRS TO  
1ST FLOOR

TAKE  
STAIRS TO  
1ST FLOOR

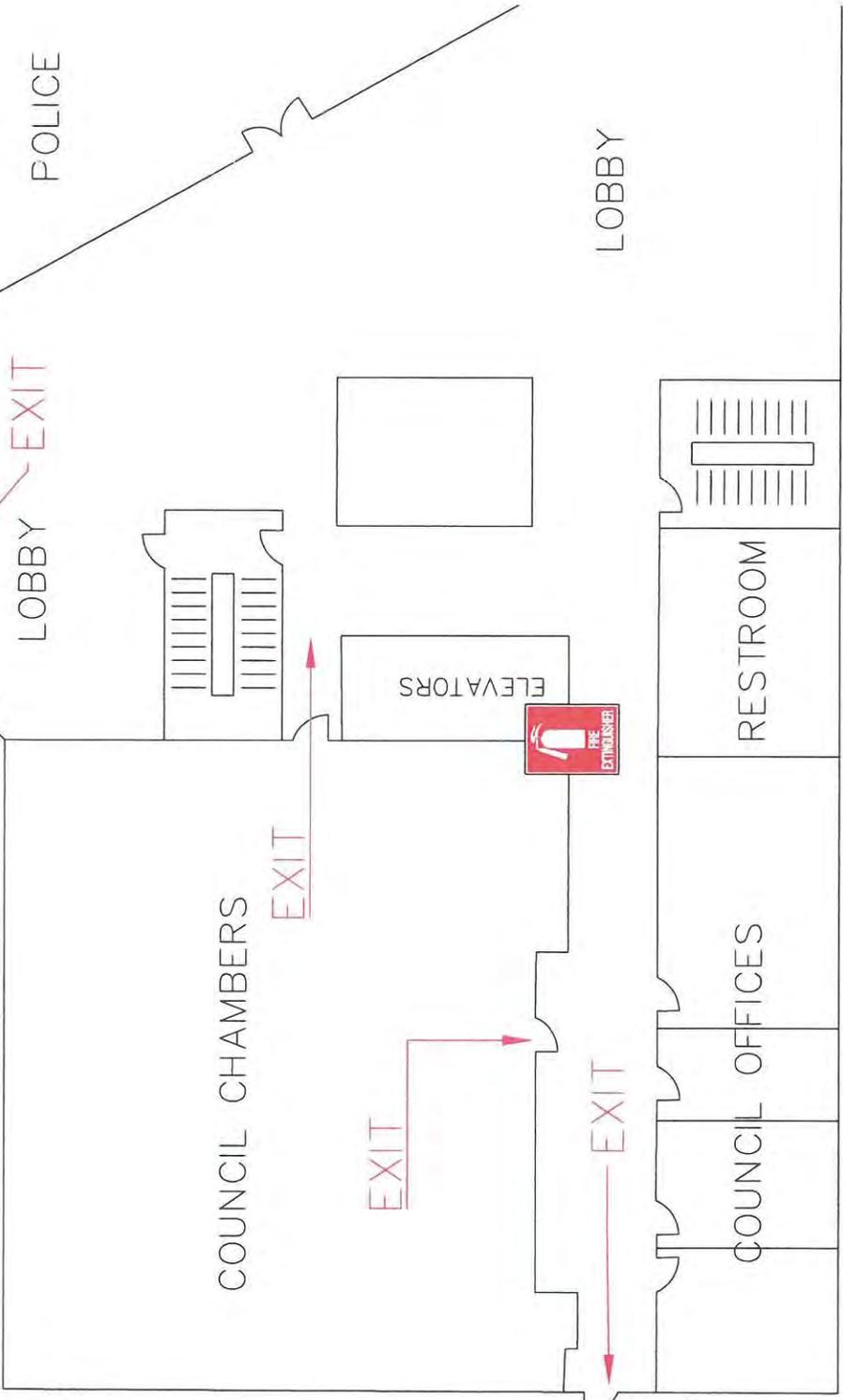


ELEVATORS



EVACUATION PLAN  
COUNCIL - 1ST FLOOR

ASSEMBLE IN  
GRASSY AREA

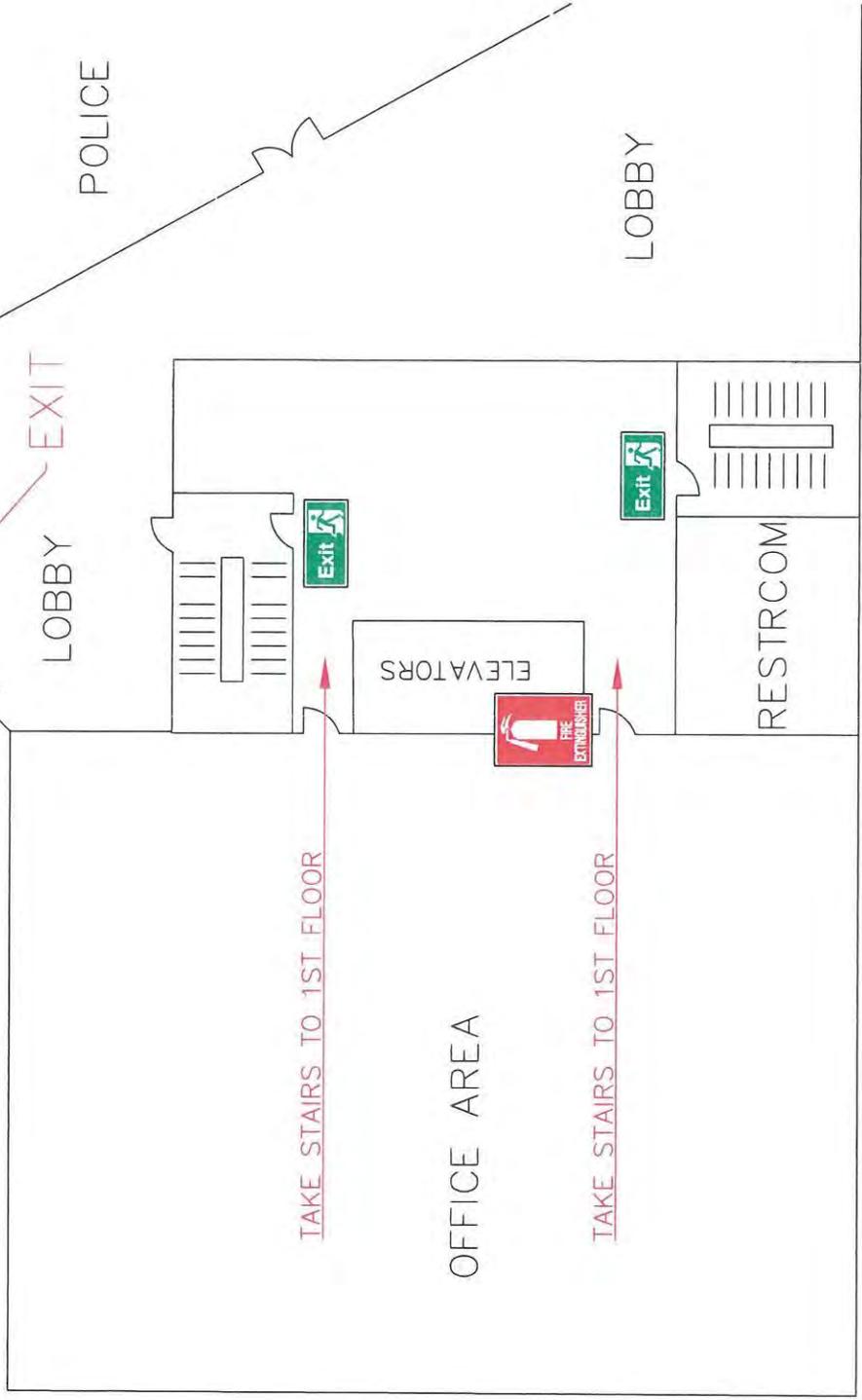


ASSEMBLE IN  
PARKING LOT  
PAST GUARDRAIL



EVACUATION PLAN  
2ND FLOOR

↑  
ASSEMBLE IN  
GRASSY AREA



POLICE

LOBBY

EXIT

LOBBY

Exit

ELEVATORS

FIRE EXTINGUISHER

RESTROOM

Exit

TAKE STAIRS TO 1ST FLOOR

OFFICE AREA

TAKE STAIRS TO 1ST FLOOR

EVACUATION PLAN  
3RD FLOOR



ASSEMBLE IN  
GRASSY AREA

LOBBY

EXIT

LOBBY

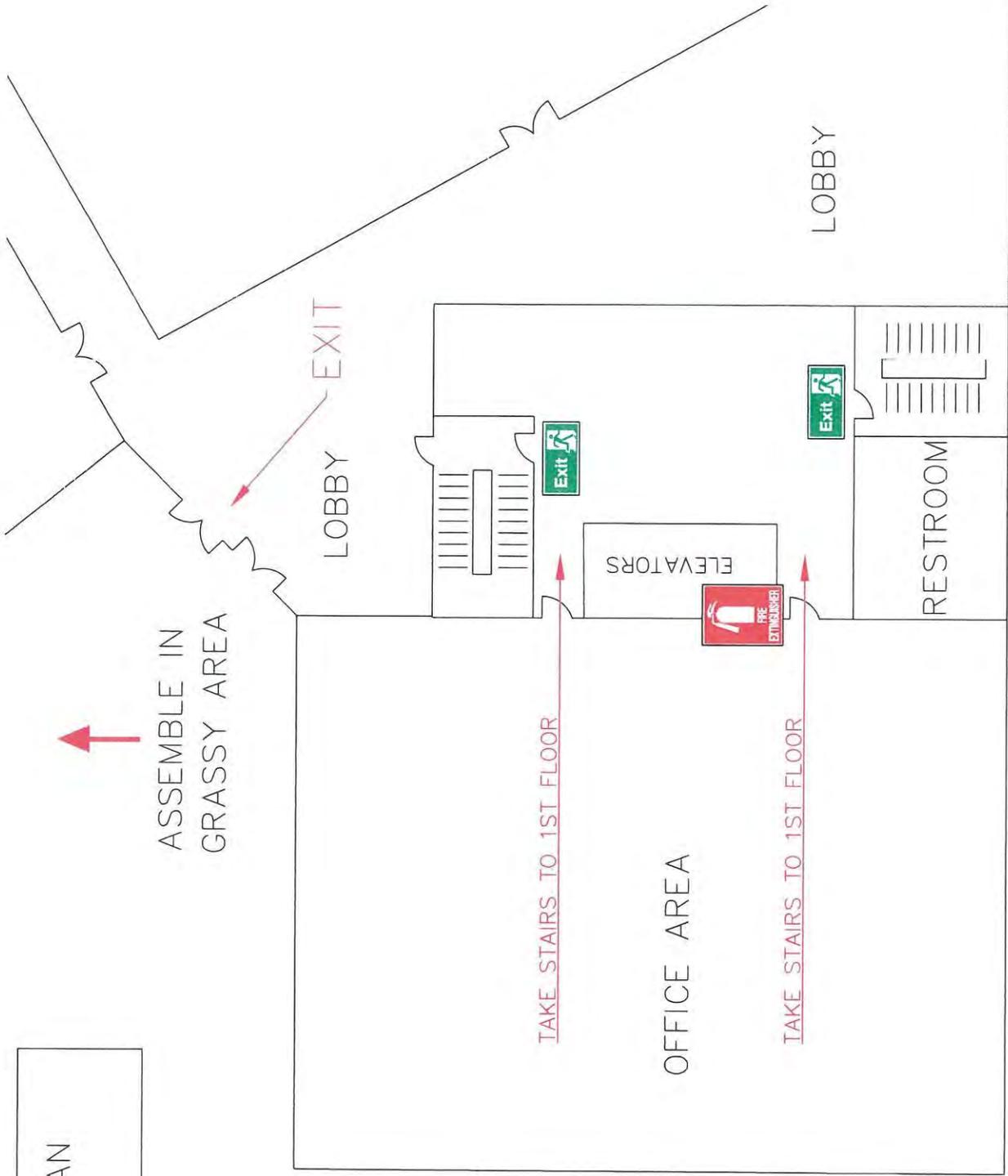
TAKE STAIRS TO 1ST FLOOR

OFFICE AREA

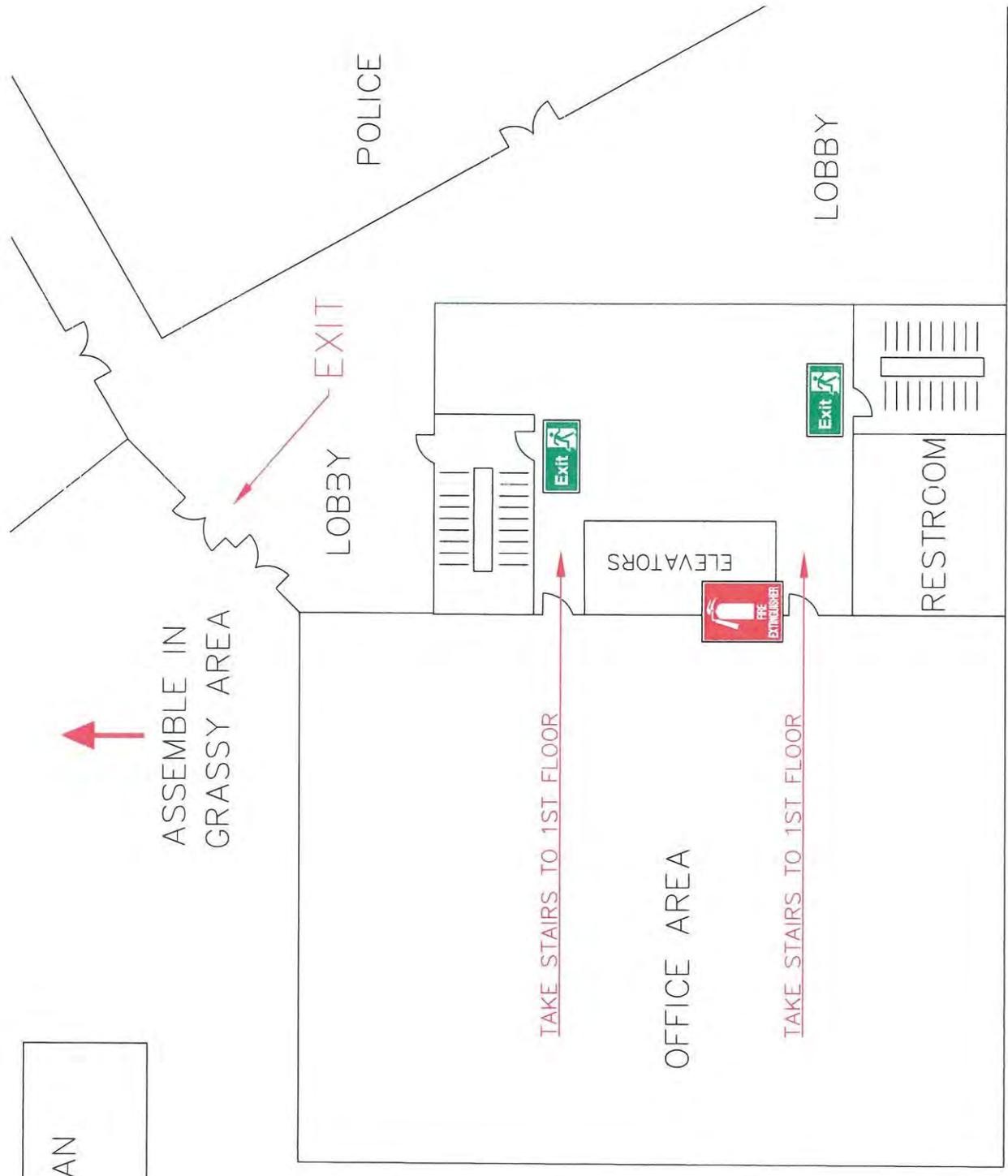
TAKE STAIRS TO 1ST FLOOR

ELEVATORS

RESTROOM



EVACUATION PLAN  
4TH FLOOR



EVACUATION PLAN  
5TH FLOOR



ASSEMBLE IN  
GRASSY AREA

LOBBY

EXIT

POLICE

LOBBY

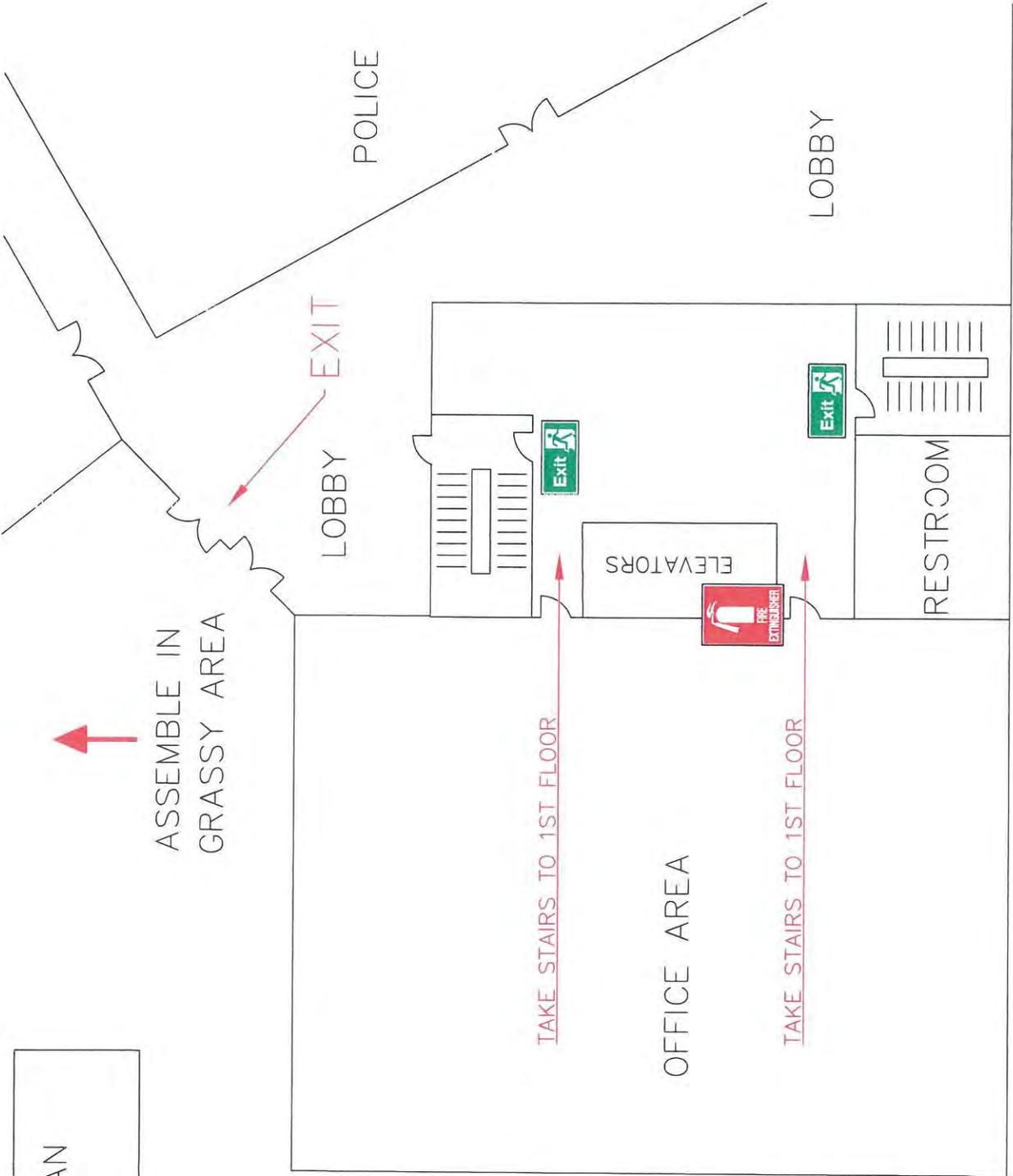
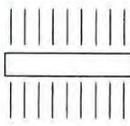
TAKE STAIRS TO 1ST FLOOR

OFFICE AREA

TAKE STAIRS TO 1ST FLOOR

ELEVATORS

RESTROOM





EVACUATION PLAN  
7TH FLOOR

ASSEMBLE IN  
GRASSY AREA



LOBBY

EXIT

POLICE

LOBBY

TAKE STAIRS TO 1ST FLOOR

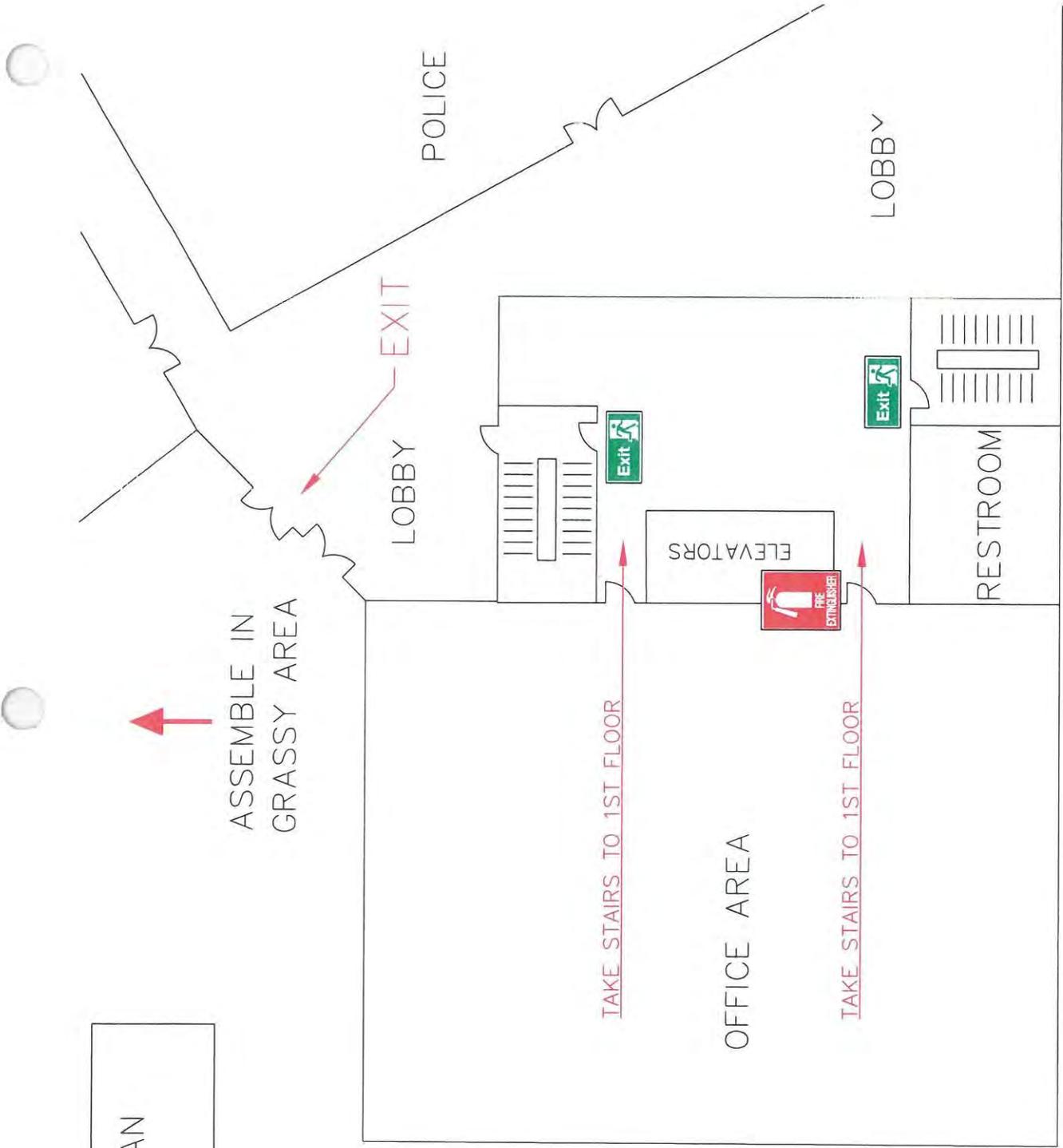
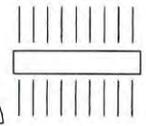
OFFICE AREA

TAKE STAIRS TO 1ST FLOOR

ELEVATORS



RESTROOM



## First Sergeant.pdf

## FIRST SERGEANT

The Lorain Police Department has established a First Sergeant position to recognize and reward senior Sergeants who have consistently demonstrated exceptional professionalism, leadership, and conduct throughout their career.

The position of First Sergeant not only fills a leadership gap but also contributes significantly to the overall effectiveness and cohesion of the organization. The goals for the position of First Sergeant include:

### **Enhance Leadership Development**

- Provide specialized training and mentorship to cultivate advanced leadership, decision making, and conflict resolution skills.
- Equip First Sergeants with the tools needed to guide their teams effectively and serve as role models.

### **Improve Communication and Collaboration**

- Establish the First Sergeant as a key liaison between command staff and field officers, ensuring clear, consistent communication.
- Foster a more cohesive and informed workforce, leading to quicker decision-making and better problem resolution.

### **Strengthen Accountability and Discipline**

- Define clear performance standards and accountability measures for First Sergeants to enforce departmental policies consistently.
- Enhance overall officer performance, ensure uniformity in the application of policies, and maintain high professional standards.

### **Boost Operational Efficiency**

- Delegate operational oversight to First Sergeants to streamline day-to-day activities and improve response times.
- Reduce administrative bottlenecks, allowing higher command to focus on strategic issues while First Sergeants manage immediate operational challenges.

### **Facilitate Career Progression and Retention**

- Create a clear career development pathway that recognizes and rewards leadership potential.
- Increase officer morale and retention by providing opportunities for advancement and professional growth.

## **FIRST SEREGEANT ELIGIBLITY AND SELECTION**

The position of First Sergeant will be discretionary and awarded to the senior Sergeants based on merit.

### **Eligibility for First Sergeant:**

Eligible candidates must have served a minimum of seventy-two (72) months as a Sergeant within the department with no pending or current discipline within the last forty-eight (48) months.

### **Selection Criteria:**

- Candidates must have a proven record of exemplary professionalism in their duties.
- Outstanding leadership skills, demonstrated through effective management and mentorship.
- Behavior consistent with the responsibilities and expectations of a First Sergeant, including integrity, accountability, and dedication.
- The ability to maintain effective working relationships with management, peers, subordinates, and other law enforcement entities.
- Must have demonstrated commitment to the Lorain Police Department.

### **Selection Process:**

The selection process will be initiated by the Chief of Police or a designated committee. Nominations may be submitted by supervisors or peers, highlighting the candidate's qualifications based on the established criteria. A review board or committee will assess each nomination and make a recommendation based on merit.

### **Rank Insignia:**

The insignia for the First Sergeant position will consist of a Sergeant stripe with a rocker underneath. The insignia will be worn as approved by department regulations for Sergeant Stripes.

## **FIRST SERGEANT RESPONSIBILITIES**

Specific responsibilities of the First Sergeant may include, but are not limited to:

- Serve as role models within the department.
- Provide leadership and guidance.
- Provide support to officers and sergeants.

## FIRST SERGEANT

- Assist in the implementation of department policies.
- Assist with department training programs.
- Assist with implementing initiatives aimed at enhancing operational effectiveness and morale.

### **REVIEW AND EVALUATION**

The performance of First Sergeants will be regularly reviewed to ensure continued adherence to the standards expected of their rank. Opportunities for professional development and further training may be provided to enhance their leadership capabilities.

### **AMENDMENT AND APPROVAL**

The First Sergeant position is not required to be filled at all times and will be awarded at the discretion of the Chief of Police or his designee.

This appointment process may be amended as necessary by the Chief of Police to reflect changes in departmental needs or practices.

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