

TITLE 3

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Domestic Abuse

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Sec. 3-1-1 Domestic Abuse.

DEFINITIONS:

The following definitions shall be applicable in this Chapter:

- (a) **Court Order.** All forms of orders issued by a court related to domestic abuse, which have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.
- (b) **Domestic Abuse.** Any of the following acts engaged in by an adult person against his or her spouse, former spouse or adult relative or against an adult with whom the person resides or formerly resided or against any adult with whom the person has created a child:
 - (1) Intentional infliction of physical pain, physical injury or illness.
 - (2) Intentional impairment of physical condition.
 - (3) A violation of Sec. 940.225(1), (2) or (3), Wis. Stats. [Sec. 940.225(1), sexual assault first degree; Sec. 940.225(2), second degree sexual assault; Sec. 940.225(3), third degree sexual assault].
 - (4) A physical act or a threat in conjunction with a physical act which may cause the other person reasonably to fear imminent engagement in the conduct described under Subsections (a)(1), (2) or (3) above.

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- (c) **Domestic Relationship.** Adult perpetrator (17 or older) versus:
 - (1) Spouse.
 - (2) Former spouse.
 - (3) Adult with whom the perpetrator resides.
 - (4) Adult with whom the perpetrator formerly resided (as adults).
 - (5) Adult with whom the perpetrator has created a child in common.

- (d) **Law Enforcement Agency.** Has the meaning specified in Sec. 165.83(1)(b), Wis. Stats. "Law enforcement agency" means a governmental unit of one (1) or more persons employed full time by the state or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to arrest for crimes while acting within the scope of the authority.

- (e) **Predominant Aggressor.** The most significant, but not necessarily the first, aggressor.

- (f) **Probable Cause.** The quantum of evidence, which would lead a reasonable Officer to believe that the defendant probably committed a crime. It is not necessary that the evidence is sufficient to provide guilt beyond a reasonable doubt, nor must it be sufficient to prove that guilt is more probable than not. It is only necessary that the information lead a reasonable Officer to believe that guilt is more than a possibility. This belief may be predicated in part upon hearsay information.

- (g) **Relative.** A parent, grandparent, step-parent, brother, sister, stepbrother, stepsister, child, stepchild, foster child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

POLICY:

- (a) **Statement of Purpose.**
 - (1) The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic abuse through vigorous enforcement and to address domestic abuse 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 abuse.
 - (2) The City of Stanley Police Department's response to incidents of domestic abuse and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic abuse 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.

- (3) This policy establishes guidelines concerning investigation, documentation and interagency cooperation regarding domestic abuse situations. The City of Stanley Police Department shall comply with all mandates in Sec. 968.075, Wis. Stats., and judicial orders relative to domestic situations. This policy applies to all sworn personnel. An Officer is immune from civil/criminal liability arising out of a decision by the Officer to arrest or not arrest an alleged offender, if the decision is made in a good faith effort to comply with Secs. 939.621 and 968.075, Wis. Stats.
- (4) Calls of reported, threatened, imminent or ongoing domestic abuse 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.
- (5) The official response of the City of Stanley Police Department is to recognize that domestic abuse involves serious criminal offenses. The intent of this policy is two-fold: to maximize protection for victims of domestic abuse; and to hold the predominant physical aggressor accountable for his/her abusive behavior. This policy recognizes that violent behavior will neither be excused nor tolerated regardless of the relationship of the persons involved. Domestic abuse is not a private matter but a crime against the State of Wisconsin whose prosecution does not depend upon the willingness of a victim to prosecute. Therefore, an Officer shall make an arrest, take a person into custody and hold for bond according to the procedures of this policy when the Officer has probable cause to believe that the person is committing or has committed a crime involving domestic abuse.

(b) **Mandatory Arrest; Domestic Abuse Situations.**

- (1) A law enforcement officer *shall arrest, take into custody and hold for bond* a person when the Officer has probable cause to believe that the person is committing or has committed domestic abuse and that the person's actions constitute the commission of a crime, and either or both of the following circumstances are present, and which the officer shall thoroughly document:
 - a. The Officer has a reasonable basis for believing that there is a possibility of continued violence against the alleged victim; and/or
 - b. There is evidence of physical injury to the alleged victim; and/or
 - c. A person has violated one of the following:
 1. A domestic abuse restraining order/injunction.
 2. A child abuse restraining order/injunction.
 3. A harassment restraining order/injunction.
 4. A foreign protection order, meaning any protection order from another state or U.S. territory.
- (2) In addition to the above standards, an Officer shall arrest and take a person into custody if the Officer has probable cause to believe that the person violated the seventy-two (72) hour no-contact prohibition. [See Subsection (k).]

- (c) **Factors to Be Considered Determining Existence of Probable Cause.** "Probable cause" refers to the quantum of evidence that would lead a reasonable law enforcement officer to believe that the defendant probably committed a crime. Factors to be used in determining whether probable cause to arrest exists in domestic abuse situations include, but are not limited to, the following:
- (1) Bodily harm or pain to the victim. *A decision not to arrest may not be based solely upon the absence of visible indications of injury or impairment.*
 - a. Statements of victim, including nonconsent to the offense. This interview to be conducted outside the presence of the suspect. Written statements to be obtained whenever possible.
 - b. Statements of family members, friends, neighbors or other witnesses. These interviews are to be conducted outside the presence of the suspect. Written statements to be obtained whenever possible.
 - c. Statements of the suspect. Written statements to be obtained whenever possible.
 - d. Observations of the scene and the victim.
 - e. Previous calls at same location or with same parties.
 - f. Previous threats/offenses against the victim by the suspect. Officers should check for the existence of a restraining order against the suspect.
 - (2) There is no legal requirement that an Officer responding to a suspected domestic abuse situation witness the crime; probable cause can be established by reliable hearsay information.
 - (3) Officers should remember that marriage is not a bar to prosecution for sexual assault under Wisconsin law.
- (d) **The Decision to Arrest; Arrest of Predominant Physical Aggressor.**
- (1) The probable-cause standard applied in a domestic abuse incident is no different from the standard applied in other offenses. When the Officer has reasonable grounds ("probable cause") to believe that spouses, former spouses or other persons who reside together or formerly resided together are committing or have committed domestic abuse against each other, the Officer does not have to arrest both persons, but should arrest the person whom the Officer believes to be the predominant physical aggressor. In determining who is the predominant physical aggressor, the Officer should consider the intent of state law and this Section to protect victims of domestic violence, the relative degree of injury or fear inflicted on the persons involved and any history of domestic abuse between these persons, if that history can reasonably be ascertained by the Officer.
 - (2) In making a decision on arresting a predominant aggressor, the officer shall consider:
 - a. History of domestic abuse with this person. Previous threats/offenses against the victim by the suspect. Officers should check for the existence of an active restraining order/injunction, condition of bond.

- b. Bodily harm or pain to the victim. A decision not to arrest may not be based solely upon the absence of visible indications of injury or impairment.
 - c. Statements of victim, including non-consent to the offense. (This interview should be conducted outside the presence of the suspect.)
 - d. Statements of family members (children), friends, neighbors or other witnesses. (This interview should be conducted outside the presence of the suspect.)
 - e. Statements of the suspect.
 - f. Officers' observations of the scene.
 - g. Degree of injury.
 - h. Each person's fear of the other.
 - i. Threatening of future harm.
 - j. Any self-defense.
- (3) A law enforcement officer's decision as to whether or not to arrest under this Section may not be based on the consent of the victim to any subsequent prosecution or on the relationship of the persons involved in the incident.
 - (4) A law enforcement officer's decision not to arrest under this Section may not be based solely upon the absence of visible indications of injury or impairment.
 - (5) The victim is not required to sign a complaint or request that the case proceed toward prosecution.
 - (6) If an arrest is demanded by one (1) or both parties and there is not sufficient grounds for such an arrest, the Officer is to explain the limits of his/her authority. The demand(s) for arrest must be noted in the Officer's report, and the Officer's reason(s) for nonarrest must be listed in the report. [See Subsection (f).]
 - (7) It is Department policy to arrest the predominant aggressor; "dual arrests" are discouraged.
 - (8) Domestic abuse must have occurred within the last twenty-eight (28) days for an Officer to make a domestic abuse arrest.
 - (9) If a conflict of interest is present for the Officer or Department, the Officer shall immediately contact a supervisor for further direction.
 - (10) Officers should be alert to any evidence of child abuse and should obtain the names and dates of birth of all children. Should it become necessary to place children in protective custody, the report shall contain the name of the case worker.
 - (11) Officers should advise the victim that there is no guarantee the suspect will remain in custody.
 - (12) Officers should attempt to obtain a secondary location/phone number where a victim might be able to be contacted for safety purposes and continued follow-up investigation. Officers shall provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
 - (13) All relevant evidence to the crime will be collected and preserved, including but not limited to photos of the victim's injuries and the crime scene. It may be advisable to

have the victim report to the station twenty-four (24) hours after the incident for photos, as the injuries may be more visible and obvious at that time. [See Subsection (e) below].

- (14) Questions regarding strangulation should be asked during the investigation. If strangulation is noted, medical attention should be offered to the victim. If medical attention is refused, Officers should inform the victim of the risk of experiencing breathing difficulties within the next 36-48 hours, and advise them to seek medical help immediately if problems develop.

(e) **Domestic Abuse Investigation and Report Where There is an Arrest.** When an arrest is made, a domestic abuse investigation and report should include the following:

- (1) When practical, 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.
- (2) 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 followup.
- (3) Statements from witnesses other than the victims, such as neighbors, children or other citizen witnesses who can provide evidence at trial of the case.
- (4) Excited utterances, admissions against interest and other informal statements of defendant as well as formal statements, should be noted.
- (5) Because of the high correlation between domestic violence and child abuse, the Officer should always be alert to evidence of child abuse. Note names and ages of children, whether they were present when the incident occurred and the time of contact. Also, the Officer should note whether the children were placed in protective custody and to whom a referral was made.
- (6) A history of abuse as obtained from the Department's records or from other law enforcement agencies, the victim, witness and other sources.
- (7) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.
- (8) When practicable and legally permitted, video or audio record all significant statements and observations.
- (9) 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 Police Department in the event that the injuries, such as bruising, later become more visible.
- (10) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.

- (11) If the suspect is no longer at the scene, Officers should make a reasonable effort to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and, if appropriate, make an arrest or seek an arrest warrant.
- (12) Seize any firearms or other dangerous weapons in the residence, if appropriate and legally permitted, for safekeeping as evidence.
- (13) 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 available, the arresting Officer should attach a copy of the order to the incident or arrest report.
- (14) Officers should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors which should not be used as sole justification for declining to take enforcement action:
 - a. Marital status of suspect and victim.
 - b. Whether the suspect lives on the premises with the victim.
 - c. Claims by the suspect that the victim provoked or perpetuated the violence.
 - d. The potential financial or child custody issues associated with an arrest.
 - e. The emotional or physical state of either party.
 - f. Use of alcohol or drugs by either party.
 - g. Denial that the abuse occurred where evidence indicates otherwise.
 - h. A request by the victim not to arrest the suspect.
 - i. Location of the incident, noting whether it was a private or public place.
 - j. Speculation that the complainant may not follow through with the prosecution.
 - k. The cultural, social, racial, professional position, or sexual orientation/identity of the victim and suspect.
- (15) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to a shelter if the victim expresses a concern for his/her safety or if the Officer determines that a need exists.
- (16) 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.

(f) **Report Required Where No Arrest.**

- (1) If no arrest is made, the Officer should advise the parties of any options, including but not limited to:
 - a. Voluntary separation of the parties.
 - b. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (2) Officers shall document the resolution in a report when no arrest is made and the criteria in Subsection (f)(3) below do not exist.

(3) If an Officer does not make an arrest under this Section when the Officer has reasonable grounds to believe that a person is committing or has committed domestic abuse and that person's acts constitute the commission of a crime, the Officer shall prepare a written report stating why the person was not arrested. The report shall be sent to the District Attorney's office immediately after investigation of the incident has been completed. The District Attorney shall review the report to determine whether the person involved in the incident should be charged with the commission of a crime. [Sec. 968.075(4), Wis. Stats.]

(g) **Contact Prohibition.** Unless there is a waiver under Sec. 968.075(5)(c), Wis. Stats. [Subsection (i) below], during the seventy-two (72) hours immediately following an arrest for a domestic abuse incident, the arrested person shall avoid the residence of the alleged victim of the domestic abuse incident and, if applicable, any premises temporarily occupied by the alleged victim, and avoid contacting or causing any person, other than attorneys for the arrested person and alleged victim, to contact the alleged victim.

(h) **The Officer's Duty to Give Notice of Contact Prohibition.**

(1) Unless there is a waiver under Sec. 968.075(5)(c), Wis. Stats. [Subsection (i) below], the Officer, jailer, or other person who releases a person arrested for a domestic abuse incident from custody less than seventy-two (72) hours after the arrest shall inform the arrested person orally and in writing of the requirements under Subsection (g) above, the consequences of violating the requirements and the provisions of Sec. 939.621, Wis. Stats. The arrested person shall sign an acknowledgement on the written notice that he or she has received notice of, and understands the requirements and the provisions of Sec. 939.621, Wis. Stats., and that an enhanced penalty exists for a second domestic abuse offense committed during the seventy-two (72) hours immediately following the arrest for the first domestic abuse incident. The Officer, or jailer, shall read the form to the defendant and require the defendant to sign the form before releasing the defendant from the jail. If the arrested person refuses to sign the notice, he or she may *not* be released from custody.

(2) If there is a waiver and the person is released under Sec. 968.075(5)(b)1, Wis. Stats. [Subsection (h)(1) above], the Officer or other person who released the arrested person shall inform the arrested person orally and in writing of the waiver of the seventy-two (72) hour no-contact prohibition and the provisions of Sec. 939.621, Wis. Stats.

(3) Failure to comply with the notice requirement under Sec. 968.075(5)(b)1, Wis. Stats. [Subsection (h)(1) above] regarding a person who is lawfully released from custody bars a prosecution under Sec. 968.075(5)(a), Wis. Stats. [Subsection (g) above], but does not affect the application of Sec. 939.621, Wis. Stats., in any criminal prosecution.

- (4) If the victim signs a waiver form, the Department shall send a copy of that waiver form to the District Attorney's Office with the arrest report. The original of the waiver form should remain filed with the original arrest reports of the Department.
- (i) **Waiver.** At any time during the seventy-two (72) hour no-contact period specified in Sec. 968.075(5)(a), Wis. Stats. [Subsection (g) above], the alleged victim may sign a written waiver of the requirements in Sec. 968.075(5)(a), Wis. Stats. [Subsection (g) above]. The Department shall have a waiver form available.
- (j) **Notification of Alleged Victim.** The Department shall notify the alleged victim of the requirements under Sec. 968.075(5)(a), Wis. Stats. [Subsection (g) above] and the possibility of, procedure for, and effect of a waiver under Section 968.075(5)(c), Wis. Stats. [Subsection (i) above]. Upon initial contact with the victim, the law enforcement officer shall provide the victim with a copy of the no contact provision form and waiver form. The Officer shall explain to the victim that, upon arrest of the defendant, the defendant will be required to sign the no contact provision form before the defendant may be released from jail. The Officer shall also provide the victim with a waiver form which shall state that the victim may sign a written waiver of the no contact provision.
- (k) **Arrest for Violation of Contact Prohibition.** Notwithstanding Sec. 968.07, Wis. Stats., an Officer shall arrest and take a person into custody if the Officer has reasonable grounds to believe that the person has violated Sec. 968.075(5)(a), Wis. Stats. [Subsection (g) above].
- (l) **Conditional Release.** A person arrested and taken into custody for a domestic abuse incident is eligible for conditional release. Unless there is a waiver under Sec. 968.075(5)(c), Wis. Stats. [Subsection (i) above], as part of the conditions of any such release that occurs during the seventy-two (72) hours immediately following such an arrest, the person shall be required to comply with the requirements under Sec. 968.075(5)(a), Wis. Stats. [Subsection (g) above] and to sign the acknowledgement under Sec. 968.075(5)(b), Wis. Stats. [Subsection (h) above]. The arrested person's release shall be conditioned upon his or her signed agreement to refrain from any threats or acts of domestic abuse against the alleged victim or other person. The person is not eligible for release on his or her own recognizance pursuant to a citation issued under Sections 800.02 or 968.085, Wis. Stats.
- (m) **Temporary Suspension of No Contact Order by Court.**
- (1) A court may suspend a no-contact order for the offender to return to the residence pursuant to the temporary suspension, usually to retrieve personal items.
 - (2) The offender *must* contact the Department to make arrangements to use the temporary suspension. The court document *must* be given to the Department for retention of at least a copy for attachment to an Incident Report.

- (3) The Department reserves the authority to dictate when the temporary suspension may be carried out dependent upon personnel and other safety factors. The offender may be given alternate date/time to comply with the temporary suspension, or the Offender may be referred to the Chief of Police if a mutual date/time cannot be arrived at.
 - (4) Responding Officers shall exercise due care for all present at the location for such standby requests; if there are concerns about safety, Officers may pat down relevant persons for weapons. If conditions at the scene are such that safety is at high risk, the Officer(s) may cancel/end the standby request, preferably with Chief of Police approval.
 - (5) Responding Officers will document the standby request with court order attached.
- (n) **Foreign Court Orders.** Various types of orders may be issued in domestic abuse 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 the State of Wisconsin. 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 the State of Wisconsin.
- (o) **Verification of Court Orders.**
- (1) Determining the validity of a court order, particularly an order from another jurisdiction, can sometimes be difficult. 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 respondent 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 authority from the jurisdiction where the order was issued to verify information.
 - (2) Officers should document in their report their efforts to verify the validity of an order, regardless of whether an arrest is made. Officers should contact the Chief of Police for clarification when needed.
- (p) **Availability of Services.** Victims may be traumatized or confused. Officers should:
- (1) Recognize that a victim's behavior and actions may be affected.

- (2) Provide information regarding the availability of shelters and services and notice of legal rights is mandatory when there is reasonable grounds to believe that a person is a domestic abuse victim [Sec. 968.075, Wis. Stats.]
 - (3) Alert the victim to any available victim advocates, shelters and community resources.
 - (4) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.
- (q) **Child Custody Disputes.** In accordance with Sec. 48.435, Wis. Stats., in *non-marital* situations where a court ordered placement schedule has not been issued, the *non-marital* mother has sole legal custody of the child:
- (1) If the mother indicates that she does not want the father to see the child, she has the legal right to make that decision.
 - (2) If the mother wants the child returned to her, the child must be returned. The father must go to family court and get a placement schedule to also have custodial rights.
 - (3) When Officers are called to a custody dispute and there is a disagreement as to whether or not a court ordered placement has been instituted, it is the father's responsibility to produce the paperwork indicating that the court made its ruling.
 - (4) Child custody disputes will be documented in a subsequent report. [See Section 3-1-8.]

COMMENTARY:

- (a) The stakes riding on the effectiveness of police intervention are high. More homicides are committed in the heat of domestic rage than in any other circumstances, and if the police fail to cool the present anger and reconcile the disputants, there are likely to be more future calls for police involvement. The procedures which follow are intended to set out methods of approach that will be of aid in successfully responding to domestic dispute calls. Of course, because of the uncertainties involved in these incidents, the procedures cannot cover every situation. Inventive responses will often be required. It is the policy of the Department to respond to all domestic disturbance complaints for the purpose of:
- (1) Making mandatory arrests when required by Sec. 968.075(2), Wis. Stats., and Section 3-1-1.
 - (2) Restoring and maintaining order.
 - (3) Preventing minor incidents from becoming criminal offenses.
 - (4) Rendering emergency assistance.
 - (5) Protecting people and property.
 - (6) Investigating whether a crime has been committed.
 - (7) Impartially mediating the dispute.
 - (8) Making appropriate referrals to helping agencies.

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- (b) In such situations, the relationship of the parties, the emotions involved and their property interests complicate the disturbance. Each situation requires the Officer to use discretion based upon the specific situation involved. The Officer should respond to each situation with respect for the rights and dignities of all parties involved and should take care and patience to resolve the situation within a reasonable time period.
- (c) Under Ch. 950, Wis. Stats., relating to the rights of victims and witnesses of crime, a person cannot be considered eligible for crime victim rights and services if the person has been charged with or even alleged to have committed a crime. Such crime victim rights and services include, for example, restitution, receiving various notices from a district attorney, crime victim compensation, and certain protections from other accused parties. As was past practice with many law enforcement agencies, making "dual arrests" in domestic abuse incidents made the victims in the relationship ineligible for many victim services and rights. Such unfortunate consequences actually increased the chances of continued abuse of victims and the children of domestic abuse victims. "Dual arrests" may also present some of the following problems:
 - (1) Dual arrest causes hardship to victims and their children by requiring that children present at the scene be placed temporarily away from their homes.
 - (2) Dual arrest can endanger victims by discouraging them from reporting future domestic abuse/violence episodes and/or seeking other assistance or services.
 - (3) Dual arrest can inadvertently send a message to the perpetrator, victim and the victim's children that the "victim is to blame" for the violence against him/her.
- (d) The latest state legislation is intended to reduce the number of dual arrests in domestic abuse situations by replacing the old presumption regarding arresting the "primary" physical aggressor with a new requirement that law enforcement officers arrest the "predominant aggressor." If a law enforcement Officer identifies the predominant aggressor, it is generally not appropriate or necessary to arrest anyone else involved in the incident. The predominant aggressor language frames the issue in terms that better reflect the dynamics of many domestic violence situations which can help Officers differentiate between abuse and self-defense. For example, when law enforcement authorities arrive, the actual abuser may be calm and collected, while the victim may be emotional or even hysterical.

Cross-Reference: Title 3, Ch. 38, Elderly Abuse.

Sec. 3-1-2 Removal of Personal Property.

POLICY:

- (a) When dealing in a situation in which one party has decided to remove his/her belongings from the home and absent himself/herself, the Officer's duty rests with the preservation of the peace. Should one party or the other claim that property being removed belongs solely

to them, and that theft is being committed, the complainant should be instructed to seek counsel of an attorney, since the matter is civil in nature.

- (b) If a complainant indicates that he/she can prove separate ownership of the property, and does indeed show proof, then that property is to remain in their possession. If the property has already been removed then an incident report shall be made for follow-up.
- (c) If the Officer has probable grounds to believe that a crime is being committed, he/she should take appropriate action.

Sec. 3-1-3 Custody of Children Disputes.

POLICY:

- (a) As long as husband and wife are not divorced or legally separated, the Officer has no authority to act when one spouse complains that the mate has stolen or taken the child against the complaining spouse's wishes. If both parties are at the scene, other than preserving the peace and so long as there is no danger to the child, the Officer may only preserve the peace. However, should there be a substantial danger to the physical or mental health of the child, consideration as to placement in protective custody should be made.
- (b) When one parent has been awarded custody of the child by a competent authority, violation by either party as to the terms of the custody may provide grounds for a complaint by the aggrieved party. Unless there is a clear and present danger to the child or either parent, the Officer should refer the dispute to the appropriate court or social service agency. Officers do not normally have the authority to enforce orders relating to custody (e.g., where one party is ordered not to contact another party; visitation orders). Such court orders can only be enforced when there is a separate order from the court ordering the Department to take specific action or as provided in Sec. 948.31, Wis. Stats. [See Section 3-1-8.]
- (c) If the dispute over custody cannot be satisfactorily settled, the Officer should consider placing the child in protective custody pending settlement of the issue. Such an action by the Officer must be based upon his/her belief as to a clear and present danger to the physical or mental health of the child.
- (d) Under Section 48.981(3)(b), Wis. Stats., any person reporting suspected abuse or neglect of a child may request an immediate investigation by the Police Department if the person has reason to believe that the child's health or safety is in immediate danger. Upon receiving such a request the Police Department shall immediately investigate to determine

if there is reason to believe that the child's health or safety is in immediate danger and take any necessary action to protect the child. If the investigating Officer has reason under Sec. 48.19(1)(c) or (d)5, Wis. Stats., to take a child into custody, the investigating Officer shall place the child in protective custody and deliver the child to the intake worker under Sec. 48.20. If the police or other law enforcement officials determine that criminal action is necessary, they shall refer the case to the District Attorney for criminal prosecution.

Sec. 3-1-4 Special Circumstances Associated with Domestic Disputes.

POLICY:

- (a) **Weapons.** If a weapon is present and constitutes a clear and present threat of violence, Officers are to impound the weapon and see that it is properly tagged and stored in evidence. The owner should be informed of the method to reclaim the property at a later date. Any weapons used in the commission of a crime must be confiscated as evidence. Whenever a weapon is removed from the home, documentation must be presented in the report.

- (b) **Children.**
 - (1) If the disposition of a dispute leaves minors in the home without a responsible adult, Officers are to contact, as appropriate, the Chippewa County Human Services Department or Clark County Community Services Department for temporary arrangements. In disputes over the custody of children which involve an injunction or temporary restraining order, the Police Department policy is to be followed.
 - (2) When an Officer is aware of any potential emotional stress and/or neglect that the minors may be suffering, a referral should be made. Statements made by the children, or by the parents, as well as the Officer's own observations should be reduced to writing and the report forwarded to the social services worker.
 - (3) In the event that a child appears to be the victim of a physical and/or sexual abuse, the Officer is to take immediate action. Ascertain the well-being of the child and provide medical treatment if warranted. It is the individual Officer's responsibility to notify the appropriate county social services department as soon as possible of the incident, regardless of day or night. The Officer shall obtain as much information as possible from the child, taking special care to be reassuring, non-threatening, and sensitive so as not to add to the emotional trauma the child will already be suffering. If at all possible, Officers shall obtain statements from the other parties involved. It may be necessary to take temporary custody of the child to secure a safe living environment at the time.

- (c) **Refused Entry.** When Officers are refused entry into a residence after being dispatched to a call, the Chief of Police or Officer-in-Charge (OIC) is to be notified and kept advised to the situation as it develops. The dispatcher will attempt to contact the occupants by phone. If probable cause exists that a crime has been, is being, or is about to be committed, forced entry may be used when there is no other reasonable alternative. The exigent circumstances, all relevant information, including statements from witnesses, the Officer's visual and audio observations, and any damage resulting to the property, should be contained in the Officer's report.

Sec. 3-1-5 Assault/Battery.

POLICY:

If a battery is committed in the presence of the Officer, or if there is sufficient probable cause to believe a battery has been committed, an arrest shall be effected.

Sec. 3-1-6 Temporary Restraining Order (Injunction).

POLICY:

A mandatory arrest is required when there is a violation of a restraining order. The suspect shall be placed in custody and will then be processed. In some domestic disputes of a longstanding nature, the complainant may appeal to the officer for suggestions as to what steps may be taken to alleviate the problem. In such cases, the officer may advise the complainant to consider obtaining a civil restraining order to keep the other party away from the complainant's home. If the complaint concerns a violation of a restraining order, the Officer shall verify the restraining order through the Department's dispatchers and if a violation did occur take appropriate enforcement action.

Sec. 3-1-7 Domestic Violence By Police Officers.

POLICY:

- (a) This policy recognizes that the profession of law enforcement is not immune from members committing domestic violence against their intimate partners. The purpose of this policy is to establish procedures for handling acts of domestic violence committed by police officers and for implementing prevention strategies. This policy is intended to provide Department supervisors, officers and employees with guidance in addressing incidents

where one, or possibly more, party to a reported domestic violence/abuse incident is an employee, whether sworn or non-sworn, of any rank in the City of Stanley Police Department.

- (b) This policy offers a comprehensive, pro-active approach to domestic violence and abuse situations by Police Department employees, with an emphasis on victim safety. This policy is one of "zero tolerance" by the Department. It is imperative to the integrity of the Department and the law enforcement profession that this policy makes a definitive statement in implementing this policy that the Department should review the records of all employees to determine whether convictions for qualifying misdemeanor crimes of domestic violence (MCDV) or valid protection orders exist. If an employee is found to have a MCDV or is the subject of a qualifying protection order, the City Attorney shall be consulted regarding continued employment or duty assignment.
- (c) Federal law prohibits law enforcement officers convicted of qualifying misdemeanor domestic violence crimes from possessing firearms. Officers found guilty of a qualifying domestic violence crime through criminal proceedings shall be terminated.
- (d) While prioritizing the safety of victims, this Section is intended to address prevention through hiring and training practices, provide direction to supervisors for intervention when warning signs of domestic violence are evident, implement a structured response to reported incidents of domestic violence involving Department members, and offer direction for conducting the subsequent administrative and criminal investigations. Procedural components of this policy are:
 - (1) Prevention and Training;
 - (2) Early Warning and Intervention;
 - (3) Incident Response Procedures;
 - (4) Victim Safety and Protection; and
 - (5) Post-Incident Administrative and Criminal Decisions.

DEFINITIONS:

The following definitions shall be applicable in this Section:

- (a) **Domestic Violence.** An act or pattern of violence perpetrated by an Officer upon his or her intimate partner not done in defense of self or others, including, but not limited to, the following:
 - (1) Bodily injury or threat of imminent bodily injury.
 - (2) Sexual battery.

- (3) Physical restraint.
 - (4) Property crime directed at the victim.
 - (5) Stalking.
 - (6) Violation of a court order or protection or similar injunction.
 - (7) Death threats or death.
- (b) **Intimate Partner.** An intimate partner of a law enforcement officer is any person who meets one (1) or more of the following criteria:
- (1) Is or was legally married to the law enforcement officer.
 - (2) Has a child in common with the law enforcement officer.
 - (3) Has or had a dating relationship with the law enforcement officer.
 - (4) Is specified as an intimate partner by state law.
 - (5) Is cohabitating or has cohabitated romantically with the law enforcement officer.
- (c) **Protection Order.** Any injunction or other order issued by a court, including criminal or civil orders of protection, regardless of form, content, length, layout, or name (such as restraining, criminal, and emergency or temporary protection orders or injunctions), issued for the purpose of preventing the following:
- (1) Violent or threatening acts against another person.
 - (2) Stalking or harassment of another person.
 - (3) Contact or communication with another person.
 - (4) Physical proximity to another person.

PROCEDURES:

- (a) **Prevention and Training.** The Department adopts a zero-tolerance policy towards law enforcement officer domestic violence and will not tolerate violations of the policy, by Officers or other Department employees. The Department's policies on domestic violence and its zero-tolerance policy emphasizes the following:
- (1) **Prevention Through Cooperation.**
 - a. Ongoing communication and partnerships with local victim advocacy organizations in order to enhance the response of the Department and its officers to victims.
 - b. Upon request, the Department shall provide local domestic violence victim advocacy organizations copies of policies and training materials for review; the Department would encourage suggestions for revisions.
 - (2) **Training Topics.** All Officers receive a copy of this policy as part of access to this Manual, which together with other resources, may address the following types of topics:

- a. Understanding domestic violence;
- b. Department response to domestic violence situations;
- c. Warning signs of domestic violence by law enforcement officers;
- d. Victim safety; and
- e. State laws covering this area.

(b) **Early Warning and Intervention.**

(1) ***Pre-Employment Screening.***

- a. The Department shall conduct background investigations of all potential Department employees using address history, driver's record, sex offender registries, and restraining order databases.
- b. Candidates for employment shall be asked if they have engaged in or been investigated for domestic violence and asked about any past arrests, suspended sentences, diversion programs, convictions, and protection orders related to elder abuse, child abuse, sexual assault, stalking, or domestic violence.
- c. Those candidates with a history of perpetrating violence (to include: elder abuse, child abuse, sexual assault, stalking, or domestic violence) should be screened out at this point in the hiring process.
- d. Employment candidates shall be clearly informed of the Department's position of zero tolerance concerning domestic violence by Officers.

(2) ***Post-Conditional Offer of Employment.***

- a. When psychological pre-employment testing is done, the psychological screening of all viable candidates will include focusing on indicators of abusive tendencies in their background.
- b. The Department will strongly consider a "no-hire" decision in the case of a candidate with tendencies indicative of abusive behavior.

(3) ***Department Responsibilities.***

- a. The Department shall, either in response to observed warning signs or at the request of an Officer, intimate partner, or other family member, provide non-punitive avenues of assistance before an act of domestic violence occurs.
- b. The Department shall inform employees of the procedure for seeking confidential referrals, either internally or externally, to confidential counseling services.
- c. A disclosure on the part of any Officer, Department employee, intimate partner or family member to any member of the Department that a Department member has personally engaged in domestic violence will be treated as an admission or report of a crime and shall be investigated both administratively and criminally.

(4) ***Supervisor Responsibilities – Observation.***

- a. Supervisors shall be cognizant of and document any pattern of abusive behavior potentially indicative of domestic violence, including, but not limited to, the following indicators below.

- b. Aggressiveness:
 - 1. Excessive and/or increased use of force on the job.
 - 2. Stalking and inappropriate surveillance activities.
 - 3. Unusually high incidence of physical altercations and verbal disputes.
 - 4. Citizen and fellow officer complaints of unwarranted aggression and verbal abuse.
 - 5. Inappropriate treatment of animals.
 - c. Domestic violence-related items:
 - 1. Monitoring and controlling any family member or intimate partner through such means as excessive telephone calling.
 - 2. Stalking any intimate partner or family member.
 - 3. Excessively discrediting and/or disparaging an intimate partner.
 - d. Deteriorating work performance:
 - 1. Tardiness.
 - 2. Excessive absences.
 - 3. Alcohol and drug abuse.
- (5) **Supervisor Responsibilities — Followup.** When a supervisor notes a pattern of problematic behavior, such as detailed above, the supervisor shall:
- a. Address the behaviors through a review or other contact with the officer and document all contacts.
 - b. Forward written reports capturing the behaviors to the Chief of Police in a timely manner to determine discipline as warranted.
 - c. When warranted, the Chief of Police may order an officer or Department member to seek assistance from a program for batterers, or a counselor, such as a psychiatrist or psychologist, knowledgeable about domestic violence.
- (6) **Officer/Employee Responsibilities.**
- a. Department officers and employees are encouraged to take personal responsibility in seeking confidential referrals and assistance through the Department to prevent a problem from escalating to the level of criminal conduct against an intimate partner.
 - b. Department members who engage in the following actions will be subject to discipline up to and including dismissal:
 - 1. Failure to report knowledge of abuse or violence involving a fellow officer or Department employee.
 - 2. Failure to cooperate with the investigation of a Department employee/officer domestic violence case (except in the case where that Department member is the victim).
 - 3. Interference with cases involving themselves or fellow officers or Department employees.
 - 4. Intimidation/coercion of witnesses or victims (i.e. surveillance, harassment, stalking, threatening, or falsely reporting).

- c. Department Officers and employees who learn they are the subject of a criminal investigation, regardless of jurisdiction, are required to immediately make a report to the Chief of Police, and provide notice of the court dates, times, appearances, and proceedings. Failure to do so may result in discipline up to and including dismissal.
- d. Department Officers and employees who learn they are the subject of any protective order proceeding, whether or not the order is issued and regardless of jurisdiction, shall immediately notify their supervisor and provide a copy of the order, if issued. If subject to a qualifying protection order, the Officer shall surrender all firearms unless Department policy allows for possession of the primary service weapon. Failure to do so may result in discipline up to and including dismissal.

(c) **Incident Response Procedures.**

- (1) **Department-Wide Response.** All reports of possible criminal activity implicating police officers or Department employees in domestic violence shall be documented in accordance with the policies governing the handling of reports of domestic violence involving civilians.
- (2) **Response by Patrol Officer(s).**
 - a. Upon arrival on the scene of a domestic violence call or incident involving an Officer or Department member, the patrol Officer shall immediately request that a supervisor of a higher rank than the involved Officer report to the scene, if possible, regardless of the involved law enforcement Officer's jurisdiction.
 - b. The responding Officer shall perform the following tasks:
 - 1. Obtain any needed medical assistance.
 - 2. Address the immediate safety of all parties involved.
 - 3. Secure the scene and preserve evidence.
 - 4. Note all excited utterances, admissions, and/or incriminating statements.
 - 5. Make an arrest if probable cause exists.
- (3) **On-Scene Supervisor Response.**
 - a. If possible, a supervisor of higher rank shall report to the scene of all Officer domestic violence incidents including a law enforcement officer, regardless of the involved Officer's jurisdiction.
 - b. The on-scene supervisor shall assume command and ensure that the crime scene is secured and that all evidence is collected. Photographic and/or video documentation of the parties involved and scene shall be recorded where such resources are available.
 - c. The supervisor shall inquire as to the safety of all children present at the time of the incident and all children in the household. As appropriate and necessary, the children should be interviewed separately from other parties.

- d. In cases where probable cause exists, the on-scene supervisor shall ensure an arrest is made.
 - e. If the alleged offender has left the scene and probable cause exists, the supervisor shall perform the following actions:
 - f. The supervisor may contact an outside agency to investigate the incident.
 - 1. Exhaust all reasonable means to locate the alleged offender.
 - 2. Ensure that an arrest warrant is sought, if unable to locate the alleged offender.
 - 3. Document all subsequent actions in a timely manner.
 - g. In the event that the victim has left the scene, the supervisor shall make every effort to follow through on the investigation and attempt to locate the victim.
 - h. Arrest of both parties involved in a domestic violence incident should be avoided. The supervisor shall ensure that a thorough investigation is conducted and an arrest of the predominant aggressor is made in accordance with Department policies and state law.
 - i. Whenever an Officer is arrested, the accused Officer shall be relieved of all service weapons regardless of whether the Officer is a member of our responding Department.
 - j. The supervisor shall inquire whether the victim wants any firearms removed from the home for safekeeping by the Department and make arrangements as necessary.
 - k. The on-scene supervisor shall ensure that the victim is informed of the following and their availability:
 - 1. The judicial process and victims rights.
 - 2. The Department's policy on law enforcement officer domestic violence.
 - 3. The standard of probable cause for arrest.
 - 4. Procedures for obtaining protective orders.
 - 5. The availability of confidential transportation to a location that can provide improved victim safety.
 - 6. Community resources and local domestic violence victim services.
 - 7. The option of removal of firearms from the home for safekeeping.
 - l. Whenever a law enforcement officer is involved in a domestic violence call which does not result in an arrest or a warrant is not sought, the on-scene supervisor shall explain this determination in a written report.
 - m. The on-scene supervisor shall notify the Chief of Police as soon as possible. In the event the Officer is from another jurisdiction, the supervisor shall ensure that the accused Officer's commanding supervisor is notified. All notifications, and attempts to notify, shall be fully documented.
- (4) **Additional Critical Considerations.**
- a. When responding to a domestic violence complaint involving a police officer from another jurisdiction, all responding Officers, investigators and supervisors

shall follow the same procedures that are to be followed in responding to a domestic violence complaint involving an Officer from our own Department.

- b. In the event that the reported event involves the Chief of Police, the supervisor or responding officer shall immediately notify the County Sheriff and Mayor.
- c. In responding to domestic violence incidents where the victim is a law enforcement officer, standard domestic violence response and investigation procedures shall be followed.
- d. In responding to domestic violence incidents where the parties involved are both law enforcement officers or Department members, standard domestic violence response and investigation procedures shall be followed. After probable cause and the predominant aggressor are determined, an arrest should be made and all service weapons of the accused Officer confiscated. If a protective order is issued against an Officer, additional firearms seizure may be required under state law.

(5) **Department Followup.**

- a. Follow-up investigators shall proactively seek out information on existing protective orders, and, if found, shall enforce them and any applicable state and federal firearms laws and determine whether the Officer violated Department policy by failing to report the protective order.
- b. Arrest warrants charging law enforcement officers with domestic violence and protective orders issued at a later time shall be served by at least two (2) law enforcement officers, preferably with at least one being of senior rank to the Officer being served. In cases where service firearms have not previously been seized, service firearms shall be confiscated at this time.
- c. In the event the protection order expires or the victim asks that it be discontinued, the Department shall still conduct a thorough administrative investigation.
- d. Following the reported incident, the Department shall do the following:
 - 1. Conduct a danger assessment of the accused Officer to determine the potential for further violence and inform the victim of the possibility of danger regardless of the outcome of the assessment.
 - 2. Assign a point of contact to keep the victim apprised of important new developments.
 - 3. Ensure that safety planning information is made available to the victim.

(d) **Victim Safety and Protection.**

- (1) **Resources Availability.** The Department shall work with community resource and advocacy organizations/agencies to connect victims with appropriate services.
- (2) **Intimidation/Coercion Considerations.**
 - a. Officers should be aware of possible victim/witness intimidation or coercion and the increased danger when the victim leaves an abusive partner. Victims should be advised to be alert for stalking activities.

- b. If an Officer suspects intimidation or coercion of the victim/witness is occurring, the Officer shall prepare a report and provide this information to his/her supervisor or the Chief of Police. In order to determine whether the victim/witness is being intimidated or coerced, investigating Officers may seek out secondary sources of information. Given the possibility that a victim or witness may recant or choose not to participate in court proceedings, supplemental evidence shall be sought out and preserved.

(e) **Post-Incident Administrative and Criminal Decisions.**

- (1) **Generally.** The Department may conduct separate parallel administrative and criminal investigations of alleged incidents of law enforcement officer domestic violence in a manner that maintains the integrity of both investigations and promotes zero tolerance. Regardless of the outcome of the criminal case, the Department may pursue administrative remedies. If the facts of the case indicate that domestic violence has occurred or that any Department policies have been violated, administrative action may be taken independent of any criminal proceedings. The Department will observe all pertinent procedures to ensure an Officer's departmental, collective bargaining, and legal rights are respected during the administrative and/or criminal investigations.
- (2) **Administrative Investigations and Decisions.**
 - a. The responsibility to complete an administrative (personnel) investigation of an Officer domestic violence incident shall rest with the Chief of Police. The Chief of Police may ask an outside law enforcement agency to conduct the administrative investigation.
 - b. Regardless of whether an arrest was made on the scene, the investigating officer or official shall conduct an independent, comprehensive administrative investigation. Victims and witnesses may be re-interviewed and their statements recorded; crime scene evidence, photographs, and medical records reviewed; and communications and 911 recordings requested.
 - c. Where sufficient information/evidence exists, the Department shall take administrative action against the accused officer that may include relinquishing of his/her badge and service weapons, reassignment, suspension or termination.
 - d. When an investigation of an incident uncovers Officers or Department members who had knowledge of violence on the part of another Officer or Department member but failed to notify the Department, or engaged in actions intended to interfere with the investigation, the Department shall investigate those Officers and/or Department members and may take disciplinary action or pursue criminal charges, if warranted.
 - e. In determining the proper course of administrative action, a Department shall consider factors including the level of danger an Officer or Department member

poses as indicated by the outcome of a danger assessment of the Officer/employee, the history of compliance with Department rules by the Officer/employee, prior written or verbal threats, history of aggressive behaviors, and/or the existence of an alcohol or substance abuse problem.

- f. If the accused Officer is assigned enforcement duties while the administrative and/or criminal investigations are under way, those duties should not include responding to domestic violence calls.
- g. If the Department determines through an administrative investigation that the Officer violated Department policy, regardless of whether the Officer pleads *nolo contendere* in response to criminal charges, the Department may employ the full range of administrative/personnel sanctions. Any Officer or Department member determined through an administrative investigation to have committed domestic violence shall be terminated from the Department.

(3) **Criminal Investigations and Decisions.**

- a. The Chief of Police may ask an outside law enforcement agency to conduct the criminal investigation.
- b. The investigating officer shall conduct criminal investigations as would be the case for any other criminal violation.
- c. Even though an initial report may exist concerning the Officer/Department member under investigation, reports of any subsequent or additional criminal or non-criminal incidents, which may include fellow Officers engaging in surveillance or intimidation of the victim, shall be documented in separate incident reports, cross-referenced with the original case, and investigated thoroughly.
- d. The Department shall completely investigate the charges, and, where warranted, seek prosecution even in cases where the victim recants.
- e. Any Officer or Department member convicted through criminal proceedings of a domestic violence crime shall be terminated from the Department.

(4) **Termination Procedures.**

- a. Termination procedures will be pursuant to pertinent Department policies and collective bargaining agreements.
- b. Upon the decision to terminate an Officer or Department member under this policy, the Chief of Police shall do the following:
 - 1. Notify the Officer or Department member, in writing, of the effective date of termination.
 - 2. Inform the Officer or Department member of available support services, including counseling.
 - 3. Ensure that the victim is notified in a timely manner and offered available assistance, to include safety planning.
 - 4. Notify the state licensing body within thirty (30) days and inform them of the reason for termination.

- c. Federal law prohibits anyone convicted of a misdemeanor domestic violence crime from possessing firearms.

Title 3 ► Chapter 2

Child Abuse and/or Neglect

3-2-1	Protective Custody
3-2-2	Safe Haven Law
3-2-3	Interviews
3-2-4	Drug-Endangered Children
3-2-5	Adult Expectant Mothers of an At-Risk Unborn Child

Sec. 3-2-1 Protective Custody.

POLICY:

Before taking any child into protective custody, the Officer should make reasonable attempts to contact the appropriate county social services agency or licensed child welfare agency. Generally, removal of a child from his/her family, legal guardian, or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

PROCEDURES:

- (a) Generally members of the City of Stanley Police Department should remove a child from the child's parent or legal guardian without a court order only when no other effective alternative is reasonably available and immediate action 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 an abduction. If this is not a reasonable option, the Officer shall ensure that the child is delivered to the appropriate county social services agency or licensed child welfare agency intake worker. [See Sec. 48.981, Wis. Stats.].
- (b) Whenever practicable, the Officer should inform the Chief of Police or supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, Officers should contact the Chief of Police or a supervisor promptly after taking a child into protective custody.

3-2-1

- (c) Children may only be removed from a parent or legal guardian in the following situations, per Sec. 48.19, Wis. Stats.:
 - (1) A court has ordered the removal of the child.
 - (2) An Officer believes on reasonable grounds that any of the following conditions exist:
 - a. A court has ordered the removal of the child.
 - b. The child is suffering from illness or injury or is in immediate danger from his/her surroundings and removal from those surroundings is necessary.
 - c. The child is an expectant mother and there is a substantial risk that the physical health of the unborn child, and of the child, when born, will be seriously affected or endangered due to the expectant mother's habitual lack of self-control in the use of alcohol, controlled substance analogs, exhibited to a severe degree, unless the expectant mother is taken into custody.
- (d) Officers are required to take children into custody in the circumstances described above per Sec. 48.981(3), Wis. Stats.
- (e) An Officer who has taken a child into protective custody shall attempt to deliver the child to an intake worker and immediately notify the parent, legal guardian, and/or legal custodian of the child by the most practical means. The Officer shall continue such attempts until the parent, legal guardian, and/or legal custodian of the child is notified or the child is delivered to an intake worker, whichever occurs first. [Secs. 48.19, 48.20, and 48.195(1), Wis. Stats.].

Sec. 3-2-2 Safe Haven Law.

POLICY:

- (a) A parent may relinquish a newborn infant less than seventy-two (72) hours old to an Officer when the parent does not express an intent to return for the child. The Officer shall take any action necessary to protect the health and safety of the child and attempt to deliver the child to the custody of an intake worker under the provisions of Secs. 48.20 and 48.195(1), Wis. Stats.
- (b) A parent who relinquishes custody of a child under these circumstances and any person who assists the parent in that relinquishment have the right to remain anonymous. Department employees shall not induce or coerce or attempt to induce or coerce a parent or person assisting a parent who wishes to remain anonymous into revealing his/her identity unless there is reasonable cause to suspect that the child has been the victim of abuse or

neglect or that the person assisting the parent is coercing the parent into relinquishing custody of the child. [Sec. 48.195, Wis. Stats.].

- (c) The Officer shall provide the parent with the toll free telephone number to the appropriate social services information brochure, if available, and other relevant information. [Sec. 48.195, Wis. Stats.; DCF 39.09, Wis. Adm. Code].
- (d) Officers shall document the circumstances of the incident and the condition of the child being relinquished in a report.

Sec. 3-2-3 Interviews.

PROCEDURES:

- (a) **Preliminary Interviews.** Absent extenuating circumstances or impracticality, Officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating Officers should defer interviews until a person who is specially trained in conducting such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.
- (b) **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 examination with the consent of a parent or legal guardian unless one (1) of the following applies:
 - (1) Exigent circumstances exist, such as:
 - a. A reasonable belief that medical issues of the child need to be addressed immediately.
 - b. A reasonable belief that the child is or will be in danger of harm if the interview or physical examination is not immediately completed.
 - c. The alleged offender is the custodian parent or legal guardian.
 - (2) The court order or warrant has been issued.

Sec. 3-2-4 Drug-Endangered Children.

POLICY:

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.

Sec. 3-2-5 Adult Expectant Mothers Of An At-Risk Unborn Child.

POLICY:

An adult expectant mother of an unborn child may be taken into temporary custody but only as authorized in Sec. 48.193, Wis. Stats., and delivered to an intake worker. The release of the expectant mother shall comply with the procedures in Sec. 48.203, Wis. Stats., and the specific terms of an applicable court order.

Title 3 ► Chapter 3

Juvenile Offenders/Children in Need of Protective Services

3-3-1	Definitions
3-3-2	Juvenile Offenders Generally
3-3-3	Taking a Juvenile into Custody
3-3-4	Release or Delivery from Custody
3-3-5	Runaway Juveniles
3-3-6	Officer Discretion to Release Juvenile Runaway from Custody
3-3-7	Officer Determination Not to Release a Child from Custody
3-3-8	Officer Responsibilities When Not Releasing a Child from Custody
3-3-9	Fingerprinting and Photographing Juveniles
3-3-10	Handcuffing
3-3-11	Need for Medical Treatment of Juvenile
3-3-12	Violations of Civil Law and/or Local Ordinances
3-3-13	Violations of Traffic Laws
3-3-14	Constitutional Rights of the Juvenile; Confessions; Searches
3-3-15	Interrogations, Interviews and Questioning of Juveniles
3-3-16	Interrogation of Suspects or Taking Suspects into Custody at School
3-3-17	Record Keeping
3-3-18	Juvenile Citations
3-3-19	Handling of Truancy Problems

Sec. 3-3-1 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Child.** A person under the age of eighteen (18).
- (b) **Delinquent.** A child less than eighteen (18) years of age and twelve (12) years of age or older whom a court has found violated any state or federal criminal laws, except as provided in Ch. 938, Wis. Stats.

3-3-1

- (c) **Delinquent Act.** An act committed by a person under the age of seventeen (17) which, if committed by an adult, would be a crime.
- (d) **Status Offender.** A child who commits a noncriminal act including, but not limited to, a runaway, incorrigibility, truancy, liquor, and curfew violations.
- (e) **Parent.** For the purpose of this Chapter, the natural or legal parent, guardian or custodian.
- (f) **Court.** Refers to the juvenile court unless otherwise specified in this Chapter.
- (g) **Taking into Custody.** A term equivalent to arrest for an adult. The process of apprehending a juvenile to the extent that the juvenile is not free to leave.
- (h) **Physical Custody.** Actual custody of the juvenile.
- (i) **Sheltered Care Facility.** A non-secure place for temporary care and physical custody for children.
- (j) **Secure Detention.** Secure place for temporary care and physical custody for children.
- (k) **Capias.** An order of the court authorizing an Officer to take a child, parent, or guardian into custody for the purpose of bringing them before a court hearing.

Sec. 3-3-2 Juvenile Offenders Generally.

STATEMENT OF PURPOSE:

In recognition of this Department's responsibilities under the law, the following policy and guidelines are established in order to assure that fair and equitable service is provided to the youth and their families of this community under Ch. 938, Wis. Stats., the Children's Code. Since the accomplishment of societal goals for juveniles cannot be achieved solely by police intervention, every effort should be made to work cooperatively with other community agencies, schools, the juvenile court, and interested citizens, in a community-centered approach to solving personal adjustment problems. Juveniles seventeen (17) years of age may be prosecuted as an adult.

POLICY:

- (a) It is the policy of the City of Stanley Police Department that all action taken relative to juveniles shall conform to Ch. 938, Wis. Stats., entitled the Children's Code, and shall be pursued in a fair, equitable, and thoughtful fashion.

- (b) Physical custody is the actual custody of the person in the absence of a court order granting legal custody to the physical custodian.
- (c) Custody, as it applies to Officers in the field in the performance of duty: when a person is no longer free to leave the immediate area of the Officer for whatever purpose. Examples: a police office, a police vehicle or on the street.
- (d) Taking into custody is not an arrest except for the purpose of determining whether the taking into custody or the obtaining of any evidence is lawful.
- (e) Custody or the taking into custody does not automatically mean transporting to jail facilities. Only in certain circumstances does this apply.

COMMENTARY:

Physical custody or custody does not mean the placing of a person in a secure detention facility (jail). Custody under secure detention facility means a locked facility approved by the Court or, as appropriate, the Chippewa County Human Services Department or Clark County Community Services Department for the secure, temporary holding in custody of children.

Sec. 3-3-3 Taking a Juvenile into Custody.

POLICY:

- (a) A child may be taken into custody under:
 - (1) A warrant.
 - (2) A capias issued by a Judge of the court assigned to exercise jurisdiction under this Chapter in accordance with Sec. 938.28, Wis. Stats.
 - (3) An order of the Judge if made upon a showing satisfactory to the Judge that the welfare of the child demands that the child be immediately removed from his or her present custody. The order, Wis. Stats., shall specify that the child be held in custody under Ch. 938.207, Wis. Stats.
 - (4) Circumstances in which a law enforcement officer believes on reasonable grounds that:
 - a. A capias or a warrant for the child's apprehension has been issued in this state, or that the child is a fugitive from justice.
 - b. A capias or a warrant for the child's apprehension has been issued in another state (a TTY copy shall be on file).
 - c. The child is committing or has committed an act which is a violation of a state or federal criminal law.
 - d. The child has run away from his or her parents, guardian or legal or physical custodian.

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- e. The child is suffering from illness or injury or is in immediate danger from his or her surroundings and removal from those surroundings is necessary.
 - f. The child has violated the terms of court-ordered supervision or aftercare supervision administered by the Department.
 - g. The child has violated the conditions of an order under Sec. 938.21(4), Wis. Stats., or the conditions of an order for temporary physical custody by an intake worker.
 - h. The child has violated a civil law or a local ordinance punishable by a forfeiture, provided that in any such case the child shall be released as soon as reasonably possible under Sec. 938.20(2)(b) to (g), Wis. Stats.
 - i. The juvenile is absent from school without an acceptable excuse under Sec. 118.15, Wis. Stats., Wis. Stats. (See also Sec. 3-3-20).
- (b) When a child is taken into physical custody as provided in this section, the person taking the child into custody shall immediately attempt to notify the parent, guardian and legal custodian of the child by the most practical means. The parents or guardians should be informed of the basic facts of the child's unlawful behavior. The person taking the child into custody shall continue such attempt until the parent, guardian or legal custodian of the child are notified, or the child is delivered to an intake worker under Sec. 938.20(3), Wis. Stats., whichever occurs first. If the child is delivered to the intake worker before the parent, guardian or legal custodian are notified, the intake worker, or another person at his/her direction, shall continue the attempt to notify until the parent, guardian, or legal custodian of the child are notified.
- (c) In all cases where a warrant, capias, or detention order has been issued, verification must be made with the originating agency prior to any action by law enforcement.
- (d) Juvenile Intake is to be advised of juvenile custody *only* when release cannot be effected as soon as is reasonably possible.
- (e) Holding a child (juvenile) in custody is the determination of the Intake Department and the Juvenile Court, not the law enforcement officer.
- (f) Be sure to check the physical and mental condition of all juveniles who enter the jail in the custody of a law enforcement officer. Make a determination if additional follow-up is needed for the protection of the juvenile; if so, contact the proper County Juvenile Intake for appropriate placement other than jail.

COMMENTARY:

When making the determination to take a child into custody, the prudent Officer shall base his/her decision as to the belief "on reasonable grounds" on the same framework the officer would use when determining "probable cause" for making an adult arrest. In this way, there

should be little area subject to argument in determining to take a child in custody and the appropriateness of the placement in custody.

Sec. 3-3-4 Release or Delivery from Custody.

POLICY:

- (a) Children taken into custody shall be released from custody as soon as is reasonably possible.
- (b) A person taking a child into custody shall make every effort to immediately release the child to:
 - (1) The child's parent, guardian or legal custodian or, if the parent, guardian or legal custodian is unavailable, unwilling or unable to provide supervision for the child, may release the child to a responsible adult, and verbally counsel or warn as may be appropriate; or, in the case of a child fifteen (15) years or older, may release the child without immediate adult supervision, counseling or warning the child as may be appropriate.
 - (2) If the juvenile has violated the terms of aftercare supervision administered by the Wisconsin Department of Corrections or a county department, the person who took the juvenile into custody may release the juvenile to the Department of Corrections or county department, whichever has aftercare supervision over the juvenile.
 - (3) In the case of a runaway child, may release the child to a home authorized under Sec. 48.227, Wis. Stats.
 - (4) a. If a juvenile is taken into custody under Sec. 938.19(1)(d)10., Wis. Stats. (truancy), the law enforcement officer who took the juvenile into custody may release the juvenile under Subsection (b)(1) above, or, if the school board of the school district in which the juvenile resides has established a youth service center under Sec. 118.16(4)(e), Wis. Stats., may deliver that juvenile to that youth service center. If the juvenile is delivered to a youth service center, personnel of the youth service center may release the juvenile to the juvenile's parent, guardian or legal custodian, or release the juvenile to the juvenile's school, after counseling the juvenile as may be appropriate. If the juvenile is released to the juvenile's school, personnel of the youth service center shall immediately notify the juvenile's parent, guardian and legal custodian that the juvenile was taken into custody under Sec. 938.19(1)(d)10, Wis. Stats. and released to the juvenile's school.
 - b. If a juvenile is taken into custody under Sec. 938.19(1m), Wis. Stats., the person who took the juvenile into custody may release the juvenile under Subsection (b)(1) or (4) above or to the juvenile's school administrator, as defined in Sec.

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125.09(2)(a)3, Wis. Stats., or a school employee designated by the school administrator.

COMMENTARY:

The final responsibility and implementation of the preceding policy is that of the Officer or investigator handling the incident.

Sec. 3-3-5 Runaway Juveniles.

POLICY:

Upon all notifications (with hard copy) to this Department regarding juvenile runaways:

- (a) Before any action can be taken, the request for a pickup must be provided to the Police Department in writing by one of the following: parent, guardian, or agency which has legal custody of that juvenile. This request must be signed and dated by that person. *It must be on file before any action can be taken.* Include height, weight, hair and eye color, full name, date of birth, phone number, address and parent's name.
- (b) All teletypes, NCIC entries and written requests must be attached to the original report to the appropriate Communication Center.
- (c) If a juvenile runaway is either released or is referred to an intake worker, the notice and/or referral requirements of Sec. 938.20(3), Wis. Stats., shall be followed.

Cross-Reference: "Runaways and Missing Persons"; Title 3, Chapter 4.

Sec. 3-3-6 Officer Discretion to Release Juvenile Runaway from Custody.

POLICY:

- (a) When an Officer is making a determination to release or hold a child under this section or Section 3-3-4 herein, he/she shall take into full account all aspects of the case and the legislative intent of the State Juvenile Code which strongly supports the release from custody of the child as soon as possible, i.e., "every effort immediately to release the child..." shall be made by the person taking the child into custody.

- (b) An Officer shall make an attempt to try to reach the child's parent(s), legal guardian, legal custodian or other appropriate responsible party. If the child/juvenile is not legally intoxicated and has made a good faith effort to contact a responsible party, the Officer may take the child to the child's home.

PROCEDURES:

- (c) **First Offense Runaways—Optional.** When Department records indicate that the child is not a habitual runaway, the apprehending Officer shall make an attempt to find the cause and return the child to the parents or legal custodian. If the child asks not to be returned home or the parents refuse to take custody of the child, then an intake worker shall be notified.
- (d) **Options to Releasing the Child.**
 - (1) To the child's parent, guardian or legal custodian.
 - (2) To a responsible adult (if the parent is unavailable or unwilling to provide supervision for the child).
 - (3) Without immediate adult supervision, if the child is at least fifteen (15) years of age.
 - (4) To a licensed runaway home, if the child is a runaway.
- (e) **Notification of Release.** Upon releasing the juvenile, the child's parent, legal guardian, or legal custodian shall be so notified as to the nature of the release.

COMMENTARY:

Upon releasing the child, the Officer relinquishes his/his control over the child and may not impose rules upon the child's behavior in the future.

Sec. 3-3-7 Officer Determination Not to Release a Child from Custody.

POLICY:

Pursuant to Section 3-3-5 herein, the Officer who decides to retain custody of a juvenile must consider the following:

- (a) Attitude of the child.
- (b) Number and nature of prior contacts.

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- (c) Attitude of the parents.
- (d) Ability of the parents to control the child.
- (e) Physical condition of the child.
- (f) The nature of the alleged offense.

Sec. 3-3-8 Officer Responsibilities When Not Releasing Child from Custody.

POLICY:

Pursuant to Sections 3-3-5 and 3-3-7 herein, an Officer upon determining not to release a juvenile shall:

- (a) Deliver the child to the court intake worker. (Delivering the child does not require physical presentation of the child in all instances, for delivery may be made by telephonic contact within the guidelines and policies established by the court.)
- (b) Notify the child's parent, guardian or legal custodian of the decision not to release the child, and inform such parent, guardian or legal custodian of whom the intake worker is and how to contact him/her. Such effort shall continue until successful or until the court intake worker assumes responsibility for the child.

Sec. 3-3-9 Fingerprinting and Photographing Juveniles.

POLICY:

Fingerprinting of juveniles shall follow adult procedures.

COMMENTARY:

Records on juveniles, including fingerprints and photographs are maintained separately from records of adults in accordance with Section 165.83(2), Wis. Stats. Section 165.83, Wis. Stats., indicates the Wisconsin Department of Justice's Division of Law Enforcement Services shall obtain and file fingerprints, description, photographs and any other identifying data on persons who have been arrested or taken into custody in the state:

- (a) For an offense which is a felony.

- (b) For an offense which is a misdemeanor or a violation of an ordinance involving burglary tools, commercial gambling, dealing in gambling devices, contributing to the delinquency of a child, dealing in stolen property, controlled substances under Chapter 961, Wis. Stats., firearms, dangerous weapons, explosives, pandering, prostitution, sex offenses where children are victims, or worthless checks.
- (c) For an offense charged as disorderly conduct but which relates to an act connected with one or more of the above offenses.
- (d) As a fugitive from justice.
- (e) For any other offense designated by the Attorney General.
- (f) To accept for filing, fingerprints and other identifying data, taken at the discretion of the law enforcement agency involved, on persons arrested or taken into custody for offenses other than those listed above.

Sec. 3-3-10 Handcuffing.

POLICY:

The use of handcuffs in juvenile cases shall conform to this Department's existing policy on the use of handcuffs (Section 3-7-2).

Sec. 3-3-11 Need for Medical Treatment of Juvenile.

POLICY:

- (a) The Officer shall, upon determining that there appears to be an immediate need for medical treatment of the juvenile, take such juvenile to a hospital or physician's office for such treatment.
- (b) The Officer shall notify the parent, guardian, or legal custodian of the location of the juvenile.
- (c) Should the juvenile not be released from medical treatment, the court intake worker shall be so notified.

Sec. 3-3-12 Violations of Civil Law and/or Local Ordinances.

POLICY:

- (a) Under no circumstances may a juvenile be held in custody for violation of civil law and/or local ordinance punishable by forfeiture.
- (b) All juveniles detained for civil law and/or local ordinance violations, pursuant to this section, shall be released immediately upon completion of the citation procedure. Juveniles under age fifteen (15) shall be released to a parent, guardian or responsible adult.
- (c) Upon issuance of a citation, the issuing officer and/or the Department juvenile officer shall notify the child's parent of the issuance of the citation within seven (7) days (Sec. 48.17(2), Wis. Stats.).
- (d) Juveniles age twelve (12) or older may be issued a citation for a municipal ordinance violation (refer to the bond schedule). There is no minimum age specified for truancy violations.
- (e) Juveniles age twelve (12) to sixteen (16) may be notified of their eligibility for Teen Court, if such a court is established. A notice would then be given to the offender when the citation is issued.

Sec. 3-3-13 Violation of Traffic Laws.

POLICY:

- (a) A juvenile charged under this section shall be issued a citation as provided for by law and released. Jurisdiction is governed by Sec. 938.17, Wis. Stats.
- (b) Notification of parent shall be pursuant to Section 3-3-12(c) herein.
- (c) Any decision of an Officer to hold in custody will require notification of the court intake worker.
- (d) All juveniles age sixteen (16) through seventeen (17) will be handled with the same procedures as an adult and will be referred to the appropriate adult court. The exceptions shall be juveniles charged under Secs. 342.06(2), False Statement of Vehicle Title Application, and 346.67, Hit and Run Involving Injury or Death, and 344.48(1), Forgery of Any Notice Provided, and 30.67(1), Wis. Stats.; noted violations should be referred to

juvenile intake. (See Notification of Parents). Juveniles age sixteen (16) through seventeen (17) in violation of Schedule II offenses in the bond book may be cited as adults for misdemeanor and felony violations.

- (e) Juveniles ages twelve (12), thirteen (13), fourteen (14) and fifteen (15) in violation of a traffic offense may be referred to Juvenile Intake with a Juvenile Referral and Incident Report. A uniform traffic citation may be issued.

Sec. 3-3-14 Constitutional Rights of the Juvenile; Confessions; Searches.

POLICY:

- (a) **Investigations.** At all stages of the investigatory process, juveniles shall be afforded all the rights and procedural safeguards applicable to an adult.
- (b) **Self-Incrimination (Confessions).**
 - (1) The Wisconsin Supreme Court has held that children are capable of knowingly and voluntarily waiving the right not to incriminate themselves without parental or legal consultation. Such self-incrimination must be "voluntary, in the sense not only that it was not coerced or suggested, but also that it was not the product of ignorance of rights or of adolescent fantasy, fright or despair."
 - (2) Prior to the taking of a self-incriminating statement (confession), Officers of this Department shall take into account the following:
 - a. The child's age.
 - b. History of contact with the law enforcement authorities.
 - c. Mental ability.
 - d. Education
 - e. Physical and emotional condition during questioning.
 - f. The length of time in custody and time of day.
 - g. Whether the child had, or was permitted, any contact with an adult.
 - h. Whether the child has been fully apprised of his/her rights under the law.
 - (3) Should any of the above factors reasonably appear to interfere with the ability of the child to make a knowing and voluntary waiver of the right not to incriminate himself/herself, no self-incriminating statement (confession) will be taken without referral to legal counsel (district attorney) or without the presence of a responsible adult or the court intake worker.
 - (4) The parent, guardian, or legal custodian CANNOT give a waiver of the child's right against self-incrimination, since this right is a *personal* right. Thus, no self-

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incriminating statement (confession) may be taken by Officers of this Department on the authority of a parent, guardian, or legal custodian.

- (5) Should the child, during the investigative process, request to physically see and/or speak with his/her attorney, parent, guardian, or legal custodian, such contact shall be allowed as soon as practicable. Any and all questions shall cease and not resume until the child has spoken to the above named individual and the child is willing to resume the questioning.
- (6) The child's parent, guardian and/or legal custodian shall be notified upon completion of the taking of a statement as soon as practicable.

(c) **Search and Seizure.** Generally, the U.S. Constitution's Fourth Amendment prohibiting unreasonable search and seizure applies to the child. However, the following circumstances appear to be applicable to juveniles:

- (1) When a child is taken into custody on a charge of committing an act, which if committed by an adult would be a crime, a search at the time the child is taken into custody would be valid as a search incident to an arrest.
- (2) The Wisconsin Supreme Court, in *Mears v. State*, 52 Wis. 2d 435 (1971), has held that parental consent to search a home in which the parent and child live, including a search of the child's room, is valid. Parents may validly consent to the search of the child's room, closet, bureau or other area of the family home used by the juvenile, but not property outside the control of the parents. Any locked containers under the *sole control* of the juvenile may require the use of a search warrant, even if the parent is willing to consent to the search.
- (3) Since consent by a juvenile to waive his/her right to 4th Amendment protection poses problems of the child's maturity, intelligence and knowledge arising in other forms of waiver, the Officer must carefully evaluate each situation.

(d) **Searches in School Buildings or on School Property.**

- (1) In situations where there is a search in school buildings or on school property, conducted by the Police Department at the request of school authorities, the Department will assist, on request, a school administrator to obtain and execute a search warrant, in situations where the principal has information that he/she believes to be true that evidence of a crime, stolen goods, drugs, weapons or other contraband is located in a certain student's locker, desk or student's or non-student's automobile.
- (2) In situations where there is a search of school buildings or on school property, conducted by the Police Department without being requested by school authorities, Officers may not search student's lockers, desks, or automobiles unless they have a search warrant, incidental to an arrest or stop and frisk, and may not search a student's

person in school unless the student has been taken into custody. However, when a student gives permission, the guidelines in Subsection (c) above will apply.

- (3) A school official may not give permission for a warrantless search of a student's locker, desk or automobile. The student, if available for the execution of a warrant, shall be present during the search.

COMMENTARY:

The school administration maintains control over lockers and desks loaned to students. Therefore, the principal may search a locker or desk if he/she has reason to suspect that missing school materials may be present, or items that would endanger the health or safety of the school population. In all other cases, the school official or police shall obtain a search warrant.

Sec. 3-3-15 Interrogations, Interviews and Questioning of Juveniles.

POLICY:

It is the policy of the City of Stanley Police Department that all interrogations, interviews and questioning of juveniles be conducted with full regard for the principles of fundamental fairness and be so structured as to insure the maximum protection of the juvenile's constitutional rights. All custodial interrogations, interviews and questioning of juveniles shall be recorded pursuant to Title 4, Ch. 8 of this Manual, when feasible and without exception when the questioning occurs at a place of detention, as required by the case *State of Wisconsin v. Jerrell, C.J.*

PROCEDURES:

- (a) The use of the Miranda Warning in juvenile cases shall be the same as used in adult proceedings. All juveniles who are taken into custody and brought to headquarters will be advised of:
 - (1) Their right to contact a parent or other responsible advocate.
 - (2) Their other rights under the Miranda decision.
- (b) When giving this warning, the Officer shall be certain in his/her belief that the child comprehends and understands the warning and its meaning.
- (c) Officers should exercise good judgment in accepting a waiver of rights from a juvenile.
- (d) The juvenile's physical condition, age, intelligence, educational level, prior experience with the juvenile justice system and his/her ability to comprehend the meaning and effect of his/her statements should be carefully evaluated in each case. The Officer should keep in

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mind that the court system will evaluate the totality of the circumstances. It should also be noted that advising a juvenile of his/her constitutional rights (under ten (10) years of age) is probably a meaningless exercise, due to the child's inadequate capacity to understand.

- (e) In all instances in which there is a difference of opinion between a juvenile and his/her parents regarding whether or not a juvenile will agree to speak with the police regarding a suspected criminal offense, if the juvenile has the rational capacity to pursue his/her best interest, the juvenile's wishes will prevail (*Juvenile Justice Standards and Goals*, Standard 3.2(d).)

Cross-Reference: Title 4, Ch. 8, Electronic Recording of Custodial Interviewing.

Sec. 3-3-16 Interrogation of Suspects or Taking Suspects into Custody at School.

POLICY:

All interviews on school grounds or in school buildings will be conducted as discreetly as possible. Depending on the circumstances of the investigation, the Officer may advise the student of the nature of the crime of which he/she is suspected, that he/she has a right to remain silent, that anything he/she says may be used against him/her in juvenile or criminal court, that he/she has the right to have an attorney present or a court-appointed attorney if his/her parents cannot afford it, and that the child or parent may stop the interrogation at any time. The school officials or parents cannot waive these rights on behalf of the student and it is the school official's responsibility, as well, to insure that the student fully understands all of his/her rights.

PROCEDURES:

- (a) In situations where an interview will be conducted at school without being requested by school authorities, Officers will try, if feasible, to interview students outside of school hours and outside of the school setting.
- (b) Officers may interrogate students at school.

Sec. 3-3-17 Record Keeping.

POLICY:

- (a) (See more detailed policies in Sections 6-3-1 and 6-3-2.)

- (b) All records of this Department relative to juvenile matters shall be kept in accordance with the Wisconsin Statutes (Sec. 938.396, Wis. Stats.)
- (c) All records of this Department relative to juvenile matters are not open to inspection nor shall they be disclosed except upon the order of a court pursuant to Sec. 938.293, Wis. Stats., except as follows:
 - (1) Bona fide representatives of newspapers or other members of the media may have access to such records in order to obtain information for the purpose of reporting news *without* revealing the identity of the child involved.
 - (2) Disclosure of records of this Department may be effectuated between members of this Department and officials of the school which the child attends, other law enforcement agencies, other social welfare agencies, and the court.

Sec. 3-3-18 Juvenile Citations.

POLICY (SEE ALSO SECTION 3-3-12):

- (a) The Children's Code allows officers to issue citations to children twelve (12) years of age or older who are charged with violating a municipal ordinance. Since many ordinances adopt state statutes, the Officer frequently has the choice of issuing a citation or referring the case to Juvenile Intake at the appropriate county social services department. A citation may be issued for the following offenses:
 - (1) Any offense which is punishable by forfeiture only.
 - (2) Any offense which does not involve physical assault, bodily injury, property damage or loss, or an attempt to perpetrate such an offense.
 - (3) A citation may be issued for an offense involving property damage or loss, and if so done, a mandatory court appearance is required, in order that upon conviction, restitution may be ordered by the judge.
- (b) An offense which is *not* punishable under state law should never be referred to Intake. Cases which fall under the second category listed in Subsection (a)(2) above may be referred to Intake where the Officer has reason to believe that the child is in need of supervision or treatment available through the appropriate county social services department.

Sec. 3-3-19 Handling of Truancy Problems.

POLICY:

- (a) The City of Stanley Police Department has an obligation to assist school authorities to enforce Wisconsin's compulsory school attendance law. The primary and legal

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responsibility, however, for meeting the social and individual problems presented by the chronic truant is with the child's family and the educational system.

- (b) Pursuant to Sec. 938.19(1m), Wis. Stats, a juvenile who is absent from school without an acceptable excuse under Sec. 118.15, Wis. Stats., may be taken into custody by an individual designated under Sec. 118.16(2m)(a) if the school attendance officer of the school district in which the juvenile resides or the juvenile's parent, guardian or legal custodian requests that the juvenile be taken into custody. The request shall specifically identify the juvenile.

PROCEDURES:

Truants will be governed by the City's truancy ordinance.

Title 3 ► Chapter 4

Amber Alerts; Silver Alerts

- 3-4-1** Amber Alert – Wisconsin; System Activation
3-4-2 Silver Alert — Wisconsin; System Activation

Sec. 3-4-1 Amber Alert — Wisconsin; System Activation.

POLICY:

- (a) The State of Wisconsin has established an Amber Alert - Wisconsin system to provide fast public notification of a suspected child abduction emergency alert.
- (b) Standard law enforcement agency procedures shall be followed in requesting Amber Alert activation.

PROCEDURES:

- (a) Amber Alert activation can only requested by the law enforcement agency having jurisdiction over the matter.
- (b) The Chief of Police, or, in his/her absence a supervisor, shall determine if the criteria has been satisfied for an Amber Alert activation:
 - (1) The child is seventeen (17) years of age or younger.
 - (2) The child is in danger of serious bodily harm or death.
 - (3) There is enough descriptive information about the child, the immediate suspect(s) and/or the suspect vehicle(s) to believe an immediate broadcast alert will help locate the child.
- (c) If Amber Alert activation criteria have been satisfied, the Department shall complete the following Amber Alert forms:
 - (1) Child Abduction Emergency Alert Form - #1. This form requires activation by the Chief of Police or supervising officer on duty.

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- (2) Victim Form - #2.
 - (3) Suspect Form - #3.
 - (4) Vehicle Form - #4.
 - (5) Broadcast Script Form - #5. The Chief of Police or supervising officer on duty will determine if the alert will be broadcast regionally, multi-regionally or statewide.
- (d) The child shall be entered into the National Crime Information Center (NCIC) database.
- (e) The Police Department shall telephone, as appropriate, the Chippewa or Clark County Emergency Dispatch Center to request Amber Alert Activation.
- (f) The Department shall e-mail, fax or teletype required Amber Alert forms to the appropriate County Emergency Dispatch Center as follows:
- (1) The following are the contacts for the County Emergency Dispatch Center:
 - a. E-Mail:
 - b. Fax:
 - c. ORI:
 - (2) The forms listed in Subsection (c) above shall be sent.
 - (3) If available at this time, a photograph of the child should be e-mailed. If a photograph is not available at this time, obtain one as soon as possible and e-mail it to the appropriate County Emergency Dispatch Center.
- (g) If time permits, the Department should obtain written parent/guardian consent to release the name and photograph of the abducted child on the appropriate Wisconsin Amber Alert form: Child Photo and Name Release Form - #6.
- (h) All Amber Alert updates and deactivations shall be e-mailed, faxed or sent via teletype to the appropriate County Emergency Dispatch Center:
- (1) Amber Alert Update Form - #7.
 - (2) Amber Alert Deactivation Form - #8.
- (i) The Department shall also take the following additional steps; these steps will assist the media and the public in submitting leads and requesting information from the Department:
- (1) Designation of information links:
 - a. Designate a 24-hour telephone number.
 - b. Designate an e-mail address.
 - c. Designate a fax number.

- d. Designate a media liaison who will coordinate information interviews and send out press releases.
 - (2) Contact the local Federal Bureau of Investigation office:
 - a. FBI-Eau Claire: 715-835-3761.
 - b. FBI-Green Bay: 920-432-3868.
 - c. FBI-Kenosha: 262-857-3447.
 - d. FBI-LaCrosse: 608-782-6030.
 - e. FBI-Madison: 608-833-4600.
 - f. FBI-Milwaukee: 414-276-4684.
 - g. FBI-Wausau: 715-842-2666.
 - (3) Contact the National Center for Missing and Exploited Children (NCMEC) for additional resources and services: 1-800-843-5678 (1-800-THE-LOST).
 - (4) Contact the Wisconsin Clearinghouse for Missing and Exploited Children during regular business hours (Monday through Friday, 7:45 a.m. - 4:30 p.m.) for additional resources and services: 1-800-843-4673 (1-800-THE-HOPE).
 - (5) A review will take place after each activation of the Amber Alert system. The Department should retain a copy of all Amber Alert forms, faxes, e-mails, teletypes and pertinent information in order to assist the Amber Alert Review Committee in evaluating the Amber Alert system.
- (j) The appropriate County Emergency Dispatch Center will:
- (1) Send out a regional, multi-regional or statewide administrative message via the TIME System to law enforcement agencies regarding the activations, updates and cancellations of all Amber Alerts.
 - (2) Contact the Xpedite Fax Broadcast Company, which will disseminate faxes and e-mails to law enforcement and the media regarding the activations, updates and cancellations of all Amber Alerts.
 - (3) Send out an administrative message via the TIME System to the Wisconsin Department of Transportation to activate/deactivate electronic highway message board signs.
 - (4) Contact the Xpedite Fax Broadcast Company, which will disseminate a fax to the Wisconsin Department of Transportation to activate/deactivate electronic highway message board signs.

Sec. 3-4-2 Silver Alert – Wisconsin; System Activation.

POLICY:

Pursuant to Secs. 165.785 and 175.51, Wis. Stats., when the Department receives a report of a missing adult at risk, the Department may use the form prescribed by Sec. 165.785(2m)(a)1, Wis. Stats., to disseminate a Silver Alert report using the integrated crime alert network. The Silver

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Alert system is intended as a means to quickly distribute information about missing adults who may be in danger, such as missing persons with Alzheimer's Disease or other forms of dementia.

DEFINITIONS:

Adult at Risk. An individual who is at least sixty-five (65) years of age and who has a developmental disability, who suffers from Alzheimer's Disease or dementia, or who suffers from or, without access to medication, suffer from cognitive impairment if the impairment would likely render the adult incapable of getting to a familiar location without assistance.

PROCEDURES:

The procedure to be used with a Silver Alert situation is the same as is used with an Amber Alert [see Section 3-4-2 above].

Title 3 ► Chapter 5

Post-Critical Incident Policy

3-5-1 Post-Critical Incident Policy

Sec. 3-5-1 Post-Critical Incident Policy.

DEFINITIONS:

A "critical incident" is defined as anytime deadly force is used by or against any Officer, or any other incident which is emotionally traumatizing for a Department member as deemed appropriate by the Chief of Police. [See also Section 3-9-4 of this Manual]. Critical incidents are typically sudden events which fall outside the range of ordinary human experiences. Examples of critical incidents are, but are not limited to, a use of deadly force incident, involvement in responding to an extreme accident or crash scene, etc.

POLICY:

- (a) The City of Stanley Police Department recognizes that stress is inherent in law enforcement work. Occasionally an Officer may become involved in a critical incident which places the Officer in especially stressful situations. The Department values its employees and recognizes that people react differently to stressful situations and no single response should be considered as the norm. The purpose of this policy is provide Department members and their loved ones with information to assist with dealing with the aftermath of a critical incident.
- (b) Critical incidents can have a strong emotional impact, even on experienced Officers, because they happen abruptly. In law enforcement work, Officers must respond to life or death situations, when a threat is perceived, or the unthinkable is witnessed.
- (c) Unless evidence of a crime exists, any investigation of a critical incident shall start with the premise that the Officer involved acted properly within the scope of his/her responsibilities and duties. The Officer shall be treated as a witness or victim, not as a suspect. The Department will strive to have the investigation be competent and fair.

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- (d) All Department members directly involved in the incident shall receive public support from the Department if his/her actions are deemed justified, including assistance provided under this policy.
- (e) If possible, the Officer shall be assigned another officer (a friend if possible) to serve as a companion officer to assist the Officer involved with his/her needs.

PROCEDURES:

(a) Procedures At The Time of the Incident.

- (1) The Officer will be asked to provide information to the first responding supervisor to assist making the most credible investigation possible. Likely questions will focus on:
 - a. Any injuries to any person or the Officer.
 - b. Any witnesses and their locations.
 - c. Information on whether anyone has fled the scene.
 - d. The direction of any gunfire and the Officer's location at the time force was used.
 - e. Information about the scene/incident, where it began, progressed, and how it ended.
- (2) If the Officer has used his/her handgun, the handgun should be holstered. The magazine should not be removed nor should the firearm be reloaded. If the Officer used a shotgun or rifle, it can be left at the scene if it was dropped or it can be turned over as directed to a responding supervisor.
- (3) The Officer's firearm and magazine shall be recovered as evidence if the firearm was used. This recovery shall be done in a private location, such as after a return to the station. Upon recovery of the Officer's firearm, the Officer will be issued a replacement firearm, if possible.
- (4) Once the incident scene is secured and stabilized, the Officer should take a step back from the scene; gather his/her thoughts; make mental notes of the surroundings; do some autogenic breathing. The Officer should keep in mind that he/she has "done your part" – it is now up to others to do theirs. The supervisor at the incident scene shall be observant and watch for Officers who seem to be in a daze, in shock, or highly emotional, and notify the Chief of Police immediately. It should be understood that those involved, and others not involved but co-workers or friends of those involved, will be impacted and respond in different ways.
- (5) The Officer involved is allowed to have a companion Officer called to be a partner through the remainder of the immediate incident. This can be anyone not involved in the incident. Such companion can respond to the scene or meet the Officer at the station. The companion Officer can help provide for the physical needs of the Officer involved, contact people the Officer wants contacted, and generally support the Officer involved.

- (6) The Officer will be given a ride from the scene by the Chief of Police, a supervisor, or another Officer. This will get the Officer away from the incident scene, which may be chaotic, and prevent the Officer from having any accidental involvement with the investigation.
- (7) The Officer will be asked to provide a voluntary blood draw.
- (8) Immediately following the critical incident, the Officer shall be advised of his/her option of access to independent legal counsel. The Department shall also notify the Department's insurance carrier.
- (9) Following the critical incident, the Officer will be allowed to call family members as the Officer sees fit. If the Officer requests that family members meet him/her at the station, that will be arranged. If circumstances or injuries prevent the Officer from being able to make such a telephone call, the Chief of Police, or the officer-in-charge in the Chief's absence, shall make a compassionate notification and explanation to the Officer's spouse, significant other and/or immediate family of the event and the involved Officer's condition. At the station, the Officer will be provided with a quiet area to meet with the Officer's representatives, family, and/or requested mental health professionals. The Officer will be allowed to change out of his/her uniform.
- (10) The Officer shall be offered confidential counseling/therapy through the Department's assistance program as soon as reasonably possible after the critical incident. If a mental health professional is able to immediately respond, the Officer will have his/her first mandatory session with that professional (Education and Support Debriefing) in order to provide information and support. [See Section 3-9-4].
- (11) If a voluntary walk-through at the incident site was not done initially by investigators, the Officer will be asked to return to the site of the critical incident with the investigators. This will not be recorded. This walk-through should be of assistance to the Officer in recalling specifics associated with the incident and will help the Officer recall details of the incident which may assist the Officer in preparing statements and reports. Such walk-through may help in locating evidence at the site.
- (12) The supervisor at the incident scene shall ensure that the scene is thoroughly documented, such as video recording in similar conditions, photographs (photographed with markers, sketches, measurements, etc.), and that all evidence is properly collected and processed. Pertinent information (such as the number of rounds expended) shall be determined. If the weapon appears to have malfunctioned, it should be placed into evidence so that a proper inspection can be done later.
- (13) The supervisor at the scene shall attempt to determine the involvement of witness Officers, ask if they will provide information or be interviewed, and make a decision whether witness officers should also be placed on administrative leave.
- (14) The supervisor shall make sure that the municipality has law enforcement coverage following the critical incident, requesting mutual aid if deemed necessary.
- (15) The Chief of Police, or officer-in-charge, shall limit the Officer's exposure to the media as much as reasonably possible immediately after the incident and during any subsequent investigation of the incident.

- (16) The Officer involved shall receive on-going communications from the Department regarding matters pertinent to the critical incident and/or any investigation thereof.

(b) **Post-Incident Education and Support Debriefing.**

- (1) Immediately after or within twenty-four (24) hours after the critical incident, if possible, the Officer will be required to meet with the Department's designated mental health professional. The purpose of this session is to allow the Officer to meet with a professional trained in understanding the body's response to traumatic critical incidents, to provide the Officer with a setting to express any feelings, and to receive information on some feelings and emotions which may occur in the future.
- (2) This initial support debriefing is to be attended by the Officer alone. Any family members may also meet separately at this time with the mental health professional. Such initial meeting with the Department's designated mental health professional shall be paid for by the Department.

(c) **Administrative Leave.**

- (1) The Officer shall be placed on administrative leave ("administrative assignment") anytime the Officer has been involved in a critical incident where a firearm was discharged (animal control incidents excluded), with pay, immediately after the incident and during any investigation of the incident, and at such other times as the Chief of Police deems such action is warranted. The purpose of such administrative leave is to provide the Officer with time to develop coping skills in response to the critical incident and to meet other requirements that will be expected of the Officer post-incident.
- (2) The time spent on administrative leave is not to be construed as discipline or a finding of fault. In such situations, the Department elects to place the Officer on administrative leave to provide the Officer and his/her family the time to begin the process of recovering from a highly emotional incident. An Officer's compensation, benefits, and vacation and compensatory time are not affected while on administrative leave.
- (3) The length of the administrative assignment will be determined by the Chief of Police. If the Officer is unable to return to work after three (3) days of the incident, the Department will work with the Officer and the designated mental health professional to arrange for an appropriate time for the Officer's return. Studies have indicated that it is generally the best for an employee to return to work sooner rather than later after a traumatic incident. The Officer, however, will not be rushed to return to work.
- (4) When the Officer returns to work, the Officer will remain on administrative assignment and be assigned to office duties. The Chief of Police has the discretion

to assign what duties the Officer will perform but such duties will be purposeful and meaningful.

- (5) While on administrative leave, the Officer is encouraged to arrange time with a firearms instructor to do some shooting. This is not for training purposes but to assist the Officer in transitioning back into regular patrol duties.
 - (6) Co-workers will want to show the Officer their support as the critical incident is being investigated. It is the Officer's decision how he/she will want to inform co-workers how the Officer is doing. However, the Officer cannot generally discuss the actual incident while it is still being investigated. The Officer may decide to have his/her companion officer be the point of contact with co-workers to minimize calls and questions from co-workers.
 - (7) While on administrative leave, the Officer may contact the Chief of Police or an assigned supervisor with questions related to the status of the investigation.
- (d) **Interviews With Investigators.**
- (1) The Officer will be asked to provide a statement to investigators. The decision to do so is up to the Officer. Absent extenuating circumstances and a waiver by the Officer, that statement/interview will not occur before two (2) sleep cycles after the incident, approximately forty-eight (48) hours. The interview will take place in a private area at the police station and the Officer may have his/her private attorney present during the interview.
 - (2) This interview will act as the Officer's statement, providing details about the incident. The interview will likely be audio or video recorded. Transcripts of the interview will be prepared and the Officer will be allowed to make additions or corrections.
- (e) **Individual Debriefing While On Administrative Leave.** After the Officer's interview and while still on administrative leave, the Officer will be required to meet with a mental health professional. The Officer is encouraged to have his/her spouse or significant other attend such sessions.
- (f) **Investigation.** The critical incident investigation will be thorough and will eventually be released to the public. At some point after the Officer has had an opportunity to notify family members of the event, the public will be provided with the Officer's name and basic employment information. This information is treated as a public record and must be released under the Wisconsin Open Records law.
- (g) **District Attorney Review.** The final report will be forwarded to the Office of District Attorney for that office's review and decision.
- (h) **Return to Full Duty Status.** The Officer may return to full duty status when determined by the Chief of Police, following conclusion of the incident investigation.

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- (i) **Follow Up Counseling Services.** Follow up care for the Officer and his/her family is encouraged. As a matter of Department policy, the Officer is required to meet with a mental health professional at approximately six (6) and twelve (12) months after the critical incident. These meetings are confidential but the Chief of Police shall be notified with verification that such sessions were scheduled and attended.

Title 3 ► Chapter 6

Use of Force

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Sec. 3-6-1 Use of Force — General Policy.

POLICY:

- (a) Officers have the privilege and authority to use force when it becomes necessary in the performance of their official duties. It is the policy of the City of Stanley Police Department that Officers shall use only the amount of force that is objectively reasonable to achieve a lawful objective. The force used by an Officer should only be the amount required to overcome the resistance being offered by an offender or the person the Officer is trying to control.
- (b) The purpose of this Chapter is to establish policies and guidelines for the use of force by sworn personnel to effect an arrest or control a person. Proper use of force decisions, based

on the objective reasonableness standard, ensure due process for citizens as well as provide protection for the Officer and the Department. Officers shall use only that amount of force objectively reasonable to control a situation, effect an arrest, or to control a person. The Officer's decisions should be based on the Intervention Options.

- (c) Officers shall not continue to use force more than is reasonably necessary to maintain control once the subject has stopped resisting and control of the subject has been established.
- (d) This policy is based on the Defense and Arrest Tactics (DAAT) Program of the State of Wisconsin Justice Department Law Enforcement Training and Standards Bureau.

DEFINITIONS:

- (a) **Conducted Energy Weapon.** A less lethal force weapon utilized by trained personnel that causes electro-muscular disruption (EMD) to a combative or potentially combative subject. The use of this device (commonly called a "Taser") is intended to incapacitate the subject with a minimal potential for causing death or great bodily harm.
- (b) **Deadly Force.** As used in this policy, "deadly force" is the intentional use of a firearm or other instrument which creates a high probability of death or great bodily harm; behavior which justifies an Officer's use of deadly force is that which has caused or imminently threatens to cause death or great bodily harm to the Officer or to another person.
- (c) **Defense and Arrest Tactics (DAAT).** A system of verbalization skills coupled with physical alternatives. It is the specific system formulated, approved and administered by the State of Wisconsin Training and Standards Board.
- (d) **Excessive Force.** Excessive force is the use of more force than is reasonable under the circumstances. While excessive force may not affect the validity of an arrest, it may expose the Officer to any and all of the following:
 - (1) Department discipline.
 - (2) Federal civil rights suits.
 - (3) Federal and state civil suits.
 - (4) In aggravated circumstances, possible criminal liability.
- (e) **Great Bodily Harm.** Bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or any other serious bodily injury.

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- (f) **Impact Weapon.** Any item used to gain control of a subject by striking.
- (g) **Kinetic Energy Impact Projectiles (Beanbags).** Flexible or non-flexible projectiles, which are intended to incapacitate a subject with a minimal potential for causing death or great bodily harm, when compared to conventional projectiles.
- (h) **Less-Lethal Force Philosophy.** A concept of planning and force application, which meets operational objectives, with less potential for causing death or great bodily harm than conventional police tactics.
- (i) **Non-Deadly Force.** An amount of force that under normal circumstances might cause bodily harm but would not be expected to result in great bodily harm or death. It refers to the use of any weapon or instrument, or any other action on the part of an Officer, which does not fall under the category of deadly force, but which may result in bodily harm or injury to a person.
- (j) **Objective Reasonableness Standard.** The standard established by the United States Supreme Court in *Graham v. Connor* which states that reasonableness should be judged under the totality of the circumstances from the perspective of a reasonable Officer at the scene with similar training and experience. Three (3) elements of the standard are:
- (1) The severity of the alleged crime at issue.
 - (2) Level of threat or resistance – whether the suspect is actively resisting or attempting to evade arrest by flight.
 - (3) Danger to the community – whether the suspect poses an imminent threat to the safety of Officers and/or others.
- (k) **Probable Cause.** In reference to the use of deadly force, "probable" means facts and circumstances known to the Officer, which would warrant a prudent and cautious man, with the knowledge, training and experience of the police officer, to believe that a suspect has committed a crime involving the infliction or threatened infliction of serious physical harm.
- (l) **Reasonable Force.** A physical act by a law enforcement officer in the performance of duty when it is used to accomplish a legitimate law enforcement goal and the level of force used is reasonable considering all the facts and circumstances known to the Officer at the time of the incident.
- (m) **Reasonably Believes.** Means that an ordinary, prudent and reasonably intelligent law enforcement officer believes that a certain fact situation exists and such belief is reasonable under the circumstances known to the officer at the time the officer acted.

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- (n) **Serious Physical Harm.** Bodily injury which creates a substantial risk of death or which is likely to cause serious permanent disfigurement or loss, or extended impairment of the function of any bodily member or organ.

Sec. 3-6-2 Use of Nondeadly Force — Generally.

STATEMENT OF PURPOSE:

It is the policy of this Department that, recognizing our legal and moral responsibility to use force wisely and judiciously, nondeadly force will be used only when absolutely necessary in the performance of an Officer's legal duties. The purpose of the use of force is to establish and maintain control. Officers need not retreat or desist from efforts to make lawful arrests because of the resistance to the arrests. Officers are justified in using force which they reasonably believe is necessary to defend themselves or others from bodily harm while making arrests.

POLICY:

The use of nondeadly force is only authorized when an Officer reasonably believes it is necessary to control a person under any of the following circumstances:

- (a) When an attempt is being made to effect an arrest and the suspect refuses to submit to the arrest and resists the Officer's efforts;
- (b) When Officers are defending themselves or other person(s) from an attacker;
- (c) When "psychologically disturbed" person(s) are resisting efforts to be subdued; and
- (d) In any other situation where Officers deem it necessary to protect themselves, another person(s), or to prevent efforts to defeat an arrest.
- (e) Detaining a person reasonably suspected of criminal involvement.
- (f) Preventing escape.
- (g) Maintaining order.

Sec. 3-6-3 Use of Force Options.

POLICY:

- (a) **Force Option Continuum.**

- (1) **Generally.** The Force Option Continuum is generally as follows starting with the least amount of force to deadly force:

- a. Voice (professional presence; verbal commands).
 - b. Hand control (empty hand) techniques.
 - c. Oleoresin capsicum defense spray.
 - d. Intermediate weapons: baton; kinetic energy impact projectiles (beanbags).
 - e. Deadly force.
- (2) **Intervention Options.** In determining the amount of force to be used, law enforcement officers may use one level of force higher than that being used or threatened against them. The amount of force an Officer may use should be based on the following Intervention Options and the Levels of Force described in Subsection (b)(3) below:
- a. **Presence.** The first mode. Presence reflects the fact that sometimes all that is needed to control a situation is the professional presence of an Officer. The purpose of this mode is to "present a visible display of authority."
 - b. **Dialogue.** The second mode. Dialogue covers the range of tactical communication from very low level questioning to very directive commands. The purpose of dialogue is to "verbally persuade" subjects to comply with an Officer's lawful directives.
 - c. **Open Hand Control.** The third mode. "Open Hand", "Empty Hand", and "Compliance Techniques" include a wide range of tactics and techniques for controlling subjects without using weapons. Most of these involve hands-on physical techniques:
 1. Escort holds.
 2. Compliance holds.
 3. Oleoresin Capsicum (OC spray).
 4. Passive countermeasures.
 5. Active countermeasures.
 6. Conducted energy weapons (Taser).
 7. Incapacitating techniques.
 - d. **Intermediate Weapons.** The fourth mode. Intermediate weapons include tactics and techniques with the purpose to "impede" a subject. Intermediate weapons include batons and kinetic energy impact projectiles.
 - e. **Deadly Force.** The fifth mode. Deadly Force represents the highest level of force available to law enforcement officers with the purpose to "stop the threat". Deadly force is the "intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm."
- (3) **Threat Assessment and Levels of Force.** The concept of escalating/de-escalating levels of force is based on an Officer's assessment of the threat the subject presents to the Officer or others. The threat assessment is based on the subject's behavior. Picturing force as existing on a continuum is helpful in understanding this concept. The following continuum shows the relationship between levels of behavior and force:

Behavior	Force Option
Any action that requires law enforcement intervention	Professional presence (arrive on scene, show of force)
Voluntary compliance	Dialogue: Verbal commands (verbal direction)*
Compliant, requiring direction	Passive restraints (positioning, blanket)
Passive resistance (refusing to comply with verbal commands or passive restraint techniques)	Active restraints (escort techniques)
Aggressive resistance (pulling away from Officer's grasp)	Compliance techniques (compliance hold, pressure points, oleoresin capsicum spray) Passive countermeasures (decentralizations)
To overcome active resistance or its threat	Oleoresin capsicum (O.C.) aerosol spray
Physical attack (grappling)	Active countermeasures (punches and kicks)
Overcome active resistance or its threat	Conducted energy weapon (Taser) – trained Officers only
To cause the immediate, temporary cessation of violent behavior	Incapacitating techniques
Physical attack (punching, kick, etc.)	Intermediate weapons: Impact weapon (baton); kinetic energy impact projectiles (12 ga. CTS beanbag) – trained Officers only; conducted energy weapon (Taser); oleoresin capsicum (O.C.) spray.
Deadly force (imminent danger of death or great bodily harm)	Deadly force (firearm or other deadly force option)
* Whenever possible, Officers should continue to give verbal directions and commands while using higher levels of force	

- (4) **Use of Force Factors.** Officers are not required to begin a confrontation at the verbal command level and escalate step-by-step until control is gained. An Officer should take into account a number of factors in determining the appropriate level of force.

These factors should include the actions of the subject, Officer/subject factors and any other significant information available to the Officer at the time. Only factors reasonably known to the Officer at the time of the encounter are relevant to the use of force decision.

- (5) **Reduction in Force Levels.** Once a person has ceased to resist or attempt to escape, or is under control, the amount of force used shall be reduced to the level necessary to maintain control of the subject.

(b) **Verbal Commands.**

- (1) **Primary Tactic.** Control of a person through verbal commands shall always be the primary tactic. The use of physical force and/or nondeadly weaponry is the alternative method to verbal commands. It is recognized that this method is not always effective or appropriate in gaining compliance and it then becomes necessary to escalate the degree of force.
- (2) **Escalating Degree of Force.** When it is reasonably determined that verbal commands are not or would not be effective nor appropriate, an Officer may escalate the degree of force based on the actions of the person they are attempting to control.
- (3) **Continuation of Verbal Commands.** Whenever possible, an Officer should continue to give verbal directions and commands while using higher levels of force.

(c) **Officer/Subject Factors—Level of Force.** Numerous factors may effect the selection of an appropriate level of force. Examples of Officer/subject factors include:

- (1) **Age.** An older Officer may have to use more force on a younger person who is more agile and stronger. Where in contrast, the younger Officer who is quicker, stronger, and has more stamina would use less force to control an older person.
- (2) **Relative Strength.** The different make up of males and females may be a factor in handling a member of the opposite sex. It is a known fact that females usually have less upper body strength than their male counterparts. A male Officer may use less force arresting/detaining a female, where a female Officer may use more force to arrest/detain a male.
- (3) **Size.** A larger Officer may be able to control a smaller person with the least amount of force. Where a smaller Officer would have to intensify the amount of force to accomplish the same task.
- (4) **Skill Level.** A highly trained Officer in unarmed tactics may need to only use a proper technique that would use very little force to make an arrest or to detain; where an Officer with no current training may need to use more force. The ability of the person being arrested/detained plays a major role here also. A karate expert may not be detained/arrested and controlled easily because of his/her martial arts skills.

- (5) **Multiple Subjects.** An Officer who is being attacked by several people is at a disadvantage. Even the most skilled Officer in unarmed tactics is no match for several subjects with the intent to harm the Officer. Higher levels of force may be necessary to survive in these circumstances.

- (d) **Signals of Submission.** The following items may be signs of submission by the subject. Officers should be careful about automatically assuming that compliance has been achieved.
 - (1) Pulling hands up in front of body, palms out.
 - (2) Saying "I give up." However, this must be accompanied by other signals.
 - (3) Turning their back with the hands covering the head.
 - (4) Reduction in violent movement, backing off.
 - (5) Bowing the head, lowering the eyes, looking downward.
 - (6) Verbally—Tone and volume goes down, rate slows down.
 - (7) Total inactivity.
 - (8) Falling to the ground, cornering, crouching, reducing body size.
 - (9) Rubbing the hands, wiping off the sweat.
 - (10) Pacing—Moves to another territory.
 - (11) Grooming gestures.
 - (12) Face may be pale which is a sign of fear.
 - (13) Eyebrows lift and forehead wrinkles showing fear or anxiety.
 - (14) Eyebrows lower showing fear of imminent attack.

- (e) **Acceleration Through the Force Option Continuum.** Listed below are some of the circumstances which may cause an Officer to accelerate very rapidly through the Force Option Continuum:
 - (1) **Special Knowledge.** When an Officer is confronted by a person who they have been in contact with previously and knows the person is usually armed with a weapon, the Officer may approach the situation with the intent to use a high level of force if needed. If an Officer knows, from previous cases, that the person to be detained/arrested is a fighter and has assaulted an Officer in the past, more force may be expected to be needed to detain/arrest that person.
 - (2) **Injury or Exhaustion.** Where an Officer is injured in a confrontation and is losing, the Officer may need to use a weapon or a higher level of force to bring the situation under control. If an Officer cannot endure a lengthy confrontation because of exhaustion or physical fatigue, escalation through the continuum may be unnecessary.
 - (3) **Proximity to the Officer's Firearm.** Studies in the United States show that fifteen percent (15%) of Officers killed in the line of duty are killed with their own firearms. This exposes the Officer to the possibility of a lethal force situation. If the person removes the holstered weapon, the likelihood the Officer will be shot is imminent.

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- (4) **Ground Fighting.** Since grappling is a match of strength and skill, some say that if the Officer is not handcuffing or in control while on the ground, then the Officer is losing. If the Officer is on the ground and the aggressor is standing, the Officer faces a greater danger.
- (5) **Disability.** Officers who have disabilities may find it necessary to escalate on the Force Option Continuum to a higher level of force.
- (f) **Impact Weapons.** Impact weapons (batons) may be used only when an Officer has a reasonable belief that a lesser force level would not be sufficient to control the situation.
- (g) **Oleoresin Capsicum Aerosol Spray (OC).** Oleoresin Capsicum (OC) aerosol spray is a non-lethal weapon. It is an alternative or additional force option, at the compliance techniques level. OC aerosol is not a replacement for the baton, firearm, or any defensive tactics technique. (See Title 3, Chapter 7, Oleoresin Capsicum (OC) Aerosol.)
- (h) **Monitoring Requirements.** Whenever physical force is used to control a subject, it is the Officer's responsibility to monitor the subject for signs of injury. If an injury is such that it requires medical treatment, every effort will be made to provide such treatment. If the subject refuses medical treatment, this fact shall be documented in the Officer's report. Officers should use their medical training and other resources available to them to determine if the injury is treatable. Other resources would include but not be limited to supervisors, jail nursing staff, EMS personnel, etc.

PROCEDURES:

- (a) An Officer shall use only the minimum amount of force that is reasonably necessary to perform his/her lawful duties.
- (b) Under no circumstances may an Officer continue to use force (except mere physical restraint) against an individual who has ceased to resist, escape or otherwise violate the law.
- (c) When an individual offers only passive resistance to arrest, an Officer shall take such person into custody and transport such individual with as much regard to the individual's safety and welfare as is reasonable, practical and possible.
- (d) A police baton may be used by an Officer only when it is reasonably apparent that a lesser degree of force would be inadequate to control the situation.

Sec. 3-6-4 Use of Restraints.

STATEMENT OF PURPOSE:

It should be understood that for the protection of both the person being restrained and the Officer, use of restraints, such as handcuffs, reduces the likelihood of a struggle with the attendant and possible injury to the offender, the Officer, or both.

POLICY:

- (a) An Officer may use restraining devices in order to:
 - (1) Maintain control of subject.
 - (2) Prevent escape.
 - (3) Protect himself/herself or others.
- (b) An Officer shall never use restraining devices as punishment.
- (c) It is a policy of this Department that *all persons placed in protective custody or under arrest* should generally be properly handcuffed during transportation, except in the case of cooperative, non-threatening persons, where such decision shall be at the Officer's discretion.

PROCEDURES:

- (a) **Handcuff-Style Restraints.** Because it is the policy of this Department to use handcuffs or restraining devices during all transportation, except in the case of cooperative, non-threatening persons, where such decision shall be at the Officer's discretion. The following use procedures are provided:
 - (1) The Officer shall use Departmentally-approved restraints.
 - (2) Handcuffs shall always be applied to the person's wrists behind his/her back unless not physically possible. At the Officer's discretion, a transportation belt may be used.
 - (3) Handcuffs will be double-locked upon placement on the person in order to negate any attempted tampering by the person and to assure that accidental tightening of the cuffs cannot occur.
 - (4) Handcuffs will be closed to a firm contact with offender's skin, but not so tightly as to produce pain, although one may expect comments as to discomfort.
 - (5) Handcuffs will not intentionally be closed so tightly as to cause physical injury to the person.
 - (6) Handcuffs (or any other restraint device) shall be removed from the person upon arrival at a secure area within the Department, or upon transfer of custody to a

responsible party. This procedure will not be affected should such removal be likely to result in physical harm to the offender, Officers, or other person.

- (7) Handcuffs will not be used when it appears likely that the person's wrists or hands are too small, or for some other reason which would negate the restraint effects of handcuffs. In such circumstances, flex cuffs or other restraints will be used.

Cross-Reference: Section 3-20-1.

Sec. 3-6-5 Handcuffing Prisoners Being Transported.

PROCEDURES:

- (a) *Prior* to any transportation of persons in custody, they shall be searched for weapons.
- (b) Subjects shall be handcuffed behind the back unless:
 - (1) Other restraining equipment is in use, i.e., belly chains. Handcuffs may be used in front of the body when the prisoner is wearing a garment with a belt through which the handcuffs may be laced to securely pin the hands to prevent flailing about.
 - (2) Conditions exist that make it unreasonable or impossible to place handcuffs behind the subject's back. In all such cases the Officer shall detail in his/her written report the unusual circumstances that existed and what alternative restraining device or technique was used.
- (c) Prisoners shall be so placed in the police cruiser that seat belts may be secured about the prisoner in order to enhance their safety during transportation. An exception is when hands and feet are restrained together and the subject has been placed on his/her stomach.

COMMENTARY:

The use of handcuffs shall not be viewed as an absolute provision of safety. Officers shall continue to exercise all due care as to the safety and custody of prisoners.

Sec. 3-6-6 Exceptions to Handcuff Requirements.

POLICY:

- (a) Officers shall always handcuff unless the Officer can articulate exceptional circumstances. Officer discretion may be used in the following circumstances when deciding not to handcuff:

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- (1) Persons who are temporarily incapacitated, such as by a serious wound to the lower arms, hands, etc. or a woman in an advanced stage of pregnancy, etc.
 - (2) Juveniles who are either very young, or whom the Officer has personal knowledge of, and as such, determines that the use of handcuffs is not an appropriate action.
- (b) All Officers shall receive defensive tactics training in accordance with Wisconsin Training and Standards guidelines.

Sec. 3-6-7 Treatment of Injured Prisoners.

PROCEDURES:

- (a) Injured prisoners are to be transported by ambulance to the nearest medical facility for proper treatment.
- (b) During the time awaiting treatment and during the treatment activities, the Officer shall not relax security.
- (c) The prisoner is to remain handcuffed during treatment unless the handcuffs interfere with such treatment. Should medical treatment require removal of handcuffs, the Officer shall request that restraints (leather belts) be used by hospital personnel.
- (d) The Officer is to remain with the prisoner at all times during the hospital stay unless the injury is so serious that escape is not medically possible (i.e., surgery, serious gunshot wound, knife wound, broken leg, etc.)

Sec. 3-6-8 Conducted Energy Weapons (TASER).

POLICY:

- (a) Prior to being assigned for use, all Officers will be certified in the use of a conducted energy weapon (Example: TASER model), commonly referred to as a TASER for purposes of this policy, to be able to carry such device. No Officer will be permitted to carry the device on duty without successful completion of training. Only trained Officers may deploy and use a conducted energy weapon.
- (b) The Use of Force Continuum outlined in this policy Chapter is to be used as a guide for the deployment of a conducted energy weapon. The Department places conducted energy weapons (TASER) at the "Empty Hand Control Mode". Use of a conducted energy weapon is generally analogous to oleoresin capsicum (OC) spray on the Use of Force Continuum,

and decisions to use a conducted energy weapon involve the same basic justification. Officers may include in the decision to use this force option information known to the Officer at the time of the incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior. With that in mind, under most circumstances conducted energy weapons should generally not be used in the following situations:

- (1) On a handcuffed or secured prisoner, absent overtly assaultive behavior that cannot be reasonably dealt with in any other less intrusive manner.
 - (2) On any suspect who does not demonstrate an overt intention:
 - a. To use violence or force against the Officer or another person, or
 - b. To clearly flee in order to resist or avoid detention (in which cases where officers would pursue on foot).
 - (3) In any environment where an Officer knows that a potentially flammable, volatile or explosive material is present, including, but not limited to, gasoline, OC spray with volatile propellant, natural gas or propane.
 - (4) In any environment where the subject's fall could reasonably be expected to result in death or serious injury (such as in water or on an elevated structure).
 - (5) Any known or obviously pregnant female.
 - (6) The facial area of the head.
 - (7) Against a deadly weapon.
- (c) A conducted energy weapon may be used by trained Department personnel when a subject is threatening to actively resist or is actively resisting an Officer and the subject poses an articulable threat of harm to an Officer or another person. It may also be used when a subject poses a threat of harm to themselves such as self-inflicted injury or a suicide attempt.
- (d) No Officer, other than the Chief of Police or officer-in-charge, shall remove the batteries from a conduct energy weapon as this will erase the settings.

PROCEDURES:

- (a) Passive resistance without posing an articulable threat of harm to Officers or others does not permit the use of a conducted energy weapon. A conducted energy weapon should only be used to stop a threat. This would include, but not be limited to:
- (1) Threats to Officer safety;
 - (2) Threats to others;
 - (3) Threats of a suspect injuring himself/herself;
 - (4) Situations involving Officer discretion where physical contact of the suspect would increase the likelihood of injury to the suspect, citizens or officer(s).

- (b) Alternative force options must be considered prior to the use of a conducted energy weapon. As in all uses of force, certain individuals may be more susceptible to injury. Officers should be aware of the greater potential for serious injury when using a conducted energy weapon on:
 - (1) A female who is obviously, or known by the Officer to be, pregnant.
 - (2) A subject that is elderly or of particularly small stature, irrespective of age.
 - (3) A child.
 - (4) A person who the Officer has reason to believe is equipped with a pacemaker or is in obvious ill health.
- (c) An Officer shall not brandish, display or threaten the use of a conducted energy weapon unless he/she can reasonably conclude that its use may become justified and is anticipated. A conducted energy weapon shall never be used as a tool for coercion. A display of the unit's "test arc" is permitted to gain compliance in an arrest situation where resistance is anticipated. The Officer shall energize the subject no longer than to gain compliance.
- (d) In each instance when a conducted energy weapon is deployed at an incident, a determination must be made regarding the need for lethal cover. Lethal cover shall be required in all cases in which the subject possesses a firearm.
- (e) In preparing for firing the conducted energy weapon shall be pointed in a safe direction, taken off safe, and then aimed. The areas below the belt line, such as the subject's legs should be the primary target when reasonably possible; the center mass of the subject's back or chest are the secondary targets.
- (f) At the time of deployment of the conducted energy weapon in a tactical setting, the Officer using the such weapon shall announce "TASER, TASER" in a clear audible tone prior to deployment, so that Officers will be aware that the sound from the shot of the TASER will not be mistaken for the sound of a gunshot.
- (g) Upon firing the conducted energy weapon, the Officer shall energize the subject the least number of times and no longer than necessary to accomplish the legitimate operational objective. If possible, the chest area should be avoided as a target, with areas below the belt line preferred.
- (h) The subject should be secured as soon as practical while disabled by the power of the conducted energy weapon to minimize the deployment cycles. In determining the need for additional energy cycles, Officers should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.
- (i) Department personnel who use a conducted energy weapon against a person shall ensure that the subject is monitored for any injuries as soon as practical after the person is under control. Officers should also examine subject for any secondary injuries from possible falls

caused from deployment of the conducted energy weapon. Once the subject is in custody, the Communications Center shall be notified of the conducted energy weapon deployment and the Officer shall evaluate the subject.

- (j) If an adverse reaction to the conducted energy weapon occurs, or if requested by the subject, transport to a medical facility shall be arranged. Every subject who receives a puncture(s) or significant skin irritation as a result of a conducted energy weapon probe will be transported to a medical facility for examination and/or treatment is requested by the subject. In addition, the following persons shall be transported to a medical facility following exposure to a conducted energy weapon, any person who:
- (1) Does not appear to recover properly after being hit;
 - (2) Is in a potentially susceptible population category as identified above;
 - (3) Has been energized more than three (3) times;
 - (4) Has had more than one conducted energy weapon used against him/her in any given incident;
 - (5) Has been subjected to a continuous energy cycle of fifteen (15) seconds or more; or
 - (6) Has exhibited signs of extreme uncontrolled agitation or hyperactivity prior to being energized by a conducted energy weapon.
- (k) The Officer shall not remove the probes if imbedded in a sensitive tissue area. If the probes from a discharged conducted energy weapon are imbedded in sensitive tissue areas (i.e. neck, face, groin or the breast of a female), Officers shall *not* remove the probes and shall arrange for transport to a medical facility for removal. If the probes are imbedded in other, non-sensitive tissue areas, a trained Officer may remove the probes according to the training procedures of the manufacturer. In circumstances where conducted energy weapon use has produced skin irritation or puncture and the subject requests that he/she be taken to a medical facility for examination and/or treatment, the subject shall be transported to a medical facility.
- (l) After the probes have been removed, the probes shall be handled as biohazard/blood-borne pathogen "sharps" and packaged according to proper evidence procedures. Probes that have been removed from skin will be treated as bio-hazard "sharps". The probes should be placed point down into the expended cartridge bores and secured with tape. Expended air cartridges with probes secured in the cartridge will be bagged and placed in a biohazard sharps container. The package shall then be placed in evidence and photographs of the wound site(s) shall be taken, if practical.
- (m) The actual use of the conducted energy weapon will normally require an arrest be made. In the event of the display of the "test arc", this detail will be included in the Officer's report.
- (n) When available, photographs of the subject's affected area shall be taken after the darts are removed.

- (o) After an incident where a conducted energy weapon is deployed, the deploying Officer shall complete a Conducted Energy Weapon Deployment Report prior to finishing his/her duty shift. Officers shall specifically articulate the rationale in their report for any instance in which:
 - (1) A conducted energy weapon is energized more than three (3) times;
 - (2) An energy cycle longer than fifteen (15) seconds in duration is used;
 - (3) More than one conducted energy weapon is used against a subject in any given incident; or
 - (4) A conducted energy weapon is used against a susceptible population individual as identified above.

- (p) The conducted energy weapons used by many law enforcement agencies have a built in data port which enables the Chief of Police or a supervisor to download a record of the uses of the conducted energy weapon unit; this record will show the month, day, year, duration and time of deployment. The downloading and recording of this data shall occur for every unit deployed against a person or animal, other than in a training setting. A copy of this information shall be retained and included with any Use of Force or Incident Report(s), along with any conducted energy weapon use report/form.

Sec. 3-6-9 Intermediate Impact Weapon — Batons.

POLICY:

- (a) An impact weapon may be used only when an Officer reasonably believes a lesser level of force would be insufficient to control the situation. The use of a Department-authorized baton is permitted against an actively aggressive person when the Officer reasonably believes that the subject poses an articulable threat of bodily harm to the Officer or another person. Officers may include in their decision to use this force option information known to the Officer at the time of the incident, including the conduct of or statements by the subject or prior history of resistive or assultive behavior.

- (b) An Officer shall not brandish, display or threaten the use of an impact weapon as a threat unless he/she can reasonably conclude that its use may become justified and is anticipated.

- (c) An Officer should not strike a person above the shoulders with an impact weapon:
 - (1) Generally, a strike to the head with an impact weapon is considered deadly force and should not be used, unless such an action is justified under the use of deadly force.
 - (2) This Section is not intended to apply to an accidental strike to the head as a result of resistance.

- (d) Officers shall only use department-approved baton techniques.
- (e) Department-approved batons are the only authorized impact weapons. Other devices, flashlights, radios, firearms, etc., are not recommended to be used as impact weapons; however, the Department recognizes that emergency self-defense situations involving other objects and instruments may occur.
- (f) When a baton is used against the body of a person, other than handcuffing or control holds administered with the baton, the Officer will notify the Chief of Police or a supervisor and will complete an Incident Report.

Sec. 3-6-10 Intermediate Impact Weapon — Kinetic Energy Impact Projectiles (Beanbags).

POLICY:

- (a) Kinetic energy impact projectiles, commonly referred to as "beanbag rounds", may be utilized by trained Department personnel in circumstances where a level of force less than deadly force may be appropriate for resolving the situation, and when the risk associated with closing on the subject to take control makes other alternatives unsafe. The option to use kinetic energy impact projectiles may be used when a person poses a significant threat of harm to self or others and unarmed tactics have either been exhausted or would not be effective or safe given the circumstances. Officers may include in the decision to use this force option information known to the Officer at the time of the incident, including conduct of or statements by the subject or prior history of resistive or assaultive behavior.
- (b) When utilized, the Department places the use of kinetic energy impact projectiles and other Less Than Lethal Munitions at the Intermediate Weapon Mode. Less-lethal is defined as the "intentional use of an instrument to impede a subject, the use of which would not cause death."
- (c) An Officer shall not brandish, display or threaten the use of a kinetic energy impact weapon unless he/she can reasonably conclude its use may become justified and is anticipated.
- (d) When kinetic energy impact projectiles (beanbag rounds) are used against the body of a person, the Officer will notify the Chief of Police or a supervisor and will complete an Incident Report detailing the circumstances of the incident.
- (e) Only Department-authorized and issued kinetic energy impact projectiles may be used, delivered either by a specialized launcher (37mm Less Lethal Launcher) or a 12 gauge shotgun.

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- (f) When deploying a 12 gauge shotgun as a less-lethal option, the Officer shall transition the weapon from lethal ammunition to kinetic energy impact projectiles. Such transition procedure will be taught during training:
- (g) Kinetic energy impact projectiles may be delivered to the subject's body in accordance with the following guidelines:
 - (1) **Primary Target Areas (Legs and Buttocks):** In addition to legs and buttocks, arms may also be considered a primary target under some circumstances. The Officer must consider the proximity of the targeted portion of the arm to vital areas of the body. Primary target areas shall be considered when incapacitation is necessary but the threat is not imminent. Multiple impacts to the primary target areas should be considered before progressing to the secondary target area.
 - (2) **Secondary Target Area (Lower Abdomen):** The secondary target area will be considered when incapacitation is critical due to the imminent threat posed by the subject, but deadly force has not yet become necessary.
 - (3) **Head/Neck/Chest Area:** Intentional impact to these areas will be avoided unless the use of deadly force is justified.
- (h) In each instance where kinetic impact projectiles are deployed at an incident, a determination will be made regarding the need for lethal cover. Lethal cover will be required in all cases in which the subject possesses a firearm.
- (i) Subjects who are struck by a kinetic energy impact projectile shall be transported to a medical facility for examination.

Sec. 3-6-11 Use of Deadly Force — Generally.

STATEMENT OF PURPOSE:

- (a) There is no doubt that many circumstances exist within the normal duty functions of police officers which call for the use of force. Difficulties have arisen however, because no easily understandable policy as to the use of force or the threat of force by Department members is available. The use of deadly force particularly deserves a serious consideration, and calls for the development of practical guidelines for the Officer on the street. One consideration should be stressed—in no way is this policy intended to limit the Officer's ability to use deadly force when and if the proper circumstances exist. The Officer is expected to retain

the right to defend himself/herself or others with as much force as is necessary to effect such defense. This policy is intended to protect the Officer from possible criminal or civil charges stemming from misinterpretation of the law covering the use of extreme deadly force.

- (b) While no general policy can hope to cover each and every specific situation the Officer may be required to participate in, it is hoped that this policy will cover the legal points inherent in every situation to the extent that the Officer can make valid and immediate decisions on the street.

POLICY:

- (a) Recognizing the legal and moral obligation to use force judiciously and wisely, it is the policy of this Department that deadly force shall never be resorted to until every other reasonable means of apprehension or defense have been exhausted.
- (b) Only the minimum amount of force reasonably required to effect an arrest or control a person shall be used by members of this Police Department. The force used by an Officer shall only be that which is required to overcome the resistance being offered by an offender.
- (c) This directive is consistent both with Wisconsin law and with the 1985 US Supreme Court decision in *Tennessee v. Garner*, 53 U.S.L.W. 4410.

COMMENTARY:

The above section requires that deadly force only be used as a last resort. The policy above requires only that an Officer use reasonable alternatives, *if such are available*. For example, an Officer need not hesitate to employ deadly force against an individual who is shooting at him/her. He/she should, of course, use his/her weapon in such a manner as not to endanger the lives of innocent bystanders or fellow Officers, but he/she is not required to seek alternatives to deadly force if he/she is under an immediate attack on his/her or other lives. Deadly force is force which is likely to cause death or great bodily harm, which includes:

- (a) The firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm;
- (b) The firing of a firearm at a vehicle in which the person to be arrested is riding; or
- (c) Any force applied in any manner by any means, by any member of the Department, that could reasonably be expected to cause death or great bodily harm.

COMMENTARY:

Besides firearms, many items such as flashlights, batons (stick or collapsible) and other instruments are considered lethal weapons when they are used in a lethal manner. For example, the use of a nightstick to subdue a subject by striking him/her on the arm is a nonlethal use of that instrument. However, striking on the head or repeated blows to the internal organs could be construed as deadly force.

Sec. 3-6-12 Where Deadly Force May Be Used.

POLICY:

(a) Deadly force may be used under the following circumstances:

- (1) As a last resort in the defense of oneself, when there is reasonable cause to believe that one is in imminent danger of death or great bodily harm.
- (2) As a last resort in the defense of another person or persons whom the Officer has reasonable cause to believe is being unlawfully attacked and is in imminent danger of death or great bodily harm.
- (3) Deadly force may be used, after all other reasonable means of capture are exhausted, to effect the arrest or prevent the escape of a suspect whom the Officer has reasonable cause to believe has committed or attempted to commit a felony *involving the use or threatened use of deadly force*, and the Officer reasonably believes the suspect cannot be apprehended later without the use of deadly force; and provided further, that the lives of innocent persons will not be endangered if the Officer uses deadly force. This Section allows the Officer to use deadly force when the suspect is engaged in such felonies involving violence (armed robbery, murder, etc.). Non-violent felonies such as embezzlement or burglary do not in themselves justify the use of deadly force.
- (4) a. Deadly force shall never be used in any misdemeanor case, unless the criteria in Subsections (a) or (b) above is present, or when the Officer is in doubt as to whether or not deadly force is justified, or when its use would unreasonably endanger innocent bystanders. *A warning shot shall not be fired.*
b. When a misdemeanant intentionally flees arrest or escapes from custody, pursuant to a legal arrest for a misdemeanor, or after having been lawfully charged with or convicted of a misdemeanor, such act of fleeing does not constitute a felony permitting the Officer to resort to the use of deadly force if other reasonable means have failed to prevent the escape. The value of human life is considered to supersede the importance of immediate apprehension.
- (5) Except when exigent circumstances exist where an arrest may be facilitated, an Officer shall not threaten to use deadly force unless he/she reasonably believes that he/she would be justified under this policy to, in fact, use such force.

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- (6) Weapons may be discharged at and/or from a moving vehicle in an attempt to protect the life of the Officer(s) or other individual(s) when the use of such force would not unreasonably endanger the lives of others.
 - (7)
 - a. An Officer may draw his/her sidearm when he/she has reasonable grounds to suspect that the use of deadly force may be necessary. The Officer need not be under attack, but only be reasonably apprehensive that the situation may lead to circumstances outlined above. Sidearms should not be drawn under any other circumstances.
 - b. This section is intended to allow the Officer to have his/her weapon ready in such circumstances as answering a silent alarm, conducting a building search or confronting a suspect whom there is reasonable grounds to believe may be armed, or when the Officer reasonably believes circumstances indicate a substantial risk of death or great bodily harm to his/her person or another.
 - c. There is no legal distinction in the use of deadly force against juveniles as compared to adults.
 - (8) To protect oneself or another from an animal which an Officer reasonably believes may cause great bodily harm if not immediately controlled or after giving consideration to public view, safety and all other reasonable means of disposition to end the suffering of an animal gravely injured or diseased. Officers may use deadly force to destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured, when the Officer reasonably believes that deadly force can be used without harm to the Officer or others.
 - (9) For Department-mandated firearms practice and qualification on an approved range.
 - (10) As a last resort, to euthanize a dangerous or seriously diseased animal or one that is so seriously injured that humanity dictates its removal from suffering, but only after consideration is given to the public's safety and whether other dispositions may be feasible.
- (b) Officers will not fire into buildings or through doors, windows, or other forms of concealment or cover unless the Officer is certain of the person's presence that is to be lawfully fired upon.
 - (c) Firearms may be discharged at and/or from a moving vehicle if a person(s) in the vehicle is immediately threatening the Officer(s) or another person with deadly force. The moving vehicle itself shall not presumptively constitute a threat that justifies an Officer's use of deadly force. If feasible under situation conditions, an Officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants.
 - (d) Officers will not fire warning shots.

PROCEDURES:

- (a) Before using deadly force, Officers shall, if reasonably possible, identify themselves, order the suspect to desist from the unlawful activity, and threaten to use deadly force if the lawful order is not obeyed.
- (b) Officers shall not use deadly force when its use unreasonably risks the lives of innocent bystanders.
- (c) The intentional punching, striking, or grabbing the throat (trachea) or blocking or restricting the carotid neck arteries creates a substantial likelihood of death or great bodily harm and, therefore, shall be used only in accordance with this policy on the use of deadly force.

COMMENTARY:

There is recognition that the use of deadly force is accompanied by severe emotional and psychological strain for the Officer involved. Officers are trained in the proper use of firearms and are required to maintain rigorous standards of shooting proficiency and accuracy.

Sec. 3-6-13 Reports on Use of Deadly Force.

POLICY:

- (a) In all circumstances, when a firearm is discharged by an Officer while on duty, the Officer in question shall report such facts promptly to the Chief of Police, and/or his/her designee. However, Officers need only to complete an incident report when deadly force is used to dispatch an animal.
- (b) Officers involved in the use of deadly force shall not discuss the matter with anyone, including other Officers. The Officers will be debriefed by the Chief of Police and/or his/her designee.
- (c) The Officer involved and a supervisor shall submit Incident Reports which fully outline the incident.
- (d) The supervisor shall forward a complete report of the incident and his/her investigation to the Chief of Police.

Sec. 3-6-14 Self-Defense.

PROCEDURES:

- (a) Before deadly force is authorized in self-defense, several qualifications must be observed:

- (1) Retaliation or revenge is not an excuse for killing in self-defense.
 - (2) The danger or harm must have been a present one.
 - (3) There is no justification to use deadly force after the danger has passed.
 - (4) The force threatened must have been unlawful.
 - (5) The Officer must believe that the use of deadly force was the only means available to avert death or great bodily harm.
 - (6) The degree of force used by the Officer was believed to be necessary under the circumstances.
 - (7) The Officer's belief in each of the foregoing aspects was reasonable even if mistaken.
- (b) If oleoresin capsicum (OC pepper spray) is employed (or threatened) against an Officer, an Officer's response to being threatened or sprayed with OC may include deadly force because the Officer will likely be completely vulnerable if successfully attacked.
- (1) In deciding whether an Officer is threatened with OC, an Officer should consider the following factors:
 - a. Distance—Is the Officer close enough to be sufficiently exposed to the OC to incapacitate him/her?
 - b. Environmental Conditions at the Scene—Including, but not limited to:
 1. The number of suspects present.
 2. The number of Officers present.
 3. Location of the incident: Known high crime and/or violent area.
 4. Time of day/lighting conditions: Can the Officer clearly see the offender and his/her movements?
 5. Type of crowd—Hostile? Pro-police?
 6. Weather conditions.
 - c. Subject and Officer Factors—The subject's history, if known: Prone to violence? (Known gang member, etc.). Size, age, gender and skill level of all participants involved.
 - d. Nature of Initial Contact—Was the original offense serious?
 - e. Special knowledge or special circumstances—Injury or exhaustion, proximity of subject to Officer's firearm, ground fighting, disability, etc.

Sec. 3-6-15 Action After a Deadly Force Incident.

PROCEDURES:

- (a) An Officer involved in a deadly force incident shall be placed on administrative leave, with pay, until he/she has been properly debriefed. The post-critical incident policies in Section 3-5-1 of this Manual will be followed. Officers will be evaluated by professional services

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to lessen any emotional trauma that may affect the Officer and shall return to duty as soon as deemed appropriate by professional mental health authorities. The Officer will undergo periodic mental and physical checkups as deemed necessary by medical professionals or the Chief of Police.

- (b) All Officers shall be required to submit to a drug/alcohol test as soon as reasonable after the incident.

Sec. 3-6-16 Reporting the Use of Force.

POLICY:

It shall be the responsibility of any Officer who uses physical force or any of the enumerated weapons, items or devices indicated below to complete an Incident Report on the incident involved and to specifically note the circumstances necessitating, and manner of, such use:

- (a) Firearms: striking with or *pointing* of any firearm. (See Section 3-6-13.)
- (b) Police baton or kinetic energy impact projectiles: use in striking, blocking or pushing of any person.
- (c) Chemical agents: use of any chemical agent.
- (d) Conducted energy weapons: use of a Taser-type device.
- (e) Physical force: striking, punching, pushing or restraining any person.
- (f) Oleoresin capsicum: use of any pepper gas aerosol.
- (g) Restraining devices: the application of handcuffs or other restraining devices.

Sec. 3-6-17 Use of Force to Enter Private Property.

POLICY:

In lawfully entering the land of another to make a felony arrest (not for a misdemeanor ordinance), an Officer may use force reasonably believed necessary against persons on that land. An Officer may use force to break and enter a fence, enclosure, dwelling or other building.

PROCEDURES:

- (a) Prior to forced entry into a building, the Officer should knock on the door announcing that he/she is a police officer unless such announcement is known to be futile. He/she should announce that he/she is there to make an arrest and demand that the person inside open the door. Only after a reasonable period of time should the Officer enter the door without it being opened from the inside. If an Officer does break in, he/she should try to do as little damage as possible.
- (b) There are exceptions to the above policies where law enforcement officers may enter without announcement and demand to make a lawful arrest. This occurs when an Officer has good reason to believe that an announcement may:
 - (1) Help the suspect to escape.
 - (2) Endanger persons.
 - (3) Result in the destruction of evidence.
- (c) When executing a search warrant, Officers shall first secure the area, then enter the property.

Title 3 ► Chapter 7

Oleoresin Capsicum Aerosol

3-7-1	Definitions
3-7-2	Effects of Oleoresin Capsicum
3-7-3	Decision to Use Oleoresin Capsicum
3-7-4	Use of Oleoresin Capsicum
3-7-5	After-Use Procedures
3-7-6	Miscellaneous OC Procedures

Sec. 3-7-1 Definitions.

DEFINITIONS:

The following definitions shall be applicable in this Chapter on the use of oleoresin capsicum (OC) aerosol:

- (a) **Actuator Button.** The mechanism used for controlling the discharge of OC from the various canisters and grenades.
- (b) **Capsaicin.** A bitter, strongly irritating, white crystalline alkaloid extracted from capsicum. The method used to extract the capsaicin from the capsicum and the percentage of compounds used varies for different manufacturers.
- (c) **Capsicum.** Any of several varieties of the red pepper with pungent fleshy pods, such as chili peppers, cayenne peppers, bird peppers, etc.; pods are variously prepared as condiments or in medicine as a gastric stimulant.
- (d) **Nozzle.** The spout at the end of an OC aerosol by which a stream of liquid OC and carrier may be directed and controlled.
- (e) **OC.** Oleoresin capsicum, including delivery mechanisms.
- (f) **Oleoresin.** A mixture of a resin and an essential oil occurring naturally in various plants.

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- (g) **Propellant.** The substance in a pressurized unit for expelling the contents when the pressure is released, such as ISO—butane, propane, carbon dioxide, nitrogen, etc.
- (h) **S.H.U.** Scoville Heat Unit is the grind of pepper prior to the oil being extracted. The higher the S.H.U. the greater the inflammatory nature of the Capsicum. Oils of one (1) million S.H.U. grind would be less inflammatory than those of two (2) million S.H.U. grind.
- (i) **Solvent.** Usually a liquid substance capable of dissolving one (1) or more substances. Solvents are used for the purpose of mixture with the OC such as isopropyl alcohol, mineral oils, mineral spirits, cosmetic kerosene, etc.
- (j) **Submission Signals.** Occurs when an aggressor is sufficiently intimidated and submits.
- (k) **Trigger.** The mechanism used on some OC models to discharge the OC.
- (l) **Unit.** To include canister and/or holster.

Sec. 3-7-2 Effects of Oleoresin Capsicum.

COMMENTARY:

- (a) **Generally.** Effects of OC vary from person to person and in the way the OC has been produced by the manufacturer. The concentration level and the method of use by the Officer will also effect the outcome. Although OC has a history of having extremely high and positive results, it is not effective one hundred percent (100%) of the time. Proper training is a major factor.
- (b) **General Effects of OC.** Once applied, OC may have the following effects:
 - (1) **Eyes.** OC inflames the mucous membranes. A one (1) second spray to the face from a distance of four (4) to six (6) feet will cause the *eyes* to open and close in a rapid fashion or to close completely. The pain is extreme and has been described by subjects as "having been hit in the eyes with hundreds of needles," or "having sand in my eyes," or "my eyes are on fire." The eyes may be red for up to forty-five (45) minutes depending on how much flushing with cool water was done.
 - (2) **Skin.** The face will feel hot and feel even hotter if a subject is perspiring or has a fair complexion. The mucous membranes in the nose, lips and mouth may also swell. Areas around the eyes, nose and mouth will usually remain red for a longer period. Cool water or ice packs will relieve the pain. The skin may also turn yellow from the OC, but can be washed off with cool water.

- (3) **Respiratory System.** If the OC is inhaled by the subject, the respiratory system will be inflamed causing coughing, gagging and gasping for breath. Comments such as "I couldn't breath," or "my throat and lungs were on fire," are very common. Prior to an assault, subjects become more aggressive and their breathing becomes deeper and more rapid, which increases the effects of OC. Breathing becomes even more labored. The effects usually disappear in ten (10) to fifteen (15) minutes.
- (4) **Long-Term Effects.** OC has no history of lasting after effects. Since OC has been introduced as a force option, there has never been a substantiated case of death or injury attributed to OC. Subjects with heart problems, asthma, emphysema and/or other illnesses who have been sprayed had no lasting after effects. However, with any level of force, no matter how slight, the possibility always exists.

Sec. 3-7-3 Decision to Use Oleoresin Capsicum.

POLICY:

- (a) An Officer's decision to utilize oleoresin capsicum (OC) shall be governed by the Use of Force policies in Title 3, Chapter 6. All sworn members of the Department, while on duty, shall carry or have immediately available to them a Department-approved OC product. OC may only be used when the situation justifies the use of force and the Officer is able to articulate a reason why he/she reasonably believes the use of OC is required to prevent injury to the Officer, the suspect or others. As Officers escalate through presence, dialogue and into empty hand control (Level Three), in the force option continuum, the spray will become an option when they receive "active resistance or its threat." Actual use of the product will depend on threat assessment factors, officer-subject factors or special circumstances. A practical guideline is that pepper spray may be used in reaction to *aggressive resistance* (or to its threat). The use of OC is not justified merely because a suspect fails to respond to a lawful command; if used, the Officer should be able to explain that there was something that the suspect did or said that caused the Officer to reasonably believe that the suspect would use force to resist being taken into custody.
- (b) Oleoresin capsicum aerosol is issued to all sworn Department members, following training, and may be carried and used by off-duty officers when responding to a police incident. All Officers shall be trained in the proper use of OC and be required to carry it; OC should not be considered a replacement for other components in the force option continuum. Officers may only carry Department-issued and approved OC.
- (c) OC is considered an additional use of force option and is not intended to replace a firearm, straight baton, expandable baton or any other authorized piece of equipment, nor is it intended to replace defense and control techniques that are used within the force continuum.

Oleoresin capsicum may be introduced into the use of force continuum much earlier than CS or CN gases, substances which may cause temporary or permanent injury.

- (d) If pepper spray is employed (or threatened) *against an officer*, he/she should be trained to block against it by protecting the eye area, by breathing properly, by disengaging, and by employing weapon control techniques. An Officer's response to being threatened or sprayed with OC may include deadly force because the Officer will likely be completely vulnerable if successfully attacked.
- (e) OC should be used on animals only if they demonstrate a threat to Officers or others.

Sec. 3-7-4 Use of Oleoresin Capsicum.

PROCEDURES:

(a) **Generally.**

- (1)
 - a. The unit should be shaken and tested before initial use in order to ensure that the aerosol unit is properly functioning and should be shaken periodically thereafter. It is also recommended that the unit be shaken before each use if time permits.
 - b. Every OC unit should be tested before it has to be relied on in the field. Test the unit to insure that it sprays properly. Wet a finger and touch the tip of your tongue to make sure that the unit contains capsaicin. Units should be tested periodically to confirm that they still function.
- (2) The Officer should use the OC spray from an upright position. As the unit is moved from an upright position to an upside down position it loses spray effectiveness. It is also recommended that the unit periodically be shaken and also just prior to spraying a subject if time permits.
- (3) Officers should follow the manufacturer's guidelines for checking the amount of bursts available in the unit. If no guidelines are offered the following are general guidelines:
 - a. Weigh one (1) full unit and one (1) empty unit.
 - b. The full unit may weigh two (2) ounces while the empty unit may weigh one (1) ounce.
 - c. If the manufacturer says the unit has sixty- (60) one (1) second bursts and the unit weighs two (2) ounces when full, then the unit will have thirty- (30) one (1) second bursts when it weighs one and one-half (1-1/2) ounces and fifteen- (15) one (1) second bursts when it weighs one and one-quarter (1-1/4) ounces.
 - d. Officers should be aware of how many bursts are available before they go on duty.
- (4) Officers should follow the manufacturer's guidelines for spraying distances. If none are recommended, the officer shall maintain a minimum distance of four (4) feet when spraying an individual.

- (5) Officers should follow the manufacturer's guidelines for any warnings.
- (6) A flammable OC aerosol spray should not be used in conjunction with an electronic stun gun, as fire may result.

(b) **Use During an Assault.**

- (1) The Officer should spray the OC aerosol from a four (4) to six (6) foot distance or as recommended by the manufacturer.
- (2) The Officer shall spray the OC aerosol directly in the face of the subject with a one (1) or two (2) second burst depending on distance, wind conditions and movement of subject. The closer the subject, the shorter the burst should be, especially with OC units that use an alcohol carrier. Overspraying does not allow the alcohol to evaporate, which delays the OC's effect.
- (3) If a subject is holding his/her breath or breathing is shallow, the mist may not enter the lungs. Multiple short bursts should be used so that the mist will eventually be forced to enter the lungs. Create a safe distance between yourself and the aggressor. A lateral movement, if possible, will offer greater safety to the officer. This type of movement should always be associated with the spraying of one (1) subject or multiple subjects.
- (4) If a subject is closing his/her eyes, multiple short bursts of OC will eventually enter the eyes when they are opened. Create a safe distance between yourself and the aggressor. A lateral movement, if possible, will offer greater safety to the officer. This type of movement should always be associated with the spraying of one (1) subject or multiple subjects.
- (5) After spraying the subject, allow OC to drop [five (5) to ten (10) seconds] and verbalize—stop, back, down. Approach the subject as you would any dangerous person. The initial actions of an officer, after using OC against an adversary, should include verbal commands—loud, repetitive verbal commands. Commands that will instruct the spray recipient to get to the ground, hands away from the body. If the suspect panics, the Officer should reassure him/her to calm down and breathe slowly. After the person who is sprayed obeys the Officer's instructions and goes prone on the ground, the Officer should follow-up with a proper prone handcuffing technique. This is followed, by double locking the handcuffs.
- (6) The *use of force should cease* when the aggressor's force stops.
- (7) If the effects of OC on a subject do not control the subject, other techniques may be used in order to control a subject. There is a remote possibility that the subject will not comply with an officer's verbal commands, even though the spray has reduced his/her aggressiveness. Takedown techniques should be performed immediately upon recognition that verbal commands are not being followed. Waiting for an extended period of inaction could result in the subject working through the effects of the spray

and again becoming aggressive toward the Officer. Some individuals who are impervious to pain whether due to mental illness, drugs, or alcohol, may be unaffected by OC.

Sec. 3-7-5 After-Use Procedures.

PROCEDURES:

- (a) **After-Use Procedures—Manufacturer's Guidelines.** Officers should be familiar with specific after use guidelines recommended for the particular OC product they are using. Officers should read and be familiar with the *Material Safety Data Sheet* and the *First Aid Information* that is provided for the product used. Even though the OC may be safe, the carrier or propellant may require special safety precautions and first aid for the subject.
- (b) **After Use Procedures—Without Manufacturer's Guidelines.** *If no guidelines are offered* the following are general after use guidelines:
 - (1) After spraying the subject(s), the Officer should allow the OC agent to drop [five (5) to ten (10) seconds] and verbalize proper commands. Approach the aggressor as you would any dangerous person and use proper restraint and control methods. Some common symptoms of the effects of OC are listed below:
 - a. Hands go directly to the face dropping whatever is in the hands.
 - b. Upper body bends forward.
 - c. Subject shakes uncontrollably.
 - d. Weakness in the legs. The subject gropes around for the ground or the floor.
 - e. Subject goes to the hands and knees for stability.
 - f. Inability to hear what the Officer is saying.
 - g. The muscles of the body become rigid and the subject may not respond to commands.
 - (2) Subjects who are sprayed with OC should be monitored and verbally reassured that they are safe and that they will be alright. The subject(s) should be told to calm down (relax) and to try to breathe normally.
 - (3) Subjects who are sprayed should be removed to fresh air and faced into the wind when possible. They may be allowed to use cool water to rinse the OC from their face. Encourage them to open their eyes and flush with cool water. Ice may be applied if burning persists. **DO NOT RUB.** Cool water will allow even quicker recovery from the effects. If any subject(s) sprayed with OC is wearing contact lenses, they should be permitted to remove them. Using soap and water will remove resin from the skin which will assist in the recovery process. The subject(s), if wet

with OC, should dry before transporting. This will only take a few minutes and will probably be accomplished before the subject(s) can get into a vehicle. If the subject(s) is still wet with the OC product the transporting Officer(s) could become slightly contaminated.

- (4) Get medical attention if the subject(s) request it or if the symptoms persist beyond forty-five (45) minutes. Individuals who complain of continued irritation from contaminated clothing should be given the opportunity to wash or change the clothing. Suspects who complain of continued pain or problems after the affected areas have been flushed should be afforded medical treatment. The suspect should be advised not to attempt to treat himself/herself by using salves, creams or oils unless so advised by a doctor.
- (5) The Officer shall notify a supervisor in a timely fashion of his/her use of force.
- (6) Normal ventilation typically removes OC from the environment in thirty (30) to forty-five (45) minutes. Opening of doors and windows and use of fans will accelerate the evaporation process.

(c) **After-Use Reports.**

- (1) An Incident Report shall be made every time an OC product is used, including when it is used on animals.
- (2) All reports should be very detailed. Reports shall include step by step actions of what led up to the event, what happened, what was done after the event. If there are witnesses to the event, get their names, addresses, and if possible a statement. This can be useful in any court proceedings.
- (3) If OC was used, it is important to document the follow-up procedure. Usually, the lack of follow-up treatment is more important than the actual use of the aerosol. The after care treatment is sometimes the focus of civil litigation suits.
- (4) Key elements of reports include:
 - a. Arrival and approach;
 - b. Subject's actions/threat assessment;
 - c. Officer's actions;
 - d. Follow-thru procedures and actions taken:
 1. Stabilization and monitoring;
 2. Medical assessment and care provided;
 3. Stabilization (handcuffing, etc.);
 4. Escort and transportation.

Sec. 3-7-6 Miscellaneous OC Procedures.

PROCEDURES:

- (a) **Storing of OC.** Officers should follow the manufacturer's guidelines for storage. If no guidelines are offered the following are general guidelines for storage:
 - (1) Most aerosols are flammable and should not be stored near heat or open flame, or exposed at temperatures above one hundred twenty degrees Fahrenheit (120°F) [fifty degrees Centigrade (50°C)], or exposed to direct sunlight for any length of time.
 - (2) Storage at proper room temperature will help maintain proper aerosol pressure.
 - (3) Do not puncture or incinerate.

- (b) **Shelf Life of OC.** Officers should follow the manufacturer's guidelines for shelf life. If no guidelines are offered the following are general guidelines for shelf life:
 - (1) OC usually will not decompose but the propellant may escape from the seals and lose its aerosol pressure.
 - (2) The unit valves may become clogged or the canister may rust with time.
 - (3) The unit should be shaken and tested before initial use and periodically thereafter.
 - (4) It is also recommended that the unit be shaken before each use if time permits.

Title 3 ► Chapter 8

Weapons Regulations

3-8-1	Carrying a Weapon on Duty
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Appendix: Department Weapons Qualification Program

Sec. 3-8-1 Carrying a Weapon on Duty.

POLICY:

- (a) All sworn law enforcement personnel of the City of Stanley Police Department, while on duty, shall carry or have immediately available the weapon or weapons authorized by this Department. Officers shall be properly qualified with such weapon.
- (b) The Officer shall comply with all policies relating to weapons in all jail, detention and other secure facilities. Generally, no weapons will be carried in the areas of the jail(s) unless an emergency exists; the only exception is by order of the County Sheriff.
- (c) All sworn uniformed law enforcement personnel shall carry their weapon properly contained in a holster which has been approved by the Department.

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- (d) All sworn law enforcement personnel assigned to plain-clothes or detective duty may carry their weapon.
- (e) All Officers shall familiarize themselves with the mechanics of their authorized weapon and become proficient in the operation of the weapon in accordance to policy to be formulated.
- (f) The weapon shall be kept clean and properly cared for at all times and subject to inspection upon reporting for duty.
- (g) Officers shall not alter in any way the physical appearance or mechanical operation of weapons, except grips.
- (h) Grips on the Officer's weapon shall be none other than (1) Department-approved, (2) black synthetic, or (3) standard wood grips.
- (i) Any mechanical adjustments or repair to issued weapons shall be performed by a qualified gunsmith selected by the Department and authorized by the Chief of Police or a supervisor.
- (j) The firearm provided by the Department shall be the only firearm an Officer shall be permitted to carry while performing duty, unless otherwise authorized by the Chief of Police or a supervisor.
- (k) The Department will set the standards as to the style and type of ammunition carriers that will be permissible. All ammunition and loaders will be in accordance with Department specifications.
- (l) While on duty, Officers shall not carry any ammunition other than Department-approved and at no time shall be permitted to shoot any type of ammunition in their Department-approved weapon other than issued ammunition.

Sec. 3-8-2 Carrying a Weapon Off Duty.

POLICY:

(a) **Authorization.**

- (1) ***Discretionary Off-Duty Carry.*** It is the policy of this Department that carrying of weapons by Officers off duty may be done at their discretion, except as provided below for on-call Officers.

- (2) **No Disciplinary Action Situations.** Officers may carry a handgun when off duty. An Officer who elects to not carry a handgun while off-duty shall not be subject to disciplinary action if an occasion should arise in which he/she could have taken police action if he/she were armed.
 - (3) **Registration.** Off-duty weapons must be registered with the Chief of Police. Information required will be as follows:
 - a. Make;
 - b. Model;
 - c. Serial number;
 - d. Caliber; and
 - e. Type of operation.
 - (4) **Ammunition.** The ammunition used in this weapon must be approved by the Chief of Police and satisfy the same requirements as duty ammunition. The Department will supply the ammunition if it is a caliber of .40 caliber; for all other calibers, the ammunition will be purchased at the Officer's expense.
 - (5) **Carry Requirements.** Officers electing to wear off-duty firearms must:
 - a. Carry only Department authorized firearms and ammunition.
 - b. Keep the off-duty weapon in a holster or cased condition.
 - (6) **Carry Outside City.** Officers may use their own discretion in carrying their firearm outside of the City. It is the responsibility of the Officer to know and obey the laws of the federal and state governments concerning the carrying of off-duty firearms when outside of the City of Stanley.
 - (7) **Applicability of Deadly Force Policies.** All policies of the Department relating to the use of deadly force apply to the off-duty use of firearms. Additionally, the qualification procedures outlined in this Chapter must be met before authorization to carry such personal firearms off-duty is granted.
- (b) **Alcohol or Drug Consumption.**
- (1) **Improper Consumption.** Firearms should not be carried by any Officer, either on- or off-duty, who has consumed any amount of an alcoholic beverage, taken any drugs or medication, or has taken any combination thereof that would tend to adversely affect the Officer's senses or judgment [Secs. 941.20(1)(b) and 941.20(1)(bm), Wis. Stats.]
 - (2) **Social Events.** Officers shall not carry the firearm on their person during social events when the Officer's consumption of intoxicants is a reasonable expectation.
- (c) **On-Call Officers.** On-call Officers shall carry a firearm, with proper badge and identification. All off-duty officers carrying a firearm shall carry their official badge and identification.

Sec. 3-8-3 Secondary Weapons.

POLICY:

- (d) The secondary duty weapon's primary use will be that of a backup weapon in case of the malfunction or loss of the Officer's primary duty weapon. Whenever an Officer is authorized to unholster his/her duty weapon, his/her first choice is to be his/her primary duty weapon. This policy is not meant to restrict any Officer from using his/her secondary duty weapon as a first choice when justifiable circumstances exist.
- (e) All secondary weapons must be inspected and have prior written authorization from the Chief of Police. Ammunition for such weapons will be furnished by the Officer unless it is of the same type and caliber issued by the Department.

PROCEDURES:

Back-up weapons, while the Officer is on duty, shall be carried at the Officer's discretion. All back-up weapons shall meet the following criteria:

- (a) **Registration.** The secondary duty weapon must be registered with the Department by make, model, finish, barrel length, caliber, and serial number.
- (b) **Authorization.** The weapon must be a weapon authorized by the Chief of Police after visual inspection.
- (c) **Carrying the Secondary Duty Weapon.** The secondary duty weapon must be concealed and must be secured in a holster equipped with a safety strap. The holster is to be inspected by the Officer's supervisor for compliance. The secondary weapon shall be carried in such a manner as to prevent the unintentional cocking, discharge or loss of physical control.
- (d) **Inspection.** The secondary duty weapon is to be presented to a Range Officer for examination to determine if it complies with the requirements of this directive. Such examination shall include, but not be restricted to, checking the functional integrity of:
 - (1) Barrel/bore;
 - (2) Slide/frame—including stops and locking systems;
 - (3) Extractor/ejector systems;
 - (4) Magazine—follower, spring and clips;
 - (5) Safety features—functioning of mechanical safeties, hammer blocks, disconnectors, etc.

- (6) Trigger mechanism;
 - (7) Sights;
 - (8) Any component showing evidence of excessive wear, damage or deterioration.
- (e) **Ammunition.** Secondary duty weapons are to be loaded with the same required duty ammunition as primary duty weapons.
- (f) **Proficiency and Qualifications Requirements.**
- (1) Officers must demonstrate proficiency with secondary duty weapons. Proficiency shall include achieving a qualifying score in training session, displaying a knowledge of the laws concerning the use of firearms, and exhibiting a familiarity with safety procedures of the use of authorized weapons.
 - (2) Officers must qualify with secondary weapons according to the same schedule as is used for primary duty weapons.

Sec. 3-8-4 Unattended Weapons.

POLICY:

All weapons when not worn by the Officer will be kept in a secure place.

Sec. 3-8-5 Authorized Weapons.

POLICY:

- (a) **Primary Duty Weapons.** The following types of weapons are authorized by the Department for use as primary duty Weapons and are the *only* weapons which are to be carried by a Department Officer while on duty.
- (1) **Authorized Handguns.** The following are authorized Department weapons:
 - a. 9 mm, .40 cal., .45 cal. semi-automatic handguns.
 - b. Other Department-approved weapons.
 - (2) **Holsters.** Holsters for the above named weapons must be black plain or black basket weave designed for the particular weapon and have a restraining system.
 - (3) **Rifles.** As approved by the Chief of Police:
 - a. AR-15 semi-automatic rifle.
 - (4) **Exceptions.**
 - a. Special exceptions may be granted to personnel as deemed appropriate by the Chief of Police.

- b. Plain clothes personnel will have their holsters approved by the Chief of Police.
- (5) **Inspection and Registration.** Supervisors will routinely conduct duty weapons inspections to verify compliance with the provisions of this directive. Officers will register with the Department the descriptions and serial numbers of all weapons carried on or off duty. The Weapons Registration Form will be used to report this information. It is the responsibility of each Officer to notify the Chief of Police, in writing, of any changes in duty or off-duty weapons.
- (b) **Ammunition Requirements – Semi-Automatic Pistols.**
- (1) **Caliber.** .40 caliber semi-automatic handguns.
- (2) **Action.** Double action, or double action on first shot.
- (3) **Sights.** Either fixed or adjustable rear sight with fixed front sight.
- (4) **Ammunition.**
- a. 180-240 gr. hollow point for .40 cal.
- (5) **Grips.** Must meet original manufacturer's specifications.
- (c) **Other Weapons.** Supplemental weapons in patrol vehicles:
- (1) Rifles.
- (2) Expandable baton/batons.
- (3) Oleoresin capsicum aerosol.
- (4) Other approved weapons.
- (5) Taser.
- (d) **Serial Numbers.** Serial numbers, make, model and caliber of weapon carried by uniformed and non-uniformed Officers will be recorded and maintained by the Department, including personal weapons.
- (e) **Holsters, Magazines and Speed Loaders.** All holsters will be maintained in proper order. The holster will be made to fit the firearm carried and shall have a way to secure the weapon in the holster by the manufacturer; there will be no alterations to the holster. Each Officer will carry at least two (2) spare magazines on his/her duty belt.
- (f) **Carrying the Service Weapons.**
- (1) **Generally.** Every Officer of the Department is required to carry the service pistol while on duty except when engaged in the processing of prisoners within a confinement facility, or when the presence of such weapon might jeopardize the outcome of a covert operation or investigation, or when other special circumstances prevail, which, in the opinion of command personnel, render execution of this

requirement impractical or undesirable. Weapons shall be kept out of the reach of the public. When they are removed, they must be placed in a secure area.

- (2) **Semi-Automatics.** The Department authorized semiautomatic pistols are to be carried in the following manner:
 - a. These weapons are to be carried with a round in the chamber.
 - b. In those instances as specified in this directive when the use of deadly force is authorized, removing the weapon from the holster will permit all authorized semiautomatic pistols to function by pulling the trigger.
 - c. When these authorized pistols are carried as off-duty weapons, the procedures outlined above will be followed.

(g) **Care, Maintenance, and Security of Weapons.**

- (1) **Care.** Officers regularly will inspect firearms assigned to or carried by them for function integrity and signs of corrosion or deterioration. Officers will be responsible for maintaining weapons under their control in good working order.
- (2) **Cleaning.**
 - a. Officers are to clean firearms after practice, training, or qualification use. Firearms discharged in deadly force situations or by accident are not to be cleaned without the specific authorization of the Chief of Police.
- (3) **Security.**
 - a. Officers are responsible for the security and use of firearms under their custody and control.
 - b. Shotguns or rifles removed from vehicles shall be loaded and unloaded outside of the vehicle.
 - c. Officers shall not place or store any firearm or other weapon on Department premises except where the place of storage is locked.
 - d. Shotguns or rifles removed from vehicles shall be loaded and unloaded outside of the vehicle.
- (4) **Storage at Home.** Officers shall ensure that all firearms and ammunition are locked and secured while in their residences, 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. Officers shall not permit Department-issued firearms to be handled by anyone not authorized by the Department. Officers should be aware that negligent storage of a firearm could result in civil and criminal liability. [See Sec. 948.55, Wis. Stats.].

- (h) **Display of Weapons for Inspections.** Personnel will refrain from displaying any firearm or other weapon to anyone, except upon demand of a superior Officer or firearms instructor, or in the performance of their official duties. The procedure for inspection of semi-automatic handguns shall be as follows:

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- (1) Remove the magazine from the weapon while still holstered;
 - (2) Remove the weapon from the holster;
 - (3) Eject the chambered round in a safe manner;
 - (4) Lock the slide in the open position; and
 - (5) Present the weapon for inspection.
- (i) **Personally-Owned Duty Firearms.** Officers carrying an authorized but personally-owned duty firearm must receive approval from the Chief of Police. Once approved, personally-owned duty firearms are subject to the following restrictions:
- (1) The firearm shall be in good working order and approved by the Chief of Police.
 - (2) The firearm shall be inspected by the firearms instructor prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
 - (3) Prior to carrying such a firearm, Officers shall qualify before the carrying of a personally-owned duty firearm and thereafter shall qualify in accordance with the Department's policies. Officers must demonstrate proficiency and safe handling and that the functions properly.
 - (4) Officers shall provide the Chief of Police with written notice of the make, model, color, serial number and caliber of the personally-owned duty firearm.
- (j) **Optics or Laser Sights.** Optics or laser sights may only be installed on a firearm carried on- or off-duty after examination and approval of the Chief of Police and firearms instructor. Any approved sight shall only be installed in accordance with manufacturer specification. Once approved sights have been properly installed on any firearm, the Officer shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying.

Sec. 3-8-6 Misuse of Firearms.

POLICY:

- (a) All members of this Department shall strictly adhere to the guidelines established by policy for the use of firearms, and at no time shall act negligently or in disregard of utmost safety in handling a firearm.
- (b) Any unjustified use of the firearm, whether it be excessive, used in the line of duty, or simple horseplay that may constitute danger to others, is covered by this regulation. Any disregard for safety required in handling of firearms, whether the conduct constituted disregard or occurs on or off duty, is covered by this regulation.

Sec. 3-8-7 Discharging a Firearm in Performance of Officer's Duties.

POLICY:

This policy order governs the actions of Department personnel both on duty and off duty with regard to discharging a firearm, including destroying an animal. Any time a police officer, whether on or off duty, discharges his/her weapon, including the shooting of an animal that is sick or vicious, the Officer discharging the firearm will make a written report about the circumstances pertaining to the discharging of the firearm.

PROCEDURES:

A firearm may be used:

- (a) Pursuant to the use of deadly force standards in Title 3, Chapter 6.
- (b) To protect one's self from death or serious injury resulting from the attack by others, after other means have failed, or if other means would reasonably be deemed to be inappropriate or ineffective.
- (c) To prevent escape of or to recapture a person charged with a dangerous felony involving deadly force or the threat of deadly force or great bodily harm consistent with the use of deadly force policies of Title 3, Chapter 6.
- (d) To effect the arrest of a misdemeanor which has met all the criteria for the use of deadly force.
- (e) To kill crippled or injured animals.
- (f) To dispose of rabid or dangerous animals.
- (g) To dispose of a nuisance animal as prescribed by law and as authorized by the Department.

Sec. 3-8-8 Firearms Training and Qualification.

POLICY:

- (a) The objective of periodic firearms training is to train all Officers to be able to qualify under standards adopted by the Training and Standards Bureau of the Department of Justice.

- (b) Any Officer entering employment with this Department will be required to qualify as soon as practical but not later than before completion of his/her probationary period. Officers shall continue to qualify at times established by the Chief of Police and the designated Range Officer.
- (c) All sworn Officers of this Department shall qualify with Departmentally-authorized firearms as scheduled by their training Officer according to the firearms proficiency standards in effect with the Department.
- (d)
 - (1) Every Officer shall meet the following criteria:
 - a. Maintain a minimum of one hundred percent (100%) accountability.
 - b. Qualify with the minimum required sessions per year.
 - c. Participate in any scheduled training sessions.
 - (2) Each sworn Officer must qualify with any firearm that the Officer is authorized to use. Qualification requirements are explained in the Department's Weapons Qualification Program. This program includes the following qualification schedule:
 - a. Duty weapon: General qualification.
 - b. Off-duty weapon: Annual qualification.
 - c. Secondary weapon: Annual qualification.
 - d. Duty ammunition: Annual basic qualification.
 - e. Rifle: General qualification.
- (e) During training, safety and use of deadly force shall be explained. Officers who may otherwise achieve a qualifying score may be suspended from firearms use due to lack of safety, lack of knowledge on use of deadly force or lack of general knowledge of firearms use. This decision is made by the training Officer and the Chief of Police.
- (f) Foul weather does not cancel qualifications courses.

PROCEDURES:

(a) **Chain of Command and Responsibilities.**

- (1) The firearms instructor will have on-range command over the firearms training program and the firearms range.
- (2) The firearms instructor will forward a firearms training report to the training officer.
- (3) The firearms instructor will forward to the training officer all requests for additional firearms training.

(b) **Specific Range Rules.**

- (1) Eye and ear protection shall be properly worn at all times when an Officer is shooting or is within fifty (50) yards of anyone shooting at the range. This policy pertains to all agencies as well as any civilians who are given permission to use the range. The

eye protection may be standard eye glasses consisting of shatter-resistant type glass or plastic. Ear protection will be the standard ear protectors worn by shooters. The style of ear protection will be up to the shooter; however, the ear protectors must have been designed and sold as ear protectors.

- (2) Upon arrival at the range, Officers shall check their firearms, unload, make sure there are no obstructions and then holster the empty gun.
 - (3) All sidearms shall remain holstered except at the command of the firearms instructor.
 - (4) Never give or take a firearm from anyone unless the cylinder or action is open.
 - (5) Officers during firearms training shall never anticipate a command.
 - (6) Firearms shall be loaded only after the Officer is in position at the firing point and the command to load is given.
 - (7) Officers shall unload their weapons when and as instructed. If assistance is required, the Officer should raise his/her hand and wait for the firearms instructor; do not turn from the firing line while waiting.
 - (8) Officers shall keep the firearm pointed down range at all times when not holstered.
 - (9) Officers shall never draw a handgun from its holster or reholster with the finger in the trigger guard.
 - (10) No smoking is permitted on the firing line while the Officer is actually engaged in shooting.
 - (11) No talking is permitted on the firing line, or to shooters on the firing line, except by instructors.
 - (12) Never permit the muzzle of a firearm to touch the ground.
 - (13) In case of a misfire, Officers shall notify the firearms instructor and keep the weapon pointed down range at least ten (10) seconds before opening the slide.
 - (14) Never fire a succeeding shot after a malfunction without first unloading and checking the barrel for obstructions.
 - (15)
 - a. Never go in front of the firing line until the firing line has been cleared and the command to go forward has been given.
 - b. Exception — If the course being fired is such that proceeding ahead of the other Officers would be called for.
 - c. Scoring the target will not be done until the order to go forward and score your target has been given.
 - (16) Never carry a loaded firearm on the range, except when on the firing line.
 - (17) Never dry fire on the range, except under the supervision of an instructor.
 - (18) There will be no intoxicants whatsoever permitted on the range. It is required that any Department member at the range have .00% B.A.C.
- (c) **Weapons Care; Maintenance.** All weapons owned or approved by this Department will be cared for and maintained as outlined on pages 5 through 7 of the "Wisconsin Law Enforcement Firearms Manual."

(d) **General Safety.**

- (1) All weapons will be treated as if they were loaded.
- (2) Any weapon handled for any reason other than firing must be unloaded first.
- (3) The action of the weapon must be open before passing it to another individual.
- (4) Do not place your finger inside the trigger guard.
- (5) No unnecessary handling of the weapon, i.e., cocking and releasing the firing mechanism, will be allowed.

Sec. 3-8-9 Non-Lethal Weapons.

POLICY:

(a) **Generally.**

- (1) Department-approved police baton, hand restraints, kinetic rounds (bean bags), Department-approved oleoresin capsicum defense spray and conducted energy weapons are the only authorized non-lethal weapons an Officer may carry while on duty.
- (2) Officers are prohibited from carrying or using blackjacks, saps, weighted gloves, bludgeons, metal knuckles, and nunchakus.
- (3) Officers may carry a pocket knife.
- (4) Flashlights utilized by Department members are for illumination purposes only. Their use as weapons, except in emergency situations, shall be prohibited.

(b) **Baton.**

- (1) All sworn Officers may carry an issued twenty-six (26) inch wooden police baton or a sixteen–twenty-six (16-26) inch expandable police baton during hours of duty.
- (2) All sworn Officers must be trained in using the police baton before carrying it.
- (3) If lower force options have not worked to gain control of a subject or if such lower force options would clearly be ineffective in the situation, the Officer is justified in escalating to using the police baton.
- (4) The police baton is an intermediate weapon located midway between empty hand control and deadly force. The intent of the police baton is to temporarily immobilize.
- (5) The police baton is classified as the only tactic within the mode of intermediate weapon that can be used except during emergency situations.
- (6) The use of the police baton is not classified as deadly force; however, an intentional baton strike to a subject's head area could certainly cause serious injury or death.

Thus, use of a police baton in this way could be considered excessive force, unless special circumstances can be substantiated.

- (7) Officers must understand that any use of the police baton could cause injury to a subject.
- (8) Purpose of the police baton is to impede a subject so as to deter his/her continued resistance or assaultive behavior by decentralizing him/her to the ground. This is basically accomplished by decentralizing a subject by striking the subject's legs with the police baton so as to direct him/her to the ground.
- (9) The primary target areas:
 - a. Knee area (center mass of the lower leg).
 - b. Elbow area (center mass of the arm).
 - c. Lower abdominal area (center mass of the lower body).
- (10) Any Officer who strikes someone with a police baton must administer first aid if necessary and as soon as practical.
- (11) If the subject that was struck by the police baton has any visible signs of injury or request medical attention they should be taken to a designated medical facility for examination.
- (12) No Officer can carry a baton that has been weighted, leaded, or altered in any manner.
- (13) Whenever an Officer uses the police baton, the Officer will indicate in a written report the circumstances of the incident and justification for its use.
- (14) The baton may also be used as a barricade or repelling device in crowd control situations, or as a temporary restraining device.
- (15) Flash lights or other non-authorized equipment should not be used as an impact weapon except in extreme circumstances where no other type of impact weapon can be used.

Sec. 3-8-10 Testing and Inspecting Departmental Firearms.

All other Departmental weapons will be field stripped and thoroughly cleaned after such use. Before reassembly, they will be inspected for abnormal wear and tear, and broken parts. If a weapon is found to be inoperable, it will be tagged so as to prevent the use thereof. An effort will be made to have the weapon repaired as soon as possible.

Sec. 3-8-11 Body Armor.

POLICY:

- (a) **Use of Body Armor Required.** Department issued or authorized body armor shall be worn by all uniformed Officers during their tour of duty. In addition, all Officers shall wear

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protective vests during tactical and/or high risk situations. Examples of "high risk" or "tactical situations" include, but are not limited to, drug raids, search warrant executions, serving felony warrants, and initial crime scene responses. Supervisors may check for compliance at the start of each shift and perform spot checks.

- (b) **Limited Exceptions.** Uniformed and non-uniformed sworn Officers are required to wear body armor while engaged in field activities, both on-duty and during law enforcement-related off-duty employment, unless exempt as follows:
 - (1) When a Department-approved physician determines that an Officer has a medical condition that would preclude wearing body armor.
 - (2) When the Officer is engaged in undercover or plain clothes work that the Chief of Police determines could be compromised by wearing body armor.
 - (3) When the Chief of Police determines that circumstances make it inappropriate to mandate wearing body armor.
- (c) **Office Situations.** It is recommended that non-uniformed Officers wear a protective vest during their tour of duty while engaged in office work. However, those non-uniformed Officers engaged in office work who choose not to wear their protective vest shall have it immediately available at all times during their tour of duty.
- (d) **Secondary Employment Situations.** Officers working in secondary or off-duty employment arranged through the Department shall wear protective vests.
- (e) **Use Required While Qualifying at the Range.** Plain clothes and uniformed Officers shall wear body armor when they are qualifying with weapons at the range.

DEFINITIONS:

"Field activities" are tasks and assignments that place or could reasonably be expected to place Officers in situations where they would be required to act in enforcement rather than administrative or support capacities.

PROCEDURES:

- (a) **Issuance of Body Armor.**
 - (1) All full-time Officers shall be issued Department-authorized body armor. Each part-time Officer will be allotted the opportunity to use current body armor that is already property of the Department or may elect to purchase their own at their own expense.

- (2) All body armor used must comply with the current standards of the National Institute of Justice.

(b) **Care and Maintenance of Body Armor.**

- (1) Officers shall routinely inspect personal body armor for damage and general cleanliness. Officers are responsible for the proper storage, maintenance and care of body armor in accordance with the manufacturer's instructions and this policy.
- (2) Officers are responsible for reporting damage or excessive wear to the ballistic panels or cover to the Chief of Police.
- (3) As dirt and perspiration may erode ballistic panels, each Officer shall be responsible for cleaning personal body armor in accordance with the manufacturer's instructions. Dry cleaning solvents, harsh detergents and particularly bleach can damage body armor. Armor should be gently washed by hand, with care taken to avoid accumulations of soap residue, which may impair ballistic efficiency.
- (4) Following washing, body armor should be hung indoors. Armor shall never be hung outside, including in the shade or on a cloudy day.
- (5) Body armor should always be protected from sunlight or any other source of ultraviolet lights, which can break down the ballistic resistance of vest materials. Officers should not leave body armor in vehicles exposed to sunlight.

Sec. 3-8-12 Carrying Firearms Out of State.

POLICY:

- (a) **General Authorization.** Per 18 USC 926B, qualified, active full-time Officers of this Department are permitted to carry a concealed firearm in all other states subject to the following conditions:
 - (1) The Officer shall carry his/her City of Stanley Police Department identification card whenever carrying such firearm.
 - (2) The Officer is not currently the subject of any disciplinary action.
 - (3) The Officer may not be under the influence of alcohol or any other hallucinatory or intoxicating drug.
 - (4) The Officer will remain subject to this and all other policies of the Department, including qualifying requirements.
 - (5) Active law enforcement officers from other states are subject to all requirements set forth in 18 USC 926B.
- (b) **Local Regulations.** Officers should be aware that individual states and local governments may enact regulations that permit entities to restrict or prohibit the possession of concealed

firearms on private, public, or military property. Federal law may not shield an Officer from arrest or prosecution in such circumstances.

Sec. 3-8-13 Flying While Armed.

PROCEDURES:

The Transportation Security Administration (TSA) has 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 airline or flights where screening is conducted. [See 49 CFR 1544.219]:

- (a) Officers wanting to fly while armed must be flying in an official capacity, not for pleasure or vacation, and shall have a need to have the firearm accessible, as determined by the Chief of Police in compliance with TSA regulations.
- (b) Officers shall carry their City of Stanley Police Department identification card bearing the Officer's name, a full-face photograph, identification number, Officer's signature, and the signature of the Chief of Police or the official seal of the Department. The Officer shall present this identification to airline or TSA officials when requested. The Officer should also carry the standard photograph identification needed for passenger screening by TSA and airline officials, such as a passport, drivers license, etc.
- (c) The City of Stanley Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the Officer's travel. If approved, the TSA will send the Stanley 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, on Department letterhead, authorizing armed travel shall also accompany the Officer. The letter should explain the Officer's need to fly armed, detail the itinerary, and include that the Officer has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) An Officer shall have completed the mandated TSA security training covering law enforcement officers flying while armed.
- (f) It is the Officer's responsibility to notify the airline in advance of the intended armed travel. This notification can be accomplished by early check-in at the airline's check-in counter.

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- (g) Any Officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of the Officer's assigned seat.
 - (h) Discretion must be used to avoid alarming fellow passengers or crew while displaying a firearm. The Officer shall 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 which might arise with flying armed through the flight captain, ground crew manager, TSA representative or other management person of the airline.
 - (j) Officers shall not consume alcohol beverages while aboard an aircraft or within eight (8) hours prior to boarding an aircraft.

APPENDIX**DEPARTMENT WEAPONS QUALIFICATION PROGRAM**

- (a) **General Policy.** It is the policy of the City of Stanley Police Department that no Officer is authorized to use any firearm on-duty or off-duty (if the Officer is acting as a police officer) until the Officer has demonstrated that he/she has knowledge of the laws and polices concerning the use of firearms, achieve a qualifying score on the basic annual firearms course, and exhibits familiarity with safety procedures for the weapon to be authorized to carry/use.
- (b) **Basic Annual Qualification Course for Handguns.** As specified by designated firearms instructor.
- (c) **Basic Annual Qualification Course for Rifles.** As specified by designated firearms instructor.
- (d) **Firearms Qualifications Program.**
- (1) **Duty Weapon.** Officers are required to successfully qualify a minimum of one (1) time annually, or as scheduled by the Chief of Police, per standards set forth by the Wisconsin Department of Justice – Training and Standards.
 - (2) **Off-Duty Weapon.** Officers will be qualified once a year using the basic annual qualification course for pistols.
 - (3) **Secondary Weapon.** Qualification is the same as the duty weapon.
 - (4) **Passing Scores.** Passing score in all firearms training shall be one hundred percent (100%) accountability.
- (e) **Officer's Responsibility.**
- (1) It shall be the responsibility of the Officer to meet all qualifications and make arrangements to make up any qualification shoots missed or where a qualification score was not obtained. Excusable reasons for missing a mandatory range shoot would be:
 - a. Sick;
 - b. Vacation;
 - c. Court; or
 - d. Out of town because of work related business.Being excused *does not* excuse the Officer from shooting that course and qualifying.

(f) Range Officer's Responsibility.

- (1) The Range Officer shall report in memo form, the name and circumstances of any personnel not meeting the minimum firearms qualifications of any part of this policy or not participating in any scheduled qualification or range shoot. The report shall be made to the Chief of Police within twenty-four (24) hours after the schedule shoot.
- (2) The Range Officer shall maintain a training record on file with the following information:
 - a. Course description.
 - b. Officer's scores using a pass/fail system.
 - c. Records of a remedial training.
 - d. List of weapons qualified by Officer's name, weapon serial number, make, model, barrel length and caliber.

Title 3 ► Chapter 9

Investigation of Use of Force Incidents

3-9-1	Uniform Investigation System
3-9-2	Investigation of the Use of Non-Lethal Force Incidents
3-9-3	Firearms Discharge and Use of Deadly Force Investigations
3-9-4	Critical Incident Debriefing
3-9-5	Required Reports

Sec. 3-9-1 Uniform Investigation System.

POLICY:

The purpose of this policy is to establish uniform procedures governing the investigation of incidents of firearm discharge by sworn City of Stanley Police Department employees. Specifically, an incident review and/or investigation will be initiated in the following incidents:

- (a) When a firearm is discharged, other than in authorized practice or training sessions or for recreation purposes;
- (b) When the application of force by an employee results in injury;
- (c) When an employee applies force through the use of non-lethal weapon;
- (d) When an employee's action results in death; or
- (e) When a command officer directs that an incident review or investigation be initiated.

Sec. 3-9-2 Investigation of the Use of Non-Lethal Force Incidents.

POLICY:

Any employee encountering physical resistance pursuant to the performance of his/her duties or any off-duty member encountering physical resistance pursuant to his/her duty as a police officer shall notify his/her commanding officer (or the senior on-duty supervisor) immediately of the incident.

PROCEDURES:

- (a) The Chief of Police or supervisor notified of the incident will determine the type of incident review to be initiated and will follow these additional procedures:
 - (1) Ensure that all facts pertinent to the incident are reported in a field incident report;
 - (2) Complete a written memorandum to the Chief of Police about the incident in which the incident is summarized and the following considerations are addressed:
 - a. Was the force used in a manner authorized by Departmental directives and State statutes?;
 - b. Was the weapon used by the employee authorized by Departmental directive?;
 - c. Did the injured, arrested, or affected person(s) register any use of force complaint?; and
 - d. Is there any other information needed for the Chief of Police to complete a thorough review of this incident?
 - (3) Notify the Chief of Police of his/her designee of the incident in a manner consistent with the seriousness of the incident.

- (b) As directed by the Chief of Police, the investigating officer will direct all further investigative processes and will submit a written report of his/her findings to the Chief of Police.

Sec. 3-9-3 Firearms Discharge and Use of Deadly Force Investigations.

PROCEDURES:

The following procedures will be used to investigate every incident of firearms discharge or use of deadly force with any instrument by an Officer in the performance of his/her duty, excluding range qualification and animal dispatches:

- (a) **Initial Officer Response.** Whenever an Officer discharges his/her firearm either accidentally or officially, for other than training or recreation purposes, the Officer shall immediately, upon control of the situation:
 - (1) Determine the physical condition of any injured person and render first aid when appropriate;
 - (2) Notify the on-duty supervisor and dispatcher of the incident and location;
 - (3) Request emergency aid if applicable; and
 - (4) Protect the scene for follow-up investigation.

- (b) **Supervisor Response.** When notified of a deadly force incident, the Chief of Police or designee will:

- (1) Respond to the scene and secure it;
- (2) Conduct a preliminary field investigation;
- (3) Assist the Officer(s) involved;
- (4) Assist the investigative team; and
- (5) Submit a report of his/her actions to supplement the initial report.

(c) **Officer's Role Upon Arrival of Supervisor.**

- (1) The Officer will remain at the scene, unless injured, until the arrival of the appropriate supervisor.
- (2) However, if circumstances are such that the continued presence of the Officer at the scene might cause a more hazardous situation to develop, i.e., a violent crowd, the supervisor at the scene shall have the discretion to instruct the Officer to respond to another, more appropriate location.
- (3) As soon as the Officer's presence is no longer required at the scene, the Officer will be removed to Department headquarters to complete a statement.
- (4) If at the scene the Officer is exhibiting signs of emotional stress and remaining at the scene appears to be harmful to the Officer's psychological well-being, he/she may be removed from the scene.
- (5) The Officer will safeguard his/her weapon for examination and submit the weapon to the appropriate authority.

(d) **Role of Officer-in-Charge.** When notified of a deadly force incident, the Chief of Police will:

- (1) Respond to the scene;
- (2) Assign another police agency to be in charge to conduct a criminal investigation of the incident;
- (3) Establish an incident command post; the Chief of Police, or the Chief's designee, will act as a media relations officer and also will prepare a press release to be released at the Police Department;
- (4) Notify the Chief of Police of the incident (if not already done);
- (5) Notify the District Attorney of this incident and follow his/her direction in the investigative process;
- (6) Initiate an administrative review of the incident if ordered by the Chief of Police, or his/her designee, or by using the Firearms Review Board policy, whichever the Chief of Police or his/her designee orders, and submit all findings to the Chief of Police;
- (7) Ensure that the Officer(s) involved in the incident receives trauma counseling.

(e) **Statement by the Officer.**

- (1) The Officer shall prepare, at a minimum, a summary statement regarding the incident prior to finishing his/her shift or being relieved of duty, unless injured. A complete, detailed statement shall be completed as soon as possible. The details of the investigation will not be made available to the Officer prior to the completion of his/her statement.
- (2) In the event the Officer is hospitalized or otherwise incapable of completing a statement as required, the on-scene supervisor will prepare as complete a report as possible containing the Officer's verbal statements, the reason the Officer could not complete the report and other Officers' or witnesses' statements.
- (3)
 - a. The involved Officer may request the presence of an attorney as his/her personal counsel prior to making any statement. Supervisors shall not recommend for or against making such a request for counsel.
 - b. This personal attorney will not be provided by the City. The City Attorney may become involved in the incident to act on behalf of the City, but will *not* be the personal attorney for the involved Officer.

(f) **Administrative Leave/Administrative Duty.**

(1) **Administrative Leave.**

- a. Any Officer involved in a use of deadly force incident may be placed on an administrative leave of absence or administrative duty by the Chief of Police.
- b. Administrative leave will be assigned without any loss of pay or benefits, pending the results of the investigation process.
- c. Administrative leave is not to be interpreted to imply or indicate that the Officer acted improperly. Assignments of this nature are made in the best interests of the Department and the employee.
- d. While on administrative leave, the Officer will:
 1. Remain available for official Departmental interviews and statements regarding the incident;
 2. Refrain from any public discussion of the incident; and
 3. Be subject to recall to duty at any time by the Chief of Police.
- e. Prior to returning to full duty, the Officer will:
 1. Submit to a psychological evaluation if requested; and
 2. Re-qualify with a weapon to Departmental standards if the incident is a shooting that involved death or injury.
- f. While on leave, the Officer shall remain available at all times for official Departmental interviews and statements regarding the shooting incident.

(2) **Administrative Duty.**

- a. Any Officer directly involved in a use of deadly force incident may be placed on administrative duty for a period of time as deemed appropriate by the Chief of Police.

- b. Administrative duty is not to be interpreted to imply or indicate that the Officer acted improperly. Assignments of this nature are made in the best interest of the Department and the employee.
 - c. When an Officer is assigned to administrative duty in this context, he/she will:
 - 1. Refrain from the routine exercise of police arrest and intervention powers;
 - 2. Refrain from any public discussion of his/her assignment or of the incident; and
 - 3. Retain responsibility for compliance with all laws and Departmental rules, regulations and directives except those from which he/she has been specifically exempted by this order.
- (g) **Discussion of the Incident.** The Officer involved shall not discuss the incident with anyone except:
- (1) The District Attorney or his/her designee;
 - (2) Assigned Department personnel;
 - (3) The Officer's personal attorney;
 - (4) The Officer's psychologist or doctor;
 - (5) The Officer's chosen clergy;
 - (6) The Officer's immediate family; and
 - (7) In any legal proceeding associated with the incident.
- (h) **Investigation Reports.**
- (1) The Department's investigators will conduct a thorough investigation of every shooting incident which results in injury or death. A detailed report will be submitted to:
 - a. The Chief of Police;
 - (2) The Department will conduct an administrative investigation, subordinate to any criminal investigation. The purpose of the administrative investigation will be to determine the facts of the shooting as they relate to departmental policy and procedure. The report may be reviewed by the Chief of Police.
- (i) **Firearms Review Board.**
- (1) Pursuant to state law, any use of force by an Officer which results in a fatality shall be investigated by an outside law enforcement agency, as requested by the Chief of Police.
 - (2) The Firearms Review Board may convene at the discretion and direction of the Chief of Police to review circumstances surrounding each non-fatal discharge of a firearm, or other use of deadly force, by an Officer other than for training purposes, or disposal of an animal, whether on or off-duty.

- (3) The Firearms Review Board can consist of the following members, unless a member is involved in the shooting or subsequent investigation, in which case an alternate superior Officer or person of equal rank will be appointed at discretion of the Chief of Police:
 - a. An Officer From Another Agency: Appointed by the Chief of Police, who would serve as chairperson (or a law enforcement officer from another jurisdiction);
 - b. Detective/Supervisory Officer: Appointed by the Chief of Police (or a law enforcement officer from another agency);
 - c. Officer: One selected by the Officer(s) involved. If the involved Officer is incapacitated and cannot designate an Officer to represent his/her interest, the Chief of Police will select an Officer to represent the involved Officer(s). That selectee is subject to approval of the involved Officer(s) should he/she or they cease to be incapacitated prior to the completion of the investigation.
- (4) The Firearms Review Board, or an outside investigating agency in cases involving a fatality, would evaluate through fact-finding each aspect of an Officer-involved shooting. Such an evaluation shall include:
 - a. A thorough review of the criminal investigation report;
 - b. A thorough review of the administrative investigation report;
 - c. The hearing of direct testimony from Officers and witnesses, if necessary; and
 - d. An examination of physical evidence.]
- (5) Upon conclusion, the Firearms Review Board, or an outside investigating agency in cases involving a fatality, shall submit a report of their findings to the Chief of Police. The report shall contain:
 - a. A description of how the investigation was conducted;
 - b. A listing of all the facts established by the investigation;
 - c. Any point of disagreement between members;
 - d. A recommendation of commendation or discipline if applicable;
 - e. The conclusion of the report, which shall contain one of the findings:
 1. Justified and consistent with Department policy.
 2. Justified and contrary to Department policy with extenuating circumstances present.
 3. Unjustified and contrary to Department policy.
- (6) The Firearms Review Board would develop findings and make recommendations to the Chief of Police in the following areas:
 - a. Tactical and training considerations;
 - b. The quality of supervision prior to, during and after the shooting incident;
 - c. Disciplinary considerations; and
 - d. The quality of the post-shooting investigative process.
- (7) Upon receipt of the report, the Chief of Police may take whatever action is deemed appropriate. After the Chief of Police review, a copy of the final report will be given to the Officer(s) involved and to any other person or agency deemed appropriate.

Sec. 3-9-4 Critical Incident Debriefing.

POLICY:

- (a) In all cases where any person has been severely injured or killed as a result of deadly force incident by an Officer, all Officers closely involved or affected will be required to undergo a trauma counseling session with the psychologist/psychiatrist or critical incident stress debriefing team chosen by the Chief of Police and provided by the Department as soon as possible. [See Section 3-5-1].
- (b) The purpose of this counseling 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 session will remain protected by the privileged physician-patient relationship if the counselor is a physician/psychiatrist.
- (c) If the examining authority, during the debriefing, determines a need for continued counseling, an employee will not be allowed to return to work until released by the examining authority. The psychological/psychiatrist will only be required to make recommendations to the Chief of Police pertaining to the Officer's duty status, assignment, or the need for further counseling. The Officer's spouse may also be interviewed by a psychologist or critical incident debriefing team as part of the Officer's support network.
- (d) In any event, the Officer will, if deemed appropriate in the Police Chief's discretion:
 - (1) Submit to a psychological/psychiatric evaluation prior to returning to duty if requested.
 - (2) Submit to a followup session six (6) months after the incident.
 - (3) Submit to a followup session one (1) year after the incident.
- (e) Upon returning to duty, the Officer may be assigned to administrative or alternative duty for a period of time as deemed appropriate by the Officer, the psychologist and the Chief of Police.

Cross-Reference: Section 3-5-1, Post-Critical Incident Policy

Sec. 3-9-5 Required Reports.

POLICY:

- (a) In an instance where an Officer has discharged his/her weapon at a dangerous or seriously injured animal, he/she will complete a thorough report.

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(b) The supervisor will submit appropriate administrative reports addressing issues including:

- (1) Date, time and location.
- (2) Facts leading to the incident.
- (3) Statements from all parties.
- (4) Alternatives.

Title 3 ► Chapter 10

Death Investigations

3-10-1	Death Investigations
3-10-2	Discovery of a Corpse
3-10-3	Notification of Next of Kin
3-10-4	Injured and Fatal Notifications
3-10-5	Death Investigations—Preliminary and Follow-Up

Sec. 3-10-1 Death Investigations.

- (a) **Purpose and General Policy.** The purpose of this policy is to create a procedure that will clearly designate responsibility and accountability in all "death investigation" cases in addition to providing a methodical, comprehensive and sophisticated approach for processing this uniquely demanding type of investigation.
- (b) **Objectives.**
- (1) There is an expectation in the community that law enforcement officers will employ the highest professional standard in the investigation of death cases.
 - (2) A policy should provide for the maintenance of the highest professional standards of the agency and its personnel, including:
 - a. The proper accomplishment of tasks in the field.
 - b. Minimum probability of errors, investigative omissions and confusion.
 - c. Coordination and effective use of manpower through the assignment and clarification of duties and responsibilities.
 - d. Understandability and reasonableness of expectation.
 - e. Potential for uniform situational application to all death cases.
 - f. The reasonable exercise of discretion.
 - g. Compatibility and consistency with the "Major Case" development concept.
 - h. Potential for recognition of personnel training deficiencies.
- (c) **Methodology.** The "death investigation" presents the ultimate challenge for law enforcement personnel. Determining the cause of death of a human being (to be done by

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the Coroner) is not a simple matter, particularly in complex or unusual circumstances. The death of a human can be directly related to one (1) of the following causes:

- (1) Homicide.
- (2) Suicide.
- (3) Accidental.
- (4) Natural causes.

PROCEDURES:

- (a) **Receiving Complaints or Reports of Death.** Upon receiving a report, the type of death shall be confirmed.
 - (1) **Natural.** Officers shall prepare an Incident Report completely and note *exact* location of victim (example: detached garage at 500 North Street).
 - (2) **Unnatural Death.** Officers shall:
 - a. Fill out an Incident Report completely and note exact location of victim (example: detached garage at 500 North Street).
 - b. Inquire as to what possibly caused the death.
 - c. Inquire as to whether or not a weapon is involved.
 - d. Ask the complainant if he/she knows the name and address of the perpetrator.
 - e. Inquire if the perpetrator is on the premises.
 - f. Ask if the complainant can describe the perpetrator.
 - g. If the perpetrator left in a vehicle, ask for the description of the vehicle and the direction of travel.
 - h. On indoor scenes request the complainant to meet the responding Officers outside if possible.
- (b) **Duties of First Officer on the Scene.** The first Officer on the scene shall have the following responsibilities in death investigations:
 - (1) Has responsibility to determine if life exists.
 - a. If the body shows even a minute sign of life, no matter how fragile, the body must be immediately removed to a medical facility.
 - b. It is vital, if the body is moved, that the first Officer make astute observations of the crime scene and make written notes on them as soon as reasonably possible.
 - c. In attempted suicide cases, the Officer will look for pills or medicines which may have caused the same and relay the information to the hospital or write the information down for rescue squad Officers to take with them.
 - (2) When death has occurred.
 - a. Body is left in its original position and state.
 - b. Body is *not* to be covered with any object or material.

- (3) Determines the scope of the crime scene.
 - a. Protects the crime scene, excluding everyone who does not have an official function to perform, including residents, relatives, and even other Officers.
 - b. Determines the scope of the crime scene.
 - c. Preserves relationship of objects. The Officer shall not alter the position of any object until it has been properly recorded (sketched and photographed).
 - (4) Barricade, tape or otherwise mark the scene to restrict access.
 - (5) Notifies the Chief of Police or his/her supervisor.
 - (6) Communicates facts to Chief of Police or supervisory Officer upon his/her arrival.
 - (7) Relates any changes in crime scene to an investigator upon his/her arrival.
 - (8) Thoroughly documents all of his/her actions and observations.
 - (9) Logs who goes into the crime scene.
- (c) **Determining if There is Life.**
- (1) For a short period of time after death, it may be difficult to make a determination. There are four (4) important criteria for establishing death and any one (1) by itself does not determine death.
 - a. **Loss of Movement.** The earliest sign of death which can be determined by visual observation.
 1. Has been described as a loss of reflexes.
 2. Muscles will become flaccid, loose or droopy.
 - b. **Stoppage of Heart and Respiration.** Indicative of the loss of function of the vital oxygen cycle and is only reliable indication of death in the early post mortem interval.
 - c. **Loss of Body Heat.** When life ceases, the body cools and exposed parts such as the hands, face and feet cool rapidly while the body may remain warm.
 - d. **Eye Changes.** Important to confirmation of death. Initially, the eyes will glisten but in a couple of hours will be covered with an opaque film. The eyes upon death will show bilateral dilation and fixation and demonstrate no reaction to strong light.
 - (2) Other Obvious Indicators of Death. These indicators demonstrate death because of obvious life-ending wound or manifestation of death in advanced post mortem interval.
 - a. **Lividity or Liver Mortis.** Purplish discoloration to the skin caused by settling of blood by gravity after death. Pressure on body parts will cause lack of lividity, such as a body on its back will not show lividity where the upper back and buttocks came in contact with the floor. Lividity becomes perceptible approximately two (2) hours after death.

- b. ***Rigor Mortis/Cadaveric Spasm.*** Rigor Mortis is the stiffening of the muscles of the body after death due to enzyme breakdown and accumulation of lactic acid in the muscles. Rigor starts in the head and gradually extends to the chest, arms and legs. Prior to full development, rigor can be broken and will reinduce itself. Rigor leaves the body in the same fashion; head to toe. Cadaveric spasm are muscle spasms occurring at the instant of death. Usually affects a separate set of muscles such as a death grip, hand firmly gripping gun after death. More difficult to break than rigor and will not reinduce itself. The cause is unknown, but death must be sudden. It does not pass from the body like rigor, it only leaves through decomposition.
- c. ***Decomposition; Putrefaction, Mummification, Adipocere and Skeletal Remains.***
 - 1. ***Putrefaction.*** Upon death, bacteria in the body begins to grow and feed on dead tissue and enzymes break down the gastro-intestinal tract. These actions create gases which distend the abdominal cavity and body tissues, giving the body a bloated and blistered appearance. There will be a greenish discoloration to the abdomen, and marbling and darkening of the rest of the body tissues, leaving skeletal remains.
 - 2. ***Mummification.*** A post mortem condition caused by dehydration of the body tissues; requires exposure to a hot, dry climate. As the body dries out the skin becomes leathery and the body will remain this way until outside forces destroy it. Mummification is very rare in the United States except for newborn babies, who are sterile at birth and lack bacteria necessary for the internal destructive processes.
 - 3. ***Adipocere.*** A post mortem condition caused by exposure to moist environmental conditions and enzymes, usually takes several weeks to appear on the body. It is a yellowish/white substance of a greasy cheese-like appearance caused by the turning of body fats into fatty acids and soaps.
- d. ***Obvious Death Wounds.*** Decapitation, dissection of the body, burning, massive wounds and massive loss of blood.

(d) **Procedures to Be Followed if Victim is Still Alive.**

- (1) If the body shows even a minute sign of life, no matter how fragile, the body must be rapidly moved to medical facilities.
- (2) It is vital, if the body is moved, that the first Officer make astute observations of the crime scene and make written notes on them as soon as reasonably possible.

(e) **Notification of Personnel.**

- (1) The Chief of Police should be called to investigate all deaths other than by natural causes.
- (2) The Chief of Police will be notified of all homicides or suspected homicides.

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- (3) In cases where no Investigator is required, as in a natural death, the initial arriving Officer should immediately notify the coroner.
- (f) **Duties of the Chief of Police, Supervisory Officer, or Investigating Officer.**
- (1) Interviews the first Officer on the scene.
 - (2) Makes a preliminary judgment as to possible contributions to the cause of death.
 - (3) Notifies other appropriate persons.
 - a. Chief of Police;
 - b. Supervisor; or
 - c. Coroner/Medical Examiner.
 - (4) Assists, if needed, Officer-in-charge and other appropriate officials in controlling crime scene.
 - (5) Surveys the death scene.
 - (6) Determines collectible evidence.
 - (7) Has scene photographed.
 - (8) Has scene sketched.
 - (9) Collects evidence.
 - (10) Identifies body.
 - (11) Arranges for witness interviews.
 - (12) Has body escorted to the morgue.
 - (13) Collects evidence from the body.
 - (14) Witnesses the autopsy (all death investigations that raise suspicion and require an autopsy should be witnessed by a trained investigator).
 - (15) Documents thoroughly all actions and observations.
 - (16) Correlates investigative leads and assigns personnel for follow-up.
 - (17) Notifies the District Attorney.
 - (18) Arranges for notification of next of kin.
 - (19) Prepares press release.
 - (20) Thoroughly prepares the case for the District Attorney.
 - (21) Assists prosecutor through the judicial process.
- (g) **Investigator's Responsibilities Regarding the Body at Autopsy.** The Investigator shall:
- (1) Record time, date and location of autopsy and names of persons in attendance.
 - (2) Brief pathologist on all pertinent information known to you regarding victim (identity, age, occupation, status of health), and on the place (the scene) where the body was discovered.
 - (3) If State Crime Lab personnel are not present, be responsible for all procedures listed in the "Criminal Investigation and Physical Evidence Handbook". If Lab personnel are involved, assist them with their procedures.

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(4) Debrief the pathologist regarding his/her preliminary findings and conclusions regarding cause, manner and means of death, probable time of death, and clues to identify (if necessary) of the deceased.

(h) **Investigator's Responsibilities Regarding Follow-Up Investigation.** If the investigation has established that the death was homicidal, the criminal investigator is responsible for the follow-up investigation and he/she must attempt to do the following:

- (1) To evaluate evidence obtained from the scene and from the body.
- (2) To conduct necessary investigative activities to secure evidence of guilt sufficient to establish probable cause as to who was responsible for the offense.
- (3) To prepare a case report for the District Attorney.
- (4) To confer with District Attorney, sign complaint, obtain warrant and apprehend suspect.
- (5) To then relinquish control of the case to the District Attorney and to provide necessary assistance to him/her until the case reaches final disposition.

Sec. 3-10-2 Discovery of a Corpse.

STATEMENT OF PURPOSE:

Although the discovery of a corpse is one area of the law enforcement profession that is little discussed, the necessity to deal with such an occurrence must be handled professionally and with concern. This is the basis upon which the following policy is established.

POLICY:

It is the policy of this Department that, upon discovery of a corpse, the supervisor or Chief of Police and Coroner/Medical Examiner will be notified.

PROCEDURES:

- (a) **Officers' Duties.** After complying with the above policy, the Officer and/or investigator assigned to the case will:
- (1) Perform an examination of the area of the readily viewable portions of the corpse to determine if there is reason to believe that death was a result of other than natural causes. This examination shall be done without disturbing the corpse or the scene of discovery.

- (2) Await the arrival of the Coroner/Medical Examiner prior to any removal of evidence of any nature or movement of the clothes. The Officer and/or investigator may take pictures, measurements and other necessary types of evidence collection, while always protecting the scene from alteration or destruction by others.
- (3) Collect all information that is possible regarding recent history, medical problems, family status, relatives and so forth.
- (4) Notification of relatives will be in person by a member of the Department or through the assistance of the law enforcement agency serving the area in which next of kin reside. Only as a last resort will telephonic notification be made.
- (5) The corpse shall not be removed from the scene until authorized by the Coroner/Medical Examiner or someone designated by the Coroner/Medical Examiner's office.
- (6) A complete and detailed report of the incident shall be compiled and copies provided to the Coroner/Medical Examiner's office and District Attorney as needed. In addition, the original shall be submitted to the Chief of Police.
- (7) Release of any information to any source other than a law enforcement agency shall be through the Chief of Police or designee.

(b) **Coroner/Medical Examiner Calls.**

- (1) In the event of a traffic fatality or possible fatality, the Officer-in-Charge will go to the scene and take charge. The Officer-in-Charge will be responsible for the notification of the Coroner/Medical Examiner. He/she will remain on the scene until it is cleared.
- (2) The Police Department is in charge of the accident scene, while Fire Department/Ambulance Service personnel are in charge of the victims. Once Ambulance Service personnel have decided that it is obvious that the party is deceased, then the Police Department is in charge of the body. If there are any questions whether the persons are injured or deceased, the Ambulance will transport.
- (3) If the victim is deceased, the Officer on the scene is responsible for assisting, if necessary, the Coroner/Medical Examiner .
- (4) The Coroner/Medical Examiner prefers that the body remain at the scene until he/she gets there. Once the body is free, the corpse should be covered with a blanket.
- (5) Ambulance Service (EMS) personnel will remain at the scene until all victims are removed from in or under any vehicle.

Sec. 3-10-3 Next of Kin Notification.

PROCEDURES:

Notification of next of kin in the event of death or serious injury shall be pursuant to the following procedures:

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- (a) Every effort must be made to locate and notify the nearest relative as soon as possible.
- (b) Extreme tact should be exercised by the Officer when making the notification.
- (c) If relatives live within the jurisdiction, notification will be made by a member of the Department.
- (d) Relatives residing outside the jurisdiction will be notified by the law enforcement agency in that jurisdiction.
- (e) Telephone notification will be utilized ONLY when all other methods are not feasible and ONLY when approved by the Chief of Police or supervisor.
- (f) If religious preference is identified, notification of clergy is recommended.
- (g) Cooperation of press and other news media will be requested with reference to withholding identity of subject.
- (h) A report will be completed containing name, address, relationship, date, time, notifying Officer and any other pertinent information.

Sec. 3-10-4 Injured and Fatal Notifications.

POLICY:

It shall be the responsibility of the Officer assigned to the case to insure that notifications are properly made as follows:

- (a) **Injured Minors.** Notify the parent or guardian in person, if local, or by telephone, if outside the community. Give facts as to the type of injury and destination of conveyance. Avoid overstating the seriousness of injuries and attempt to arrange transportation for next of kin, if needed.
- (b) **Injured Adults.** Notify the next of kin in person, if local, and by phone, if not local, if requested by the injured person. Notifications should be made for injuries resulting from traffic accidents, home accidents, industrial accidents and other incidents at the discretion of assigned Officers or at the request of the injured person.
- (c) **Nonserious Injuries.** Direct the dispatcher to notify the next of kin by phone if requested by the injured person.

- (d) **Fatalities.** Notification shall be made *in person* when the deceased has next of kin living in our community. If the next of kin lives outside of the City, direct the notification to the Police Department having jurisdiction; advise them that you wish to have notification made in person.
- (e) **Hospital Notifications.** Notifications described in this Chapter may be made by hospitals in certain situations.

PROCEDURES:

In all cases where a notification is made, an entry should be made on the incident report showing the time of the notification, the name of the person who was notified, and the name of the person who made the notification. A benevolent approach should be used in making these notifications and assistance given in making arrangements, telephone calls, etc., to ease the traumatic experience for the person notified.

Sec. 3-10-5 Death Investigations—Preliminary and Follow-Up.

POLICY:

- (a) The purpose of this procedure is to establish areas of responsibility for conducting criminal investigations to achieve a more effective utilization of personnel. Criminal investigations consist of two (2) distinct and yet closely interrelated phases: The preliminary investigation and the follow-up investigation. A "preliminary investigation" is defined as the sum total of those investigative activities conducted immediately upon the receipt of a report of a criminal act. A "follow-up investigation" is defined as any investigation conducted subsequent to the completion of the preliminary investigation.
- (b) Assistance may be requested from the County Sheriff's Department for all death scene investigations when a major crime is suspected.

PROCEDURES:

- (a) **Preliminary Investigations.** The preliminary investigation begins when the first police unit arrives at the scene, and continues until a postponement of the investigation or transfer of responsibility will not jeopardize successful completion of the investigation. The following activities are part of the preliminary investigation:
 - (1) Provide aid to the injured.
 - (2) Protect the crime scene to assure that evidence is not lost or contaminated.

- (3) Determine if an offense has actually been committed, and if so, the exact nature of the offense.
- (4) Determine the identity of the suspect or suspects, and affect an arrest if it can be accomplished either at the scene or through the preliminary investigation process.
- (5) Furnish other field units, through the communications center, descriptions, method and direction of flight, and other relevant information concerning wanted persons or vehicles.
- (6) Obtain complete identification of all witnesses.
- (7) Determine what information is known by the victim and each witness.
- (8) Arrange for the collection of evidence.
- (9) Determine and write in detail the exact circumstances of the offense.
- (10) Obtain written statements from victims and witnesses, and from the suspect if such statement can be obtained. If such statements cannot be obtained explain the reasons why they cannot in the Incident Report.
- (11) Accurately and completely record all pertinent information on the prescribed report forms and submit reports to the Shift Supervisor.
- (12) a. Responsibility for Conducting the Preliminary Investigation. Except in those cases where the presence of a uniformed Officer would obviously prevent a proper investigation being made, the preliminary investigation shall be conducted by the Patrol Officer initially assigned to the call.
 - b. The assigned Patrol Officer shall initiate and complete as many of the activities listed above as are needed. The individual circumstances of the incident shall determine how many of the activities are required.
 - c. When the preliminary investigation is concluded, the Patrol Officer shall complete his/her initial Incident Report as soon as possible. He/she shall list on the prescribed form all information obtained at the scene of the offense.
 - d.
 1. The Patrol Officer assigned shall be responsible for initiating action to inform other appropriate on-duty departmental units of a serious crime or one requiring immediate on-the-scene follow-up investigation.
 2. When an element of immediate need exists at the end of the shift, the assignment of continuing investigation shall be made by the Supervisor assigned to the oncoming shift.

(b) **Follow-Up Investigation.**

- (1) The follow-up investigation is an extension of the preliminary investigation. The purpose of the follow-up is to provide additional information in order to affect the arrest of an offender and/or recover stolen property.

- (2) Basic activities of the follow-up investigation include:
 - a. Identification and apprehension of the offender.
 - b. Arrange for the timely collection and analysis of evidence.
 - c. Recovery of stolen property.
 - d. Interviewing victims and witnesses.
 - e. Interrogation of suspects.
 - f. Determining if other crimes may have been committed by the suspect.
 - g. Recording Information Obtained. A supplement report must be prepared for the follow-up investigation noting the time, date and name of the Officer making each entry. New information developed as the result of follow-up investigation shall be recorded and submitted to the Chief of Police.
- (3) Investigators should be notified of crimes or arrests involving the following:
 - a. Deaths of a violent or suspicious nature.
 - b. Sexual Assaults.
 - c. Critical Injury Assaults.
 - d. Robberies of Commercial Institutions.
 - e. Major loss burglaries where there is physical violence or a loss in excess of Five Thousand Dollars (\$5,000.00).
- (4) In offenses other than those listed above, investigative personnel should not conduct the preliminary investigation unless circumstances warrant him/her to do so.
- (5) Upon the arrival of an investigator, the Patrol Officer shall relinquish responsibility for the investigation unless otherwise instructed by his/her supervisor. The assigned Patrol Officer shall be required to obtain adequate information to properly complete his/her Incident Report. The Officer shall be responsible for the completion of the original Incident Report.

(c) **Rescue Procedures Necessary for Investigative Duties.**

- (1) Determine if there is life.
 - a. If at all possible do this without moving the body.
 - b. If life does exist, victim should obviously be removed to a hospital, if necessary.
 - c. If victim is moved, make observations and as soon as possible notes regarding the following:
 1. Condition of body, wounds and other injuries.
 2. Clothing or lack of.
 3. Position of body.
 4. Items removed from body, such as weapons, clothing etc., and how removed. These items should be turned over to the Police Officer at the scene.
 5. Original position of any other items moved by rescue personnel, such as furniture, doors opened, lights turned on, etc.

- (2) If no signs of life exist:
 - a. Do not move or alter the position of the body or any of its surroundings unless absolutely necessary, *observe and note*.
 - b. Do *not* under any circumstances cover the body with a blanket or sheet. This can alter or destroy evidence.
 - c. If the body is in a position so as to be exposed to public view, arrangements can be made to erect a barricade around it. The preservation of evidence greatly outweighs the consideration of possible public embarrassment.
- (3) Establish a corridor of movement.
 - a. Upon arrival establish a path to the victim and maintain this path.
 - b. Deviation from this "corridor of movement" can alter, destroy or add evidence that must be sorted out later.
 - c. Advise any other responding personnel of the "corridor of movement."

Title 3 ► Chapter 11

Mental Health Assessments; Encounters with the Developmentally Disabled

3-11-1 Mental Health Assessments; Mobile Crisis Responses

3-11-2 Persons with Developmental Disabilities Situations

Sec. 3-11-1 Mental Health Assessments; Mobile Crisis Responses.

PROCEDURES:

- (a) In responding to situations that may involve a possible emergency detention commitment, the Officer shall first secure the scene and the individual involved.
- (b) Prior to an Officer placing an individual in custody under an emergency detention status, Officers shall first involve the County human services department and/or other applicable resource(s) (Northwest Connections) for an initial assessment of the individual to determine the level of services needed, if any, and whether the individual requires immediate detention.
- (c) An on-call telephone intake worker will collect the information and may be able to provide an assessment/recommendation over the telephone. When an on-site assessment is deemed necessary and/or most appropriate, a mobile crisis counselor may be dispatched to conduct a personal assessment of the individual.

Sec. 3-11-2 Persons With Developmental Disabilities Situations.

POLICY:

- (a) It is the purpose of this policy to provide Officers with information on the symptoms and effects of developmental disabilities so that Officers may better recognize and interact with such persons in enforcement capacities.

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- (b) It is the policy of this Department that Officers understand the symptomatic behavior of such persons and be prepared for such situations in a manner that will best serve the needs of such persons and this Department's law enforcement responsibilities.

COMMENTARY:

Persons afflicted with developmental disabilities are limited in their ability to effectively communicate, interact with others, and sometimes to make reasoned decisions on their own. This can make interactions with such persons difficult in enforcement and other encounters and may result in inappropriate actions if Officers are not prepared to recognize with symptomatic behaviors and reactions of such persons. The number of persons afflicted with such disabilities is increasing in the United States.

DEFINITIONS:

Developmental Disability. A potentially severe, chronic disability attributable to a physical or mental impairment or combination thereof resulting in substantial functional limitations to major life activities such as understanding and expression of language, learning, mobility, self-direction, self-care, capacity for independent living, and economic self-sufficiency. Developmental disabilities (such as those experienced by persons who have developmental delays, autism, or Tourette's syndrome) are not the same as and should not be confused with forms of mental illness such as schizophrenia or more common mood disorders.

PROCEDURES:

- (a) **Common Symptoms.** There are numerous forms of developmental disabilities. Many of the persons who have such disabilities have other related but distinct disorders as well (such as Asperger syndrome, Fragile X syndrome, or Rhatt syndrome). Although Officers are not in a position to diagnose persons with such disabilities, Officers shall be alert to the symptoms that are suggestive of such disorders. These include, but are not limited to, the following symptoms in various combinations and degrees of severity:
- (1) Difficulty communicating and expressing oneself.
 - (2) Communication by pointing or gestures rather than words.
 - (3) Repetition of phrases or words.
 - (4) Repetitive body movements – may be harmful to themselves (movements may include, but are not limited to, swaying, spinning, clapping hands, flailing arms, snapping fingers, biting wrists, or banging the head).
 - (5) Little or no eye contact.
 - (6) Tendency to show distress, laugh or cry for no apparent reason.
 - (7) Uneven gross or fine motor skills.

- (8) Unresponsiveness to verbal commands; appearance of being deaf even though hearing is normal.
 - (9) Aversion to touch, loud noise, bright lights and/or commotion.
 - (10) No real fear of danger or hazards.
 - (11) Oversensitivity or undersensitivity to pain.
 - (12) Self-injurious behavior.
- (b) **Common Encounters.** Officers may encounter persons who have developmental disabilities in a variety of situations commonly involving persons without such disabilities. However, due to the nature of developmental disabilities, the following are some of the common situations in which such persons may be encountered:
- (1) **Wandering.** Developmentally delayed, autistic, or other developmentally disabled persons sometimes evade their family, supervisor, caregiver, or institutional setting and may be found wandering aimlessly or engaged in repetitive or bizarre behavior in public places or stores.
 - (2) **Seizures.** Some developmentally disabled persons, such as those suffering from autism, are more subject to seizures and may be encountered by Officers in response to a medical emergency.
 - (3) **Disturbances.** Disturbances may develop and a caregiver may be unable to maintain control of the disabled person who is engaging in self-destructive or tantrum-like behavior.
 - (4) **Strange or Bizarre Behavior.** Strange or bizarre behavior may take many forms prompting calls for service, such as picking up items in stores (example: perceived shoplifting), repetitive and seemingly nonsensical motions and actions in public places, inappropriate laughing or crying, and personal endangerment.
 - (5) **Offensive or Suspicious Behavior Towards Other Persons.** Socially inappropriate or unacceptable acts, such as ignorance of personal space, annoyance of others, or inappropriate touching of others or oneself, are sometimes associated with the developmentally disabled who often are not conscious of acceptable social behavior.
- (c) **Handling and Deescalating Encounters.** Some persons with developmental disabilities can be easily upset and may engage in tantrums or self-destructive behavior or may become aggressive. Fear, frustration, and minor changes in their daily routines and surroundings may trigger such behavior. Therefore, Officers shall take measures to prevent such reactions and de-escalate situations involving such persons in the course of taking enforcement and related actions. These include the following:
- (1) **Speak Calmly.** Officers should use nonthreatening body language. Using a stern, loud, command tone to gain compliance will have either no effect or a negative effect

on a developmentally disabled person. Use nonthreatening body language; keep your voice calm and your hands to your sides. Be aware that such persons may not understand the *Miranda* warning.

- (2) **Minimize Commotion.** Minimize, to the degree possible, loud sounds, bright lights, and other sources of overstimulation. Turn off sirens and flashers, ask other to move away, or, if possible, move the developmentally disabled person to more peaceful surroundings.
- (3) **Keep Animals Away.** Officers should keep canines in the patrol vehicle and preferably away from the area, and ensure that other dogs are removed.
- (4) **Personal Identification.** Officers should look for forms of identification such as medical identification tags on wrists, neck, shoes, belt, or other apparel. Some persons carry a card noting that they are developmentally disabled and possibly nonverbal. The card should also provide a contact name and telephone number.
- (5) **Communicate with Contact Person or Caregiver.** The person's caregiver or institutional/group home worker is a valuable resource for recommendations on calming the person until assistance can arrive on the scene.
- (6) **Extended Interactions.** Officer interactions with a person with developmental disabilities cannot be rushed unless an emergency exists. Deescalation of a situation using calming techniques can take time. Gaining eye contact is important.
- (7) **Use Short, Direct Phrases.** Officers should repeat short, direct phrases in a calm voice. For example, instead of an Officer saying "Let's go over to my car where we can talk," simply repeat "Please come here," while pointing until the person's attention and compliance is obtained. Gaining eye contact in this and related situations is important. Officers should be direct by repeating "Look at me" while pointing to the person's eyes and those of the Officer.
- (8) **Sensory Impairments.** Officers should be attentive to sensory impairments. Many persons who have autism have sensory impairments that make it difficult for them to properly process incoming sensory information; some autistic persons experience humming in their ears that makes it difficult for them to hear. Should an Officer identify a sensory impairment, the Officer should take precautions to avoid exacerbating the situation:
 - a. Officers should not touch the person. Unless the person is in an emergency situation (e.g., has been seriously injured or is in imminent peril), the Officer should speak with the person quietly and in a nonthreatening manner to gain compliance.
 - b. Officers should use soft gestures. When an Officer asks the person to do something, such as look at the Officer, speak and gesture softly. Officers should avoid abrupt movements or actions.
 - c. Officers should use direct language. Officers should avoid the use of slang terms or phrases which may not be understood.

- d. Officers should not misinterpret odd or unusual behavior as belligerent. In a tense or unfamiliar situation, the person may "shut down" and close out unwelcome stimuli (e.g., cover ears or eyes, lie down, shake or rock, repeat questions, sing, hum, make noises or make repetitive statements in a robotic manner). Such behavior is a protective mechanism for dealing with troubling, uncertain or frightening situations. Officers should not stop the person from engaging in repetitive behavior unless it is harmful to the person or others.
- (9) **Different Forms of Communication.** Officers should be sensitive that such persons may rely on different forms of communication. Some developmentally disabled persons carry a booklet of universal communication icons. Pointing to one or more can allow the person to communicate where they live, family names/addresses, etc. Those with communication difficulties may also demonstrate limited speaking capabilities, at times incorrectly using words such as "You" when they mean "I."
- (10) **Suppress Anger at Antisocial Behaviors.** Officers should refrain from becoming angry or impatient at persons exhibiting antisocial behaviors. For example, when asked a question like "Are you all right?" the person may yell "I'm fine!" Many such persons do not understand that this is not appropriate behavior.
- (11) **Maintain a Safe Distance.** Officers should maintain a safe distance from the person. Officers should provide the person with a comfort zone that also serves as a buffer for officer safety.
- (d) **Taking Persons Into Custody.** Taking custody of a developmentally disabled person should be avoided whenever possible as it may initiate a severe anxiety response and escalate the situation. In minor offense situations, Officers shall explain the circumstances to the complainant and request that alternative means, if possible, be taken to remedy the situation. This normally would involve release of the person to an authorized caregiver. In more serious offense situations or where alternatives to arrest are not available or permissible, Officers shall observe the following guidelines:
- (1) Contact the Chief of Police or a supervisor for guidance.
 - (2) Avoid the use of handcuffs or other restraints unless absolutely necessary under the circumstances. Use of restraints will likely escalate resistance and panic.
 - (3) Summon the person's authorized caregiver to accompany the person and assist in the intervention and calming process. If a caregiver is not readily available, summon a county mental health crisis intervention worker, if available.
 - (4) Employ calming techniques and reassuring language and deescalation procedures.
 - (5) Do not incarcerate the person in a holding cell if possible. Do not incarcerate the person with others if possible.
 - (6) Until alternative arrangements can be made, the person should be placed in a quiet room with subdued lighting with a caregiver or other responsible individual.

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- (7) Provide the person with any comfort items that he/she may have in his possession at the time of arrest, such as soft toys, blankets, etc.
- (e) **Interviews and Interrogations.** Officers conducting interviews or interrogations of a person who is, or who is suspected of being, developmentally disabled should consult with a mental health professional and the District Attorney's office to determine whether the person is competent to understand his/her right to remain silent and to have an attorney present. In interviewing such persons as suspects, victims, or witnesses, Officers should observe the following to assist in obtaining information:
- (1) Do not interpret lack of eye contact and odd actions/responses as indications of deceit, deception or evasion of questions.
 - (2) Use simple, straightforward questions.
 - (3) Standard interrogation techniques may not be the best approach. Officers should take care not to suggest answers, attempt to complete thoughts of persons slow or reluctant to respond, or pose hypothetical conclusions, recognizing that developmentally disabled persons are sometimes easily manipulated and may be highly suggestible.

Title 3 ► Chapter 12

Crowd and Riot Control

3-12-1 Crowd and Riot Control

Sec. 3-12-1 Crowd and Riot Control.

POLICY:

A major crowd situation or riot can be one of the most explosive incidents encountered by a law enforcement agency. In every case, when dealing with any crowd or riot situation, it shall be the policy of the Department to concentrate on our basic law enforcement mission of protecting life and property. This shall be done in a rapid, firm, fair and impartial manner, using only the minimum force necessary to accomplish the mission.

PROCEDURES:

- (a) Officers encountering a potential riot or crowd control situation should:
 - (1) Make a quick appraisal of the situation and notify a supervisory officer as soon as possible.
 - (2) If possible, contact a spokesman for the group and ascertain the nature of the grievances or reasons for the assemblage.
 - (3) If arrest(s) must be made, be sure that there is adequate personnel and leave the scene with those under arrest as soon as possible.

- (b) The first supervisor on the scene should:
 - (1) Assume command of the situation and attempt to resolve the situation as expeditiously as possible.
 - (2) Establish lines of communication with all Department personnel at the scene.
 - (3) Request as many Officers as may be necessary to restore order and preserve the peace.

- (c) The Department's tactical objectives in controlling a major crowd, disorder or riot should be identified as follows:
 - (1) Containment. Confine the disorder to the smallest possible area.

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- (2) Isolation. Prevent the growth of the disorder by cordoning off the area and denying access to those individuals who are not involved.
 - (3) Dispersal. Disperse the disorder and take appropriate law enforcement action against law violators.
- (d) When engaged in crowd control operations, all Department members shall remain together as much as is practicable in order that their concerted efforts are as effective as possible in controlling the situation.

Title 3 ► Chapter 13

Prisoner Transportation

3-13-1 Prisoner Transportation

Sec. 3-13-1 Prisoner Transportation.

POLICY:

- (a) The Communications Center will be notified as to any prisoner transport. The transporting Officer will keep the Communications Center apprised as to any status changes and/or delays enroute. The Officer will notify the Communications Center upon arrival.
- (b) Understanding that an Officer will conduct a search prior to prisoner transport, Officers will again search prisoners upon arrival to a confinement facility.

PROCEDURES:

(a) **General Precautions.**

- (1) Any person in custody to be transported in a Department police car may be searched prior to entering the car. The search will start from the person's head and move systematically downward over the body all the way to the person's feet, making contact with all body surfaces in a professional manner. Officers will use the back or inner blade of their hand to search sensitive body areas on both males or females. Any contraband or items which could be used as a weapon will be taken from the person before entering the car.
- (2) In dealing with situations involving the opposite sex, it is up to the Officer involved to determine whether another Officer, or an Officer of the opposite sex, is needed. One patrol officer may transport a female or male inside or outside the City of Stanley but must notify the Communications Center of their destination and mileage. The Communications Center shall log the time, mileage and destination.

(b) **Males in Custody.**

- (1) The Officer shall handcuff the prisoner's hands pursuant to Section 3-6-4.
- (2) The Officer may place the prisoner in the right rear seat. The Officer shall use the seat belt to secure the prisoner.

(c) **Females in Custody.**

- (1) **Equal Application of the Law.** No Officer shall accord a female any special consideration or favor, or fail to take action against any female for any act or omission for which the Officer would arrest or place in custody a male who committed the same act or omission.
- (2) **Arrest.** When effecting a legal arrest, the Officer shall follow established procedure and policy in the same fashion for a female offender as the Officer would for a male offender in an arrest situation.
- (3) **Field Search of Arrested Female.** Male Officers should, if at all possible, request the assistance of a female to perform the search. However, should no female be available to perform the field search of the female offender in custody, the guidelines below shall be followed.
 - a. All females taken into custody shall be searched for weapons prior to transportation.
 - b. Male Officers, when searching a female offender, shall use the same techniques for searching as are used in searching a male except:
 1. Should the female be wearing a dress or skirt, the male Officer shall direct that the female, if possible, gather up the skirt or dress and draw the material tight across the legs in order to reveal the outlines of any objects secreted under the dress or skirt.
 2. Searches in the breast area shall be done with the back of the hand.
- (4) **Discovery of Possible Weapon.** Should the field search of a female offender reveal the presence of an object which could reasonably be believed to be a weapon, the searching Officer shall retrieve such item regardless of its location on the person of the female.
- (5) **Transporting Females in Custody.**
 - a. If possible, two (2) Officers should be used in the transportation of females.
 - b. Whenever a female is transported in a squad car, the Officer shall notify the Communications Center that a female is being transported, and the vehicle odometer reading at the start of the transportation and at the end of the transportation shall be given to the dispatcher.
 - c. Whenever a female is placed in custody, the Officer shall follow departmental policy on the use of handcuffs, as applicable to all persons regardless of sex.

- (6) **Violent Prisoners.** Handcuffs (double locked) and/or leg restraints will be placed on any person in custody. When needed, any individual in custody who may become violent or has already been violent can also have the knee transport strap placed on them. All person to be transported shall be seat belted in a seated upright position. When a known medical condition exists, the Officer transporting may vary from this policy so as to accommodate the medical problem but must still secure the person to prevent escape.
- (d) **Transport Outside of City.** Transporting any prisoner outside of the City of Stanley shall be done so as to convey the prisoner by the most direct route to either the detention center/jail or appropriate medical facility.
- (e) **Acceptance of Inmates to The County Jail.**
- (1) **Custody/Release to Jail.**
- a. When an Officer brings a person in custody to the County Jail, that person is not considered to now be in the custody of the County Jail until actually admitted. The Officer shall stay with the Jailer until admission has been completed or until the Jailer gives permission for the Officer to leave.
- b. If an Officer waiting at the County Jail receives a call requesting that the Officer leave to respond to another situation, the Officer shall ask the Jailer if the Officer may respond to the new call. If the Jailer indicates that the Officer cannot leave, a Sheriff's Deputy is to be dispatched to respond to the new situation until a member of the Police Department is able to arrive.
- (2) **Intoxicated Subjects.**
- a. When an Officer brings a possibly intoxicated person to the County Jail, the subject will immediately be given a preliminary breath test before the admissions process is started. Both the Jailer and the Officer shall be present as this test is being conducted.
- b. There may be situations where a subject appears to be unable to properly care for himself/herself. In such situations, the Officer will transport the subject to the designated medical facility, and the subject will need to be cleared by the hospital for subsequent release to the County Jail. If the subject has first been brought to the County Jail under such circumstances, the Officer and Jailer will discuss whether the subject will be admitted into the County Jail or be sent to the designated medical facility. If the Officer and Jailer are unable to make such a determination, a Jail Supervisor shall be consulted to make a determination.
- (3) **Admissions Form.** Officers shall complete all required documents when booking an individual into the County Jail.

Title 3 ► Chapter 14

Abandoned Property

3-14-1 Abandoned Property—Vehicles

3-14-2 Disposal of Lost and Abandoned Property Other Than Vehicles

Sec. 3-14-1 Abandoned Property—Vehicles.

STATEMENT OF PURPOSE:

It is the policy of the City of Stanley Police Department that every article of property held by the Department shall be returned to its rightful owner if at all possible. Disposal of abandoned property shall be pursuant to Sections 66.0139, 117.17 and 342.40, Wis. Stats., this Chapter, and Title 10, Chapter 5 of the City of Stanley Code of Ordinances. Abandoned vehicles shall be impounded and its contents.

Law enforcement Officers have authority to tow abandoned vehicles under the following circumstances:

- (a) When any vehicle is left unattended upon any bridge, viaduct, causeway, subway, tube or tunnel where such vehicle constitutes an obstruction to traffic.
- (b) When a vehicle upon a street or highway is disabled as to constitute an obstruction to traffic and the person(s) in charge of the vehicle is, by reason of physical injury, incapacitated to such an extent as to be unable to provide for its custody or removal.
- (c) When any vehicle is left unattended upon a street or highway and is parked illegally and constitutes a definite hazard or obstruction to the normal movement of traffic.
- (d) When a vehicle is found being driven upon the street or highway and is not in proper condition to be driven.
- (e) When a vehicle is left unattended upon a street or highway continuously for more than seventy-two (72) hours and may be presumed to be abandoned.
- (f) When the driver of a vehicle is taken into custody by an Officer and the vehicle would be left unattended upon the street or highway.

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- (g) When the removal is necessary in the interest of public safety because of fire, flood, storm, snow or other emergency reasons.

POLICY:

Abandoned Motor Vehicles (342.40):

- (a) Definition of abandoned motor vehicle (342.40[1]): "Whenever any vehicle has been left unattended without the permission of the property owner for more than forty-eight (48) hours in cities of the first class and in other cities, villages and towns, a period set by the governing body thereof [seventy-two (72) hours in the City], the vehicle is deemed abandoned and constitutes a public nuisance."
- (b) Any Officer of this Department who discovers any motor vehicle, trailer, semi-trailer, or mobile home on any public highway or private property which has been abandoned shall complete a report and the officer shall have the vehicle towed to the Department impoundment area, and held for a minimum of fifteen (15) days after certified mail notice has been sent to the owner and lien holders of record to permit reclamation of the vehicle:
 - (1) Any party attempting to reclaim a vehicle under this Section must provide evidence of their interest in the matter and proper identification.
 - (2) Any party, reclaiming a vehicle herein, shall be required to pay all costs of impoundment and towing.
- (c) If any vehicle is found to be abandoned and it is deemed by the Chief of Police that it is not stolen or otherwise wanted for evidence or other reason, and that the costs of impoundment and towing will exceed its value, the vehicle may be junked or sold prior to the expiration of the impoundment period.
- (d) Public notice of the sale of abandoned vehicles shall be made pursuant to ordinance by either auction or sealed bid, or through public notice posted at the office of the City Clerk-Treasurer and Police Department and by appropriate Public Notice pursuant to Chapter 985, Wis. Stats.

PROCEDURES:

- (a) **General Procedures.** Department members shall follow the following procedures in processing abandoned vehicles:
 - (1) Officers shall complete an Incident Report on the vehicle.
 - (2) On private property a vehicle must be left standing for seventy-two (72) hours before it can be declared abandoned. On any street, highway or public property any vehicle

left for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned can be declared abandoned. The Police Department normally first issues a notice indicating a violation unless safety concerns necessitate immediate removal.

- (3) The Chief of Police or a designee are the only Department members who can declare a vehicle abandoned and order it towed away.
 - (4) All towing of abandoned vehicles will be done by a designated facility/service with proper storage.
 - (5) The Chief of Police, or a designee, is to determine the value of the abandoned vehicle. If the cost of towing and storage would exceed the value, the vehicle may be junked provided the vehicle is not stolen or otherwise wanted for evidence or other reason. All substantially complete vehicles in excess of nineteen (19) model years of age shall be disposed of in accordance with Subsection (f) below. Whoever determines a vehicle is to be junked prior to notification of the owner or lienholder will note the reason on the Incident Report.
- (b) **Abandoned/Stolen Vehicles.** When faced with an abandoned/stolen vehicle situation, the Officer shall:
- (1) Have the dispatcher perform a National Crime Information Center (NCIC) check to determine the status of the vehicle and shall also:
 - a. Decide if the vehicle is to be held for evidentiary purposes.
 - b. If the vehicle is not to be held for evidentiary purposes, contact the owner.
 - c. If vehicle is determined stolen, have it towed to an impoundment area.
 - (2) Inventory all property found within abandoned/stolen vehicles. The record shall include:
 - a. Year and make of vehicle.
 - b. Vehicle or engine number.
 - c. Body style and color.
 - d. License number (including state and expiration year).
 - e. Place of abandonment.
 - f. Time and date taken into custody.
 - g. Location where vehicle is held.
 - h. Type of property found in vehicle, including serial number.
- (c) **Vehicle Towing.**
- (1) Officers of this Department shall have any unattended and apparently abandoned vehicle, which is a hazard to the safe flow of traffic, towed to a designated departmental impoundment area.

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- (2) All vehicles towed under this policy shall be inventoried as prescribed by Department Policy on Searches, Seizures and Motor Vehicle Inventories. Such inventory shall be completed at the impoundment center.
 - (3) If the value of the vehicle exceeds the towing and storage charges, then a certified mail notice will be sent to the owner and lienholder of record to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model, and serial number of the abandoned motor vehicle, the place where the vehicle is being held, and shall inform the owner and any lienholders of their right to reclaim the vehicle. The vehicle shall be retained in storage for a minimum of thirty (30) days after the certified mail notice has been sent to the owner and any lienholder. After ten (10) days the City may sell it as provided in the City of Stanley Code of Ordinances.
 - (4) The City shall notify the Wisconsin Department of Transportation (DOT) of the sale or disposal of a vehicle within five (5) days on the MVD 2419 form supplied by DOT.
- (d) **Physically Arrested Persons.** In the event the driver or owner of a vehicle is arrested, the vehicle shall be handed in the following manner:
- (1) If permission is obtained from the owner or driver and the manpower is available, the vehicle may be driven to a secured area.
 - (2) If the vehicle is illegally parked or presenting a hazard and permission is not obtained from the owner or driver, a towing service shall be called to remove the vehicle.
 - (3) The vehicle may be released to a responsible person designated by the arrestee after proper ownership has been established, provided the vehicle is not needed for evidence.
 - (4) Disposition of the vehicle shall be properly recorded at the Department.
- (e) **Unlawfully Parked Vehicles.** Vehicles parked unlawfully on streets or highways may be removed and towing charges shall be reimbursed in accordance with the Wisconsin Statutes and City ordinances.

COMMENTARY:

The legal distinction between lost and abandoned property is that abandonment implies voluntary relinquishment by an owner without an attempt to vest title in the property in another person. Since it will normally not be clear whether found property is lost or abandoned, the same procedures will apply to both cases.

Sec. 3-14-2 Disposal of Lost and Abandoned Property Other Than Vehicles.

POLICY:

- (a) Property which appears to be lost or abandoned, discovered by Officers or turned in to the Police Department by citizens, shall be disposed of according to this Section.
- (b) Lost and abandoned property will be examined by the Police Department for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the Police Department to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be turned over to the Police Department's property custodian.
- (c) No Department Officer shall keep for his or her own use property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.
- (d) The Police Department shall permit citizens to claim lost property if they can provide sufficient proof that they are rightful owners. Receipts shall be issued for all returned property.
- (e) No member of the Police Department or any other City employee shall receive any lost, stolen, abandoned or other unclaimed property from the Police Department, unless that person receives a written receipt signed by the Chief of Police, a copy of which shall remain at the Police Department.

PROCEDURES:

- (a) **Classes of Property.** All property which has been abandoned, lost or remained unclaimed for a period of thirty (30) days after the taking of possession of the same by the Department shall be disposed of as follows, except that if the property is usable for City operations, the property need not be sold at auction, but may become the property of the City.
 - (1) **Vehicles.** Vehicles shall be disposed of as set forth in the applicable provisions of Section 3-14-1.
 - (2) **Intoxicating Liquor and Fermented Malt Beverages.** Intoxicating liquor and fermented malt beverages shall be destroyed.
 - (3) **Firearms, Ammunition and Explosives.** Firearms or ammunition shall be returned to their rightful owner, destroyed, or transferred to the State Crime Laboratory; the Division of Law Enforcement Services of the Department of Justice; the Federal

Bureau of Investigation; or the Alcohol, Tobacco and Firearms Bureau of the U.S. Department of the Treasury or disposed of according to current statutory procedures. Any explosive, flammable, or other material proving a danger to life or property may be disposed of immediately upon taking possession thereof. The Chief of Police is authorized to determine the disposal procedure, provided, however, that any such procedure will attempt to return to its rightful owner any such material which appears to have been stolen.

- (4) **Other Property with a Fair Market Value of One Hundred (\$100.00) Dollars or Less.** An item of property with a fair market value of one hundred (\$100.00) dollars or less shall be destroyed or sold at public auction or be retained for Department use. Perishable property which deteriorates, to a fair market value of less than one hundred (\$100.00) dollars, shall be destroyed.
- (5) **Other Property with a Fair Market Value of Over One Hundred (\$100.00) Dollars.** An item of property with a fair market value of more than one hundred (\$100.00) dollars shall be sold at public auction or by sealed bid or be retained for Department use.
- (6) **Illegal Property.** Property which cannot be legally possessed shall be destroyed.

(b) **Disposal by Auction or Sealed Bid.**

- (1) Whenever any property under this Section is sold by public auction or sale by sealed bid, such auction or the awarding of bids shall be preceded by a Class 2 notice describing the property and arranging the time and place for the auction or bid submission; such notice shall be published in the official City newspaper. The property auctioned or sold by sealed bid shall be sold in "as is" condition to the highest bidder. No sale or auction shall occur until the Chief of Police has determined that the property has no value to any probable investigation or legal proceeding. The department head responsible for the property shall determine the time in which the successful bidder shall remove the property. In the event the property is not removed within that time, the property shall revert to the City and the amount of the bid be forfeited to the City.
- (2) Any City official selling property under this Section shall maintain for two (2) years an inventory of any property not disposed of by auction or sale by sealed bid and shall include a record of the date and method of disposal, any payment received for the property, and the name and address of the person acquiring the property.

- (c) **Lost Property.** Property which is found by persons and delivered to the Police Department for the purpose of locating the former owner shall not be considered abandoned or unclaimed under this policy until thirty (30) days after mailing to the person finding the property a notice that he/she may claim ownership of said property. The Chief of Police shall determine what portion of the property or its value, if any, shall be given to the finder.

This provision shall not apply to any City employee finding property in the regular course of his/her employment.

Title 3 ► Chapter 15

Administrative Notification

3-15-1 Administrative Notice Procedures

Sec. 3-15-1 Administrative Notice Procedures.

PROCEDURES:

- (a) **Administrative Incident Notification.** The Chief of Police shall be notified anytime an emergency occurs inside the City of Stanley Police Department building.
- (b) **Operations Incident Notification.** The Chief of Police should be notified anytime there is a significant incident occurring within the City of Stanley. The Police Chief may or may not choose respond to the scene. Some of the incidents that notification should be made are: Fatal or near fatal traffic accidents, homicides, any unusual types of deaths, shootings, shootings involving Officers, large fires, hostage situations, fatal boating accidents, and any type of incident that attracts large media interest. This is not a complete list of incidents when notification should be made. When there is a question as to when notification should be made, the Officer shall make the notification and the Chief of Police will decide whether to respond.

Title 3 ► Chapter 16

Patrol Vehicle Recorders

3-16-1 Patrol Vehicle Recorders

Sec. 3-16-1 Patrol Vehicle Recorders.

POLICY:

- (a) The primary purpose of patrol vehicle mobile video recorders (i.e., squad camcorders) is to assist Officers in obtaining evidence of traffic violations and/or crimes. It is recommended that all Officers become familiar with the equipment so that they may be able to operate the recording devices properly.
- (b) The recordings (i.e., SD cards, CDs, DVDs, video tapes, flash drives, etc.) and the content on the recordings belong to the Department and can not be copied, sold, given away, shown to anyone, or used for non-law enforcement or personal reasons without authorization from the Chief of Police or his/her designee.

PROCEDURES:

- (a) Officers shall inspect all recording equipment prior to its use on each shift for any defects or problems.
- (b) Officers shall report any equipment failures to the Chief of Police and discontinue use of the equipment to prevent any further damage.

Title 3 ► Chapter 17

Emergency Detentions – Chapter 51

3-17-1 Chapter 51 Commitments

Sec. 3-17-1 Chapter 51 Commitments.

POLICY:

- (a) Chapter 51, Wis. Stats., (Wisconsin Mental Health Act) governs the ways a person can be committed to a hospital or treatment facility involuntarily. An emergency detention occurs when a law enforcement Officer takes a person or a child into custody because their recent actions pose a significant risk of harm to self or others.
- (b) Chapter 51, Wis. Stats., gives law enforcement Officers the authority to place children into secure physical custody when exhibiting dangerous behavior, including, but not limited to attempted or threatened suicide. This does not mean that the person or a child is under arrest. In such instances, the Officer at the scene may take the party into custody pursuant to Chapter 51, Wis. Stats., if an adult is involved, or Chs. 48 or 938, Wis. Stats., if a child is involved.
- (c) The Officer shall first make a preliminary assessment of the individual and circumstances involved. If the Officer believes that sufficient reasons exist to warrant emergency detention, the Officer shall contact Crisis Diversion Services. After such consultation, Crisis Diversion Services shall advise the Officer that either the facts do not warrant an emergency detention at that time, that Crisis Diversion Services will prepare a safety plan, or that the Officer should proceed with an emergency detention.
- (d) If an emergency detention will be the course of action, a member of the diversion services team will then contact the appropriate medical facility. If the Officer takes the party into custody and proceeds with the emergency detention process, the Officer shall transport the individual or escort the rescue unit to a local hospital. The appropriate County department of social services' Crisis Diversion Services team shall be notified. The Officer shall verify with the hospital attending physician whether there is a need for the Officer to remain there. If the physician does not need the Officer to continue to be present, the Officer may then return to the municipality. If the doctor determines that there is a need for the Officer's

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presence (example: belligerent attitude of the patient), the Officer shall remain at the hospital.

- (e) Individuals who are detained will be informed of their rights under the law, including their right to an attorney, their right to remain silent, and their right to contact family members. By the time of the subsequent probable cause hearing, the person must be represented by an attorney.

DEFINITIONS:

For purposes of involuntary commitment, "mental illness" is defined in Sec. 51.01(13)(b), Wis. Stats., as "a substantial disorder of thought, mood perception, orientation or memory which grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life, but does not include alcoholism."

PROCEDURES:

- (a) **Involuntary Admission.** There are four (4) ways a person can be admitted to a hospital against his/her will (involuntarily):
 - (1) **Statement of Emergency Detention.** A law enforcement Officer or a County department of services Juvenile Intake worker (if available) has the authority to execute a Statement of Emergency Detention. The Statement of Emergency Detention is based upon the observations of the law enforcement Officer and he/she must have cause to believe that the subject is suffering from a mental illness, drug dependency, or is developmentally disabled and presents a substantial probability of harm to self or others. [See Sec. 51.15, Wis. Stats.].
 - (2) **Treatment Director's Hold.** If the subject individual is already a voluntary patient of the treatment facility and is attempting to leave against medical advice and/or the grounds exist for an emergency detention, the treatment director of the facility may detain the subject individual at the facility.
 - (3) **Three-Party Petition.** Three (3) adults with knowledge of the subject individual's behavior and a belief that the subject suffers from a mental illness and presents a substantial probability of harm to self or others may sign a petition asking the court to detain the individual in a treatment facility.
 - (4) **A Fifth-Standard Petition.** A Fifth Standard Petition is similar to the Three-Party Petition but the subject individual must have a history of receiving treatment, and an inability to understand the benefits of treatment while suffering from mental illness.

Under such circumstances, generally there is not a requirement of a substantial probability of imminent harm.

(b) **Probable Cause Hearing.**

- (1) **Hearing; Timeframe; Location.** Within seventy-two (72) hours of the time of detention, exclusive of Saturday, Sunday or holidays, a hearing shall be held before a judge or court commissioner to determine whether there is sufficient evidence to continue to detain the individual and to order further examination of the individual. Probable cause hearings will likely be held at the courthouse; occasionally such hearings will be held at the hospital or by video conferencing, but only if special permission to do so is granted by the court.
- (2) **Determination.** If the court makes a finding that probable cause exists it will order continued detention at a treatment facility, and will order the subject individual to be examined by a doctor, usually a psychiatrist or a psychologist, and the court may order the involuntary administration of psychotropic medication. If the court finds that probable cause does not exist, the petition will be dismissed.

(c) **Medical Examination.**

- (1) **Examination Recommendations.** As part of this process, the court will appoint one (1) or more doctors to examine the subject individual being committed. Typically this examination will consist of an interview, a review of medical records, and a review of collateral information which may include the statement of emergency detention and any accompanying reports. The treatment team will then make recommendations for treatment and determine whether further involuntary treatment is necessary. These recommendations should address whether the subject individual suffers from a mental illness, whether the person presents a substantial probability of harm to self or others, or whether or not the person is competent to refuse psychotropic medication; the treatment team will also make a recommendation as to the placement, and whether such placement should be in a locked or unlocked facility.
- (2) **Possible Outcomes.** The treatment team communicates its recommendations to the appropriate County social services department. Possible outcomes can include:
 - a. **Discharge From the Treatment Facility.** The subject individual has been assessed to be stable and safe to return to the community. If he/she requires follow up mental health treatment, the subject individual will need to do this on a voluntary basis and his/her needs will be best met by outpatient providers.
 - b. **Voluntary Inpatient Hospitalization.** The subject requires further assessment or mental health treatment is not ready for discharge to the community. The subject individual is willing to stay in the hospital and receive treatment on a voluntary

basis. In the case of a child, the child's parent must also consent to this treatment.

- c. **Court Intervention.** The child requires court intervention to comply with recommended mental health treatment.
- (d) **Court Intervention.** If the examining team recommends court intervention, one (1) of the following outcomes will occur:
- (1) **Settlement Agreement.** In this type of court order, a child formally agrees to comply with all mental health treatment recommendations and other stated rules for up to ninety (90) days. Compliance with the court order is monitored by the appropriate County social services department. Compliance for ninety (90) days results in dismissal of the court action; noncompliance may result in the continuance of the court process for involuntary treatment.
 - (2) **Probable Cause Hearing.**
 - a. Under this outcome, a hearing is held to determine whether further involuntary treatment is necessary and whether or not the person will be committed to the appropriate County social services department. At this hearing evidence is presented to the court to determine whether there is probable cause to believe that the subject individual is mentally ill and in need of further involuntary treatment to ensure his/her safety. This court procedure is used when a subject individual with mental illness continues to refuse treatment and requires protection to remain safe.
 - b. The County social services department makes recommendations regarding the best course of action. These recommendations must be approved by the court. Based on the recommendations of a psychiatrist or psychologist, the judge decides on when the initial treatment shall occur. After the initial treatment, the County social services department and the treatment team determine additional treatment options.
 - c. The subject individual will be provided with legal counsel for such hearings.
 - d. Representatives of the County social services department attend this hearing and are available to answer questions.
 - e. At the hearing, the County social services department must prove that the person being committed is mentally ill, presents a substantial probability of harm to himself/herself or others, and is treatable. If the County is able to prove its case, the person will be placed under commitment for a period of time of up to six (6) months. The court will order placement of the individual in either an inpatient or outpatient facility. Legally, the placement of the person is governed by the "least restrictive" standard, depending on the person's needs. The court will also make a determination as to whether or not the person is competent to refuse

psychotropic medication. If the person is not competent to refuse psychotropic medication, the court may order the involuntary administration of the medicine.

- f. This procedure is also used with subject children; parents will be notified by the court regarding court hearings.
- g. If the subject individual fails to follow the treatment conditions, it may result in a change of placement to a more restrictive setting.
- h. Commitment will continue until the person's treatment team and/or the court makes a determination that it is unlikely that the person will present a substantial probability of harm, if treatment were withdrawn. With additional court hearings, it is possible to extend commitment past the initial six (6) month time period.

Title 3 ► Chapter 18

Sex Offender Registry Policy

3-18-1 Sex Offender Registry

Sec. 3-18-1 Sex Offender Registry.

STATEMENT OF PURPOSE:

The purpose of this policy is to provide a method for sex offender registration and community notification to address the concerns of the public regarding the location of convicted sex offenders who may be a risk for committing further offenses. Further, the intent of the policy is to enhance the distribution of information between law enforcement agencies, and between law enforcement and non-criminal justice agencies. By sharing relevant information about sex offenders, law enforcement can develop strategies for the detection and prevention of crime.

POLICY:

It is the policy of the City of Stanley Police Department to ensure that upon notification from the Wisconsin Department of Corrections (DOC) of the release of a sex offender into the community, proper notification of the release be made to public and private organizations and agencies in the interest of public protection.

COMMENTARY:

Sex offenders pose a high risk of engaging in sex offenses even after being released from incarceration or commitment. Protection of the public from sex offenders is a paramount governmental interest. Persons found to have committed a sexual offense have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Release of relevant information about sex offenders to law enforcement agencies, public and private entities and the general public will further the governmental interests of public safety and enhance strategies for crime detection and prevention.

DEFINITIONS:

The following definitions shall be applicable in this Chapter:

- (a) **Special Bulletin Notifications.** Written notification process giving law enforcement detailed information from DOC on a specific offender who is about to be released from confinement to their geographical area and who may pose significant risk to the community.
- (b) **Relevant Offender Information.** Information that is deemed necessary to protect the public concerning a specific person required to register under the law. Excludes victim identity and juvenile offender information which can only be released to law enforcement and corrections officials.
- (c) **Sex Offender.** A person convicted, adjudicated or committed under any felony sexual assault, or convicted of an offense where the court has determined that the offense was "sexually motivated."

PROCEDURES:

- (a) **Sex Offender Registry.** Released sex offenders on supervision are required to report to local law enforcement officials (by appointment) for face-to-face registration within ten (10) days of their release or placement to community supervision and whenever they move to another law enforcement jurisdiction. Offenders not on supervision are required to update information on an annual basis with DOC, but are not required to meet face-to-face with local law enforcement. If the offender is on field supervision for being a "sexually violent person," information must be updated whenever changes occur and every ninety (90) days.
- (b) **Special Bulletin Notification.** Special Bulletin Notification will be provided by DOC to all law enforcement agencies within one (1) month of an inmate's release from prison, mental health or juvenile confinement. Bulletin notification will be distributed to all enforcement jurisdictions in the county and jurisdictions of the offender's planned residence, employment or school enrollment. The DOC will send an administrative message to involved law enforcement agencies immediately prior to the offender's release to provide verification of the offender's exact residence address.
- (c) **Sex Offender Registry Inquiry and Access.**
 - (1) DOC's Sex Offender Registration Program creates an informational database that is available to law enforcement through the CIB/TIME system inquiry. Investigatory inquiries on "offender profiling" and "offense pattern" information are available for every registered sex offender for investigatory purposes only. When making an investigatory inquiry, requests must be made in writing, on official letterhead or administrative message teletype, or by telephone to the DOC Sex Offender Registration Program (SORP), (608) 261-6780 or 6781. All inquiries must include

agency ORI#, specific information requested on the Investigatory Inquiry Worksheet, and agency contact person.

- (2) All telephone inquiries will be followed up with a return phone call by SORP staff to verify the law enforcement request.
- (3) Release of information will be in the form of official letter, fax or teletype to the requesting law enforcement agency.
- (4) Public inquiry may be made to DOC in writing or by calling 1-800-398-2403. Public inquiries to law enforcement may be referred to the toll free access number.
- (5) Public inquiry representing a neighborhood watch program will be directly provided a copy, or referred to the DOC SORP to obtain a copy of the Neighborhood Watch Program Inquiry form. Once completed, a law enforcement official will need to verify that the requester is representing an approved and recognized neighborhood watch program. The request will not be processed by the DOC SORP without law enforcement verification.

(d) **Sex Offender Intelligence Management.**

- (1) It will be the responsibility of the City of Stanley Police Department to maintain individual files on all known sex offenders who reside in the City of Stanley.
- (2) Each sex offender file will have a copy of the Special Bulletin Notification (if issued), all Face-to-Face Registration reports, all field notes, current photograph, and any other relevant report or information source.
- (3) Sex offenders not on supervision and not required to meet face-to-face with law enforcement will be inquired through the on-line CIB/TIME database for current information on a quarterly basis. When the unsupervised sex offender moves from the City of Stanley, the Chief of Police will contact the new jurisdiction and inform them of the sex offender's relocation. Accordingly, copies of all pertinent intelligence reports will be sent to the jurisdiction where the sex offender resides.
- (4) When a sex offender is on supervision and required to meet face-to-face with a law enforcement agency after moving into a new jurisdiction, the Chief of Police will contact the former law enforcement agency of jurisdiction for the purpose of making notification of the move and for exchanging intelligence information.

Title 3 ► Chapter 19

Landlord–Tenant Disputes

- 3-19-1** Landlord–Tenant Disputes
- 3-19-2** Criminal Trespass to a Dwelling Complaints

Sec. 3-19-1 Landlord–Tenant Disputes.

POLICY:

- (a) **General Policy.** In handling landlord-tenant disputes, the Officer shall intercede to preserve the peace and to prevent possible harm. The Officer shall direct the parties to agencies or persons providing information and assistance relating to problems such as liens, trespass, property damage, and evictions.
- (b) **Complaints Classified as Landlord-Tenant Disputes.** There are five (5) situations in which complaints might arise over landlord-tenant relations and which might call for Officer intervention:
 - (1) Liens by landlord.
 - (2) Trespassing by landlord.
 - (3) Damage by tenant.
 - (4) Eviction.
 - (5) Lock-out by landlord and break-in by tenant.

PROCEDURES:

- (a) **Liens.**
 - (1) When confronted with a lien dispute, the Officer shall first make an attempt to calm the parties involved by encouraging presentation of both sides of the dispute. The Officer should evaluate what is said or claimed to determine whether the matter is civil or criminal.
 - (2) If the matter is civil in nature, both parties should be told that they have adequate recourse through court action and that the Department cannot officially participate.

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- (3) As an impartial observer, the Officer may attempt to mediate the dispute without giving legal advice.

(b) Trespassing by Landlord.

- (1) An Officer may be called to a situation in which a landlord has entered a tenant's room without the tenant's permission. The tenant may demand that the Officer arrest the landlord for illegal entry or trespass. In such situations, the Officer should remind the landlord that the tenant, whether or not he/she is in arrears in his/her rent, is entitled to the right of quiet possession.
- (2) The landlord should be informed that he/she does not have the right to enter premises in the possession of the tenant, unless:
 - a. The landlord has the tenant's permission;
 - b. The landlord is entering to enforce an expressed lien; or
 - c. The landlord is entering to preserve or protect the property during the tenant's absence.
- (3) Unless the facts clearly indicate a criminal violation, official action in such complaints should be avoided, unless removal of a party from the premises is required under Sec. 943.14, Wis. Stats. [See Section 3-19-2.]. The Officer should attempt to reason with the parties involved. Landlords may be warned of possible criminal and civil penalties and tenants may be advised to seek the aid of an attorney. In aggravated situations, the problem may be temporarily settled by completing a complaint report.

(c) Damage by Tenant.

- (1) The Officer may be called by a landlord when a tenant has damaged the property he/she occupies. The landlord may have cause for civil action to recover the loss brought about by the damage and should be advised to consult an attorney.
- (2) If the landlord insists that the damage was done willfully and maliciously, the Officer shall complete a complaint report for the purpose of determining the possibility of criminal prosecution.

- (d) Eviction.** A landlord may contact the Department to seek aid in evicting a tenant, or a tenant may complain that he/she is unlawfully being evicted. When called to the scene of such a dispute, the Officer shall make no attempt to assist the landlord in evicting his/her tenant from the premises. Rather, the Officer shall attempt to reason with the opposing parties and ask them to consult with attorneys. [See Section 3-1-6.]

- (e) Lock-out by Landlord—Break-in by Tenant.** If a tenant complains that he/she has been locked out of his/her dwelling by the landlord, the Officer is not to inform the complainant

that he/she can break into the room. Rather, the Officer shall inform the tenant that he/she should contact an attorney, as he/she may have recourse through civil litigation.

Sec. 3-19-2 Criminal Trespass to a Dwelling Complaints.

POLICY:

This Chapter establishes policies and procedures complying with Sec. 175.403, Wis. Stats., which requires that all law enforcement agencies have a written policy regarding the investigation of complaints alleging a violation of Sec. 943.14, Wis. Stats., pertaining to criminal trespass to a dwelling. Sec. 175.403(2), Wis. Stats., mandates that a law enforcement officer who has probable cause to arrest a person for a violation of Sec. 943.14, Wis. Stats., remove the subject from the premises.

DEFINITIONS:

- (a) **Criminal Trespass to a Dwelling.** Whoever intentionally enters the dwelling of another without the consent of some person lawfully on the premises, under circumstances tending to create or provoke a breach of the peace. [Sec. 943.14, Wis. Stats.]
- (b) **Dwelling Unit.** A structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one (1) or by two (2) or more persons maintaining a common household, to the exclusion of others. [Sec. 943.13(1e)(ar), Wis. Stats.]. It should be noted that some courts have ruled that an auxiliary or secondary building on the dwelling premises, such as a garage or storage building, may fall within the scope of what is considered to be a dwelling.

PROCEDURES:

(a) **Officer Responses.**

- (1) All complaints of trespass shall be responded to by the City of Stanley Police Department and will be fully investigated.
- (2) Violations of Sec. 943.14, Wis. Stats., can include occupied and unoccupied dwelling units.
- (3) Tenants and landlords are not exempt under Sec. 943.14, Wis. Stats.:
 - a. A tenant who is present on the property after a properly served court eviction or court-mediated agreement may be in violation of the prohibitions contained in Sec. 943.14, Wis. Stats.
 - b. A landlord entering a property without giving proper notice or in the absence of exigent circumstances may be in violation of the prohibitions contained in Sec. 943.14, Wis. Stats.

(b) Enforcement Actions.

- (1) The investigating Officer shall consider the totality of the circumstances as part of the complaint investigation. In considering the totality of the circumstances, complaint actions under Secs. 175.403(2) and 943.14, Wis. Stats., resulting in removal of a subject from the premises are not intended to serve as a substitute for regular eviction proceedings. As a general consideration, an Officer would likely not have probable cause to remove a subject from the property as a trespass matter if the subject has a valid landlord-tenant relationship with the complainant in place, such as a week-to-week or month-to-month lease.
- (2) When considering an enforcement action, the Officer shall take into consideration the complainant's desire for enforcement. Recent changes to state law no longer require the trespass complainant to be present on the premises when the trespass occurs if the trespass is under circumstances tending to create or provoke a breach of the peace.
- (3) If probable cause existing of a violation of Sec. 943.14, Wis. Stats., the Officer shall, at a minimum, remove the violating individual. Officers may exercise discretion based on their investigation and take appropriate enforcement actions. Note that while the statute requires an Officer who develops probable cause to arrest a subject for a trespass violation under Sec. 943.14, Wis. Stats., it does not require the Officer to make an arrest after removal of the subject – that is left to the Officer's discretion.
- (4) In the event the violator refuses to leave the premises and must be removed by use of force by the Officer, the Officer shall take appropriate enforcement action. The Officer shall document the force used to remove the subject.

Title 3 ► Chapter 20

Neighborhood Disputes

3-20-1 Boundary Conflicts

Sec. 3-20-1 Boundary Conflicts.

PROCEDURES:

- (a) When the Officer is called to a dispute in which the complainant and his/her neighbor are having a disagreement over the boundary line between their property, the Officer shall have them check and compare their title insurance policies, noting any variances in the legal descriptions of the separate properties. If this is not satisfactory, the Officer may suggest that the parties contact a local real estate office which may have a reliable tract map of the district and where the broker could advise them about their property limits. If these suggestions fail to produce a solution to the dispute, the Officer should advise the participants to contact their attorneys for legal advice or a surveyor to verify property lines. The Officer should discourage any arrests for trespassing in boundary disputes.
- (b) Situations may also exist wherein one neighbor has erected a fence and the other neighbor has destroyed it or knocked it down, claiming it was on his/her property. In this situation the Officer is not to make an arrest. Rather, a complaint report should be made out. The party erecting the fence is solely responsible for verifying legal property lines.

Title 3 ► Chapter 21

Identity Theft

3-21-1 Identity Theft

Sec. 3-21-1 Identity Theft.

POLICY:

The purpose of this policy is to provide employees with protocols and procedures for accepting, recording, and investigating the crime of identity theft.

COMMENTARY:

Identity theft is one of the fastest growing and most serious economic crimes in the United States for both financial institutions and persons whose identifying information has been illegally used. Identity theft can also be used by terrorists, organized crime, and others who are attempting to evade the law to their advantage. The City of Stanley Police Department shall take those measures as are necessary to respond to criminal complaints, assist victims in contacting other relevant investigative and consumer protection agencies and work with other federal, state and local law enforcement and reporting agencies to identify perpetrators.

DEFINITIONS:

"Identity theft" is the wrongful use of another person's identifying information without that person's consent or knowledge, such as the improper use of a credit card, social security number, driver's license, etc., to commit financial or other crimes. Identity theft is generally a means for committing other offenses such as, but not limited to, fraudulently obtaining financial credit or loans.

PROCEDURES:

- (a) **Legal Prohibitions.** Identity theft is punishable under federal law "when a person knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, any unlawful activity that constitutes a felony under applicable state or local law." [18 U.S.C. 1028(a)(7)].

- (b) **Taking Crime Reports.** All sworn law enforcement personnel are authorized to take crime reports on identity theft. Recording all relevant information and data in such reports is essential to further investigation. Therefore, in responding to identity theft situations, Officers should:
- (1) Fully record information concerning criminal acts that may have been committed by illegally using another's personal identity as covered by state and federal law.
 - (2) Classify as identity theft fraudulent acts committed against an individual when there is evidence that the following types of unauthorized activities have taken place in the victim's name:
 - a. Charges on credit cards, debit cards or ATM cards.
 - b. Credit card useage or checks written against their account.
 - c. Credit card accounts opened or account addresses changed.
 - d. Establishment of a line of credit at a store or obtaining a loan at a financial institution.
 - e. Goods and services purchased in their name.
 - f. Gaining access to secure areas.
 - g. Computer fraud activity.
 - (3) Obtain or verify as appropriate identifying information of the victim to include date of birth, social security number, driver's license number, other photo identification, current or most recent prior addresses, telephone numbers, email addresses or passwords used to access electronic sites.
 - (4) Document the nature of the fraud or other crime committed in the victim's name.
 - (5) Determine what types of personal identifying information may have been used to commit these crimes (i.e. social security number, driver's license number, birth certificate, credit card numbers and state/institution of issuance, etc.) and whether any of these have been lost, stolen or potentially misappropriated.
 - (6) Document any information concerning where the crime took place, the financial institutions or related companies involved and the residence or whereabouts of the victim at the time of these events.
 - (7) Determine whether the victim authorized anyone to use his/her name or personal information.
 - (8) Determine whether the victim has knowledge of or belief that a specific person or person(s) have used his/her identity to commit fraud or other crimes.
 - (9) Determine whether the victim is willing to assist in the prosecution of suspects identified in the crime.
 - (10) Determine if the victim has filed a report of the crime with other law enforcement agencies and whether such agencies provided the complainant with a report number.
 - (11) If not otherwise provided, document/describe the crime, the documents or information used, and the manner in which the victim's identifying information was obtained.

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- (12) Forward the report through the chain of command to appropriate investigative Officers, and, as appropriate if it appears to have national security implications, to intelligence agencies and federal law enforcement agencies.
- (c) **Assisting Victims.** Officers taking reports of identity theft should take those steps reasonably possible to help victims resolve their problem. This includes providing victims with the following suggestions where appropriate:
- (1) Contact the Federal Trade Commission (FTC) at 1-877-IDTHEFT, the federal agency which acts as the nation's clearinghouse for information related to identity theft crimes for assistance from trained counselors in resolving credit-related problems.
 - (2) Cancel each credit and charge card and request new cards with different account numbers.
 - (3) Contact the fraud departments of the three (3) major credit reporting agencies and ask them to put a fraud alert on the account and add a victim's statement requesting creditors to contact the victim before opening new accounts in his/her name. The victim should also request copies of his/her credit report. The three credit reporting agencies are:
 - a. Equifax (1-800-525-6285);
 - b. Experian (1-888-397-3742); and
 - c. Trans Union (1-800-680-7289).
 - (4) If bank accounts are involved, report the loss to each financial institution, cancel existing accounts, and open new ones with new account numbers. If deemed necessary, place stop payments on outstanding checks and contact creditors to explain.
 - (5) If a driver's license is involved, contact the state motor vehicle department. If the driver's license uses a social security number, request a new driver's license number. In such cases, also check with the Social Security Administration to determine the accuracy and integrity of the victim's account.
 - (6) The victim should change the locks on his/her house and vehicles if there is any indication that these have been copied or otherwise compromised.
- (d) **Investigations.** Investigations of identity theft shall include, but not be limited to, the following actions where appropriate:
- (1) Review the crime report and conduct any follow-up inquiries of victims or others as appropriate for clarification/expansion of information.
 - (2) Contact any other involved or potentially involved law enforcement agencies for collaboration and avoidance of duplication. These agencies include, but are not limited to:
 - a. Federal law enforcement agencies such as the U.S. Secret Service, Federal Bureau of Investigation, and/or the U.S. Postal Inspection Service, as appropriate, whether or not the victim has filed a crime report with them.

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- b. Any state and/or local enforcement agency with which the victim has filed a crime report or where there is an indication that the identity theft took place.

- (e) **Community Awareness and Prevention.** Where reasonable and appropriate, Officers engaged in public education/information forums, community crime prevention and awareness presentations or similar speaking or information dissemination efforts shall provide the public with information on the nature and prevention of identity theft.

Title 3 ► Chapter 22

Concealed and Open Carry of Weapons Situations

- 3-22-1** Wisconsin Law on Concealed and Open Carry of Weapons
- 3-22-2** Police Procedures with Concealed and Open Carry of Weapons
- 3-22-3** Former Officer Carrying Concealed Weapons

Sec. 3-22-1 Wisconsin Law on Concealed and Open Carry of Weapons.

POLICY:

- (a) **General Considerations.** It is the policy of the City of Stanley Police Department to enforce all laws governing weapons possession and to respect the privileges granted by the Second Amendment of the U.S. Constitution. However, Officers are authorized to take reasonable action to protect themselves and others from potential threats. An Officer who comes into contact with a person possessing a handgun should exercise caution and good judgment, while remembering that not everyone who carries a handgun is necessarily a threat or a criminal. Whether an Officer's actions are reasonable can depend on the totality of the circumstances, such as the person's demeanor, the location, time of day or night, and other factors.
- (b) **Purpose.** The purpose of this Chapter is to establish policies and procedures for:
 - (1) Enforcing the concealed carry laws of the State of Wisconsin; and
 - (2) Contacts with persons who are, or thought to be, armed.

DEFINITIONS:

The following definitions shall be applicable in this Chapter:

- (a) **Illegal Weapon.** Any weapon that is possessed contrary to law.
- (b) **Open Carry.** A knife, handgun, rifle or shotgun in plain view while in a holster or sling. Carrying any weapon in the hand is considered "brandishing" and is not permissible. A concealed carry license is not required for open carry.

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- (c) **Schools.** Refers to any public or private school in the City of Stanley, and any future public, parochial or private school that provides educational programming for grades 1-12. [Secs. 948.605(1)(b) and 948.61(1)(b), Wis. Stats.].
- (d) **Weapon (Concealed).** Any weapon that a Wisconsin license holder is authorized to carry concealed. These are a handgun, electric weapon, a knife (other than a switchblade), and a billy club. [Sec. 175.60(1)(j), Wis. Stats.].

PROCEDURES:

(a) **Open Carry – General Provisions.**

(1) **Open Carry Generally.**

- a. Except for the limitations explained below, it is not illegal per se to go armed with a knife, handgun, shotgun or rifle in plain view and without a permit. Persons openly carrying should not be detained unless an Officer has reasonable suspicion that the person has committed or is about to commit a crime.
- b. An Officer may engage the person in a voluntary conversation regarding the circumstances of the open carry. In such circumstances, the person is not obligated to answer questions, including providing identification, and must be allowed to leave.

(2) **Detention Basis.**

- a. An Officer may detain and question a person if there is a reasonable suspicion the person has committed or is about to commit a crime; known to be a convicted felon; known to be prohibited by law or court order from possessing the weapon; or engaged in threatening behavior or disorderly conduct, including openly carrying an illegal weapon or brandishing any weapon.
- b. Open carry alone does not constitute a disorderly conduct violation.
- c. An electric weapon can not be carried openly without a concealed carry license.
- d. The totality of the circumstances is an important element of what an Officer believes is reasonable suspicion.

(3) **Vehicles.** In a vehicle, keeping a loaded, uncased handgun is permitted if not concealed and is out of reach; loading a handgun in a vehicle is also permitted. Long weapons shall be unloaded and encased even if the person has a concealed carry license. [Sec. 167.32(2)(b) and (c), Wis. Stats.]. Electric weapons shall be cased and out of reach while in vehicles [Sec. 941.295(2r), Wis. Stats.].

(4) **Statutory Prohibition Areas.** It is illegal to openly carry any weapon, with or without a concealed carry license, in the building used by the City of Stanley Police Department and in any municipal courtroom while municipal court is in session.

(5) **Schools.** See Subsection (c) below.

(6) **Taverns.** See Subsection (d) below.

- (7) **City Property.** See Subsection (e) below.
 - (8) **Private Property.** See Subsection (f) below.
- (b) **Concealed Carry with License – General Provisions.**
- (1) **Licenses and Permits to be Displayed Upon Officer's Request.** A person carrying a concealed weapon shall display the concealed carry license and his/her driver's license or state ID card upon the request of an Officer acting in his/her official capacity. [Sec. 175.60(16)(a), Wis. Stats.].
 - (2) **Wisconsin Residents.** A State of Wisconsin resident must have a concealed carry license issued by this state; licenses from other states are not valid.
 - (3) **Out-of-State Residents.** An out-of-state resident may use that state's concealed carry license if approved by the Wisconsin Department of Justice. [Sec. 15.60(1)(f) and (2g)(a), Wis. Stats.]. The licensee shall be at least twenty-one (21) years of age regardless of the issuing state's policy. [Sec. 175.60(1)(g), Wis. Stats.]. Even if the out-of-state license includes a photograph, the person must still produce a separate driver's license or state ID containing a photograph that is substantially similar to those issued by the State of Wisconsin. [Sec. 175.60(1)(h), Wis. Stats.].
 - (4) **Situations Where Driver's License is Revoked/Suspended.** A driver's license or state ID card is valid as photographic identification even if the person's motor vehicle operating privilege is suspended, revoked, or disqualified and the person is a resident of the State of Wisconsin. A driver's license or ID card is not valid if expired, cancelled, denied, surrendered, or voided.
 - (5) **Offense of Carrying Concealed Weapon Without a Permit.** A person found carrying a concealed weapon without a license, or a license holder found carrying a weapon that is not authorized by law, is guilty of illegally carrying a concealed weapon.
 - (6) **Obligation to Comply With Other Laws.** Issuance of a concealed carry license does not relieve a licensee from obeying other existing laws governing the conduct of individuals and the use of weapons.
 - (7) **Impact on Other Rights.** Issuance of a concealed carry license does not confer new or additional rights to exercise self-defense or defense of others as provided by law.
 - (8) **Lawful Purposes Use Issues.** The concealed carry license law does not have a requirement that the license can only be used for lawful purposes. Consequently, a licensee who uses the weapon to commit a crime cannot also be charged with carrying a concealed weapon.
 - (9) **Prohibited Concealed Carry Areas by State Law.** It is illegal for a concealed carry licensee to carry a concealed weapon in the Police Department building or in any courtroom, including rooms used for municipal court purposes, while court is in session. [Sec. 175.60(16)(a), Wis. Stats.].
 - (10) **Schools.** See Subsection (c) below.
 - (11) **Taverns.** See Subsection (d) below.

- (12) **City Property.** See Subsection (e) below.
- (13) **Private Property.** See Subsection (f) below.

(c) **Schools.**

- (1) **On School Grounds.** It is illegal to carry a firearm or dangerous weapon on school grounds, with or without a concealed carry license, with the following exceptions:
 - a. For use in a program approved by a school in a school zone. [Sec. 948.605(2)(b)1m, Wis. Stats.].
 - b. In accordance with a contract entered into between the school and the individual or an employer of the individual. [Sec. 948.605(2)(b)1m, Wis. Stats.].
 - c. By a law enforcement officer acting in his/her official capacity. [Sec. 948.605(2)(b)1m, Wis. Stats.].
 - d. The firearm is not loaded and is encased or in a locked firearms rack that is on a motor vehicle. [Sec. 948.605(2)(b)3a and b, Wis. Stats.].
 - e. By a State-certified commission warden acting in his/her official capacity. [Sec. 48.605(2)(b)2m, Wis. Stats.].
- (2) **Within One Thousand Feet of School Grounds.** It is illegal to carry a firearm within one thousand (1,000) feet of school grounds unless the person has a valid Wisconsin concealed carry license, an out-of-state license, or is subject to one of the exceptions above for carrying on school grounds.

(d) **Taverns and Other Class B Establishments.**

- (1) **When Handguns Permissible in Taverns.** No one may possess a handgun in a tavern or any other establishment with a license to sell alcohol beverages for consumption on-site unless he/she:
 - a. Has a Wisconsin concealed carry license or valid out-of-state license;
 - b. Is a law enforcement officer;
 - c. Is a correctional officer in the line of duty;
 - d. Is a member of the U.S. armed forces or National Guard in the line of duty;
 - e. Is a private security person meeting certain criteria; or
 - f. Is a tavern licensee, owner or manager, or their authorized employee or agent.
- (2) **Alcohol Consumption Prohibited.** A person who is permitted to carry a weapon into a Class B establishment may not consume alcohol beverages on the licensed premises. [Secs. 968.605(2)(b)1,2,3m and 948.605(2)(b)1r, Wis. Stats.]
- (3) **Firearm Possession While Under the Influence.** It is a crime for any person to possess a firearm while under the influence of intoxicants [Sec. 941.20(1)(b), Wis. Stats.], which has been defined as materially impairing the ability to handle a firearm after consuming "an amount of alcohol to cause the person to be less able to exercise clear judgment and a steady hand . . ." [Wisconsin Jury Instructions – Criminal 1321].

(e) **City Property.**

- (1) **Public Parks and Buildings – Weapons May Be Permitted.** Unless designated by the City as a structure where weapons may not be carried and there is proper public notice signage, weapons are permitted in public parks and buildings, except for the Police Department building and courtrooms when court is in session, subject to the mandates in Subsections (a) and (b) above.
- (2) **City Buildings Where Weapons Are Not Permitted.** The Common Council may designate and promulgate rules designating and posting City buildings where weapons are not permitted, as permitted by the Wisconsin Statutes.

(f) **Private Property.**

- (1) **Where Carrying Permitted on Private Property.** A person may carry a weapon, including an electric weapon, whether open or concealed, in his/her own dwelling or place of business or on land that he/she owns, leases, or legally occupies, with or without a concealed carry license. [Secs. 941.23(2)(e) and 941.295(2)(d)2, Wis. Stats.]. The person may not violate other laws such as illegal discharge, reckless use, etc.
- (2) **Prohibiting Weapons on Private Property.**
 - a. The owner of private property can prohibit weapons by giving verbal notice or by the posting of signs in accordance with the Wisconsin Statutes. [Sec. 943.13(1m), Wis. Stats.].
 - b. A person who rents an apartment or condominium unit, or is visiting a condominium, can be cited for violating a notice by the apartment owner or condominium association regarding weapon possession in common areas.
 - c. The owner of a condominium unit has an ownership interest in the common areas and cannot be cited for violating a posting; it is a civil matter between the person and the condominium association.

Sec. 3-22-2 Police Procedures with Concealed and Open Carry of Weapons.

PROCEDURES:

(a) **Open Carry of a Weapon.**

- (1) **Open Carry Rights; Detention Grounds.**
 - a. Persons openly carrying a weapon should not be detained unless an Officer has reasonable suspicion that the person has committed or is about to commit a crime.

- b. Under the "Community Caretaker Doctrine", an Officer may detain and question someone whose behavior could cause a reasonable person to believe that the person is a danger to himself/herself or others. However, this behavior cannot be the mere act of carrying a weapon.
 - (2) **Officer's Request for Information Regarding Open Carry Weapon.** Although an Officer may ask such things as why the weapon is being carried, ask the person for identification, or ask to inspect the weapon, the person engaged in open carry is not obligated to answer and may not be coerced into doing so.
- (b) **Concealed Carry of a Weapon.**
- (1) **Routine Officer Inquiries About Concealed Carry.** Officers should not routinely ask if a person has a concealed carry license. This information is generally not necessary unless reasonably related to the nature of the contact.
 - (2) **Failure of Licensee to Produce Concealed Carry License.** If a person found in possession of a concealed weapon claims to have a concealed carry license but cannot produce it, the Officer may run a TIME inquiry to confirm that the person has a valid license. [Sec. 175.60(12)(b)1b, Wis. Stats.]. Some states can provide this information via NLETS inquiry through the Communications Center. The person in violation should be cited for not carrying a concealed carry permit, but the weapon should not be seized.
 - (3) **Concealed Weapon Carry Without a Permit.** A person in possession of a concealed weapon who has not been issued a concealed carry license should be cited or arrested for carrying a concealed weapon, and the weapon should be seized. This includes situations when a person cannot produce the license and a computer records check is inconclusive.
- (c) **License Data Base and Confidentiality.**
- (1) **Appropriate Data Base Use With Concealed Carry Situations.**
 - a. The license data base may only be used to confirm that a concealed carry license or law enforcement certification card produced by an individual at the request of a law enforcement officer is valid.
 - b. If an individual claims to hold a valid concealed carry license or law enforcement certification but does not have his/her license document or law enforcement certification card with him/her, use of the license data base is permissible to confirm that the individual holds a valid license or law enforcement certification card.
 - c. The license data base may be used to investigate whether a person submitted an intentionally false statement in a license application or renewal. [Sec. 175.60(12g)(a) and (19), Wis. Stats.].

- (2) ***Inappropriate Data Base Use With Concealed Carry Situations.***
 - a. It is a crime for a law enforcement officer to access the data base for any other reason. For example, if someone reports that a person is carrying a concealed weapon, the Officer must contact the person to determine if he/she has a concealed carry license; the data base cannot be accessed for this purpose.
 - b. If a person is found carrying a concealed weapon after being arrested for an offense other than a concealed carry law violation and that person refuses to either produce a license or state whether he or she has such a license, the person should be cited or referred to the District Attorney for carrying a concealed weapon.
 - (3) ***Data Base License Information Not a Public Record.***
 - a. Information regarding licenses is not considered to be a public record and must be deleted from Department reports prior to any public release.
 - b. The Department may not store or maintain information regarding an individual that was obtained from the State of Wisconsin data base pertaining to the individual's status as a concealed carry licensee or holder of a law enforcement card.
 - c. The Department may not sort or access information regarding vehicle stops, investigations, civil or criminal offenses, or other activities involving it based on the status as concealed carry licensees or holders of law enforcement certification cards of any individuals involved. [Sec. 175.60(12g)(b), Wis. Stats.].
- (d) **Weapons Seizure.**
- (1) ***Weapon Impoundment.***
 - a. Officers are authorized to impound any weapon, regardless of the legality of the possession, if the Officer reasonably believes that the person is not capable of adequately safeguarding it. This includes any time a person is being transported by an ambulance service.
 - b. Weapons seized under these circumstances should be inventoried as soon as possible, and should be returned when the owner is capable of accepting custody of them.
 - (2) ***Weapons Prohibited in Police Vehicles.***
 - a. For the safety of the Officer and the weapon owner, no person other than a law enforcement officer shall be allowed inside a Department vehicle while in possession of a weapon.
 - b. The Officer should explain why this is necessary and advise the person that the weapon will be returned as soon as the owner leaves the patrol vehicle or Department building.
 - c. If the person refuses to voluntarily give up the weapon, the person shall not be allowed in a patrol vehicle.

- d. The weapon should be placed in one of the plastic property bags that are supplied to each patrol vehicle. The weapon can be locked in the owner's trunk, the patrol vehicle's trunk, or any place that allows for disarming the person while safeguarding the property and preventing it from being handled by any third party.
- e. Due to the variety of weapons that might be encountered, the weapon should be handled as little as possible and the Officer should not attempt to unload it.

(e) **Tactical Responses.**

- (1) **High Risk Contacts.** High risk contacts should be handled accordingly like any other high risk contact, regardless of whether the weapon was concealed or open carry, or whether the person has a concealed carry license.
- (2) **Person Seen With Concealed Weapon – No Threatening Behavior.** The following procedures and policies are applicable in situations where a party has been seen with a concealed weapon and there is no threatening behavior or disorderly conduct:
 - a. Two (2) Officers should be present, if possible.
 - b. Officers should observe if disorderly conduct or other unlawful behavior is taking place, if the subject is displaying abnormal behavior, or if the subject is touching or handling the weapon. If none is observed, Officers do not have the authority to demand to see the person's concealed carry license. While a consensual contact can be made, the benefits of doing so, especially in a public place, must be weighed carefully, since the person does not have to cooperate.
- (3) **Licensed Cooperative Subject with Concealed Weapon – Not Touching Weapon.** The following procedures and policies are applicable in situations involving a licensed cooperative subject under arrest carrying a concealed weapon and the person is not touching the weapon:
 - a. Two (2) Officers should be present, if possible.
 - b. If the Officer is within an arm's length of the suspect, the Officer shall tactically handcuff the suspect and remove the weapon.
 - c. If the Officer is outside of an arm's length of the suspect, the Officer shall verbally stabilize the suspect using the tactical handcuffing position before moving into a position to handcuff the person. The Officer shall remove the weapon during the search.
 - d. Officers shall always consider the severity of the offense, type of crime, and physical positioning considerations.
 - e. The preferred method is to have each Officer stabilize each arm of the suspect to reduce the suspect's ability to access the weapon.
 - f. One Officer may choose to index his/her sidearm while the other Officer moves in to deliver a contact shot if justification for deadly force becomes necessary.

- (4) ***Detained Subject; Suspect Admits to Possessing Concealed Weapon.*** The following procedures and policies are applicable in situations involving a detained subject from whom information is still being gathered (example: OWI investigation) and the suspect is asked and admits to possessing a concealed weapon:
- a. Two (2) Officers should be present, if possible.
 - b. The Officer shall make it clear to the subject that the Officer wishes to remove the party's weapon, saying: "You are not under arrest; this is for your safety and mine". This should be noted in the Officer's report.
 - c. If the Officer is within an arm's length of the suspect, the Officer shall tactically handcuff the suspect and remove the weapon.
 - d. If the Officer is outside of arm's length of the suspect, the Officer shall verbally stabilize the suspect using the tactical handcuffing position before moving into a position to handcuff the person and remove the weapon.
 - e. For a frisk/pat-down of a subject to be warranted, the Officer must reasonably suspect that he/she, or another person, is in danger of physical injury from the suspect. For this reason, an Officer shall explain in his/her report the reason for the pat-down. A subject simply legally possessing the concealed weapon is not enough alone to justify a pat-down - there must be other exigent circumstances.
 - f. The preferred method is to have the Officer stabilize each arm of the subject to significantly reduce the subject's ability to access the weapon.
 - g. The Officer can return to processing the subject through field sobriety exercises, or continue the investigation, before determining if there is probable cause for an arrest.
- (5) ***Uncooperative Suspect or Suspect Believed to be a Threat.*** The following procedures and policies are applicable in situations involving an uncooperative suspect, with probable cause, or a suspect who is believed to be a threat:
- a. Two (2) Officers should be present, possible.
 - b. The Officer shall inform the suspect that they are under arrest.
 - c. The Officer shall direct the suspect to a prone position.
 - d. If the suspect does not comply with verbal commands, the Officer should increase the level of force as necessary to obtain compliance. This will include moving from the mode of dialogue to: control alternatives, protective alternatives, or deadly force. An Officer is not required to follow the force progression in intervention options. The level of force used should be objectively reasonable, but the minimal amount required to gain compliance.
 - e. The Officer shall properly handcuff and search the suspect.
 - f. The Officer shall remove, unload, and secure the firearm.
 - g. The Officer shall complete the contact and investigation in standard fashion.

Sec. 3-22-3 Former Officer Carrying Concealed Weapons.

POLICY:

It is the policy of the City of Stanley Police Department to be in compliance with federal and state law on former Officers carrying concealed weapons by providing a certification card when appropriate. The purpose of this Section is to outline the legal authority for former and retired Officers to meet certain criteria to carry concealed weapons and to provide guidance associated with the issuance of a firearms qualification certificate to a qualified former Stanley Police Department Officer. [*Law Enforcement Officer Safety Act Improvements Act of 2010 (LEOSA)*, 18 USC 926C; Secs. 175.48 et seq and 941.23, Wis. Stats.].

DEFINITIONS:

The following definitions are applicable in this Section:

- (a) **Certification Card.** A card complying with the requirements of Sec. 175.49, Wis. Stats., indicating [note that the certification card cannot contain the cardholder's social security number]:
 - (1) The cardholder has met the standards for qualification established by the Law Enforcement Standards Board (LESB).
 - (2) The qualification was conducted by a LESB certified firearms instructor.
 - (3) The type of firearm the qualified former law enforcement officer is entitled to carry.
 - (4) The date of the qualification and an expiration date of the certification.
 - (5) A statement that the issued person meets the criteria of a qualified former law enforcement officer per Sec. 175.49, Wis. Stats.
 - (6) The qualified former law enforcement officer's full name, birth date, residence address, photograph, physical description (height, eye color, sex), and the name of our state.
 - (7) A statement that the certification card does not confer any law enforcement authority on the certification cardholder and does not make the cardholder an employee or agent of the City of Stanley Police Department.
- (b) **Proof of Qualification.** State-approved documentation evidencing that a person has successfully completed the handgun qualification course as adopted by the Law Enforcement Standards Board (LESB) and conducted by a firearms instructor who is certified by the LESB.
- (c) **Qualified Former Law Enforcement Officer.** An individual who meets the criteria of Sec. 175.49, Wis. Stats., in that he/she:

- (1) Separated from this Department in good standing as a law enforcement officer.
- (2) Before such separation, was authorized by law to engage in or supervise the detection, prevention, investigation, prosecution or incarceration of a person for any violation of law and had statutory powers of arrest while serving as a law enforcement officer.
- (3) Before separation, had regular employment as a law enforcement officer for a total of ten (10) years, separated from service after any applicable probationary period due to a service-connected disability as determined by this Department.
- (4) Has not been disqualified to be a law enforcement officer for reasons related to mental health.
- (5) Has not entered into an agreement upon separation from the Department acknowledging that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.
- (6) Is not prohibited by federal law from possessing a firearm.

PROCEDURES:

(a) Certification Card Criteria.

- (1) Per Sec. 175.49, Wis. Stats., if a qualified former law enforcement officer who was employed by this Department provides the appropriate proof of qualification, the Department shall provide him/her with a certification card.
- (2) Prior to the issuance of the certificate, the Department shall conduct criminal and local agency background checks. This will include, but not be limited to, a check for convictions, wants or warrants, and any active court order (TIME/NCIC), to determine if the applicant is prohibited by state or federal law from possessing or carrying firearms, and will ensure that all other federal and state statutory requirements are met, including those related to firearms qualification.
- (3) The Department may charge a fee to verify eligibility for a certification card or for the renewal of a certification card. Per Sec. 175.49, Wis. Stats., the fee shall not exceed the costs the Department incurs in verifying eligibility or for issuing or renewing a certification.

- (b) **Card Revocation.** If the Department becomes aware that a person who was issued a certification card no longer satisfies all of the requirements for the card, the Department will respond by sending a letter to the cardholder indicating that he/she is no longer authorized to possess the card, and may not be authorized under authority of state law to carry a concealed weapon as a former law enforcement officer. The Department will also request that the card be returned to the Department within a specified period of time. If the card is not returned, the Department will consult with legal counsel to determine what further action, if any, should be taken.

(c) **Authority to Carry Concealed Firearm.**

- (1) Qualified former law enforcement officers who satisfy the applicable requirements and who carry a current certification card may be authorized to carry a concealed firearm in Wisconsin and other states. [18 USC 926C; Sec. 941.23, Wis. Stats.].
- (2) It is the sole responsibility of qualified former law enforcement officers who have been issued an identification card or certification card to be familiar with and follow all related local, state and federal firearm laws, including, but not limited to:
 - a. State of Wisconsin concealed weapon laws – Secs. 175.48, 175.49, and 941.23, Wis. Stats.
 - b. Self-defense and defense of others statutes – Sec. 939.48, Wis. Stats.
 - c. Defense of property and protection against retail theft – Sec. 939.48, Wis. Stats.
 - d. Endangering the safety of others by use of a firearm – Sec. 941.20, Wis. Stats.
 - e. Carrying a firearm in a public building – Sec. 941.235, Wis. Stats.
 - f. Carrying a firearm where alcohol beverages are sold and consumed – 18 USC 926C; Secs. 941.237 and 941.23, Wis. Stats.
 - g. The Law Enforcement Officers Safety Act Improvements Act of 2010 – 18 USC 926C.
- (3) In determining whether a former law enforcement officer is legally carrying a concealed firearm, Officers should determine whether the person may be authorized under either federal or state law, or both, to conceal carry the firearm.

(d) **Prohibited Weapons.** No former law enforcement officer may be certified to carry a machine gun, a firearm silencer, or a destructive device as defined in 18 USC 926C and related state statutes.

(e) **Relinquishing Identification Cards.** The Department will not require an Officer to relinquish his/her photographic identification card when the Officer separates from service with the Department unless at least one of the criteria of Sec. 175.48(2), Wis. Stats., applies.

Title 3 ► Chapter 23

Canine Unit

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Sec. 3-23-1 Canine (K9) Unit.

POLICY:

- (a) **Purpose and Scope.** This policy chapter establishes guidelines and procedures for the City of Stanley Police Department's use of Canines to augment conventional law enforcement services to the community, including, but not limited to, finding individuals, locating contraband, and apprehending criminal offenders.
- (b) **General Policy.** It is the policy of the City of Stanley Police Department that teams of Handlers and Canines meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate law enforcement objectives.
- (c) **Supervision.** The Chief of Police shall supervise the Canine program. The Chief of Police shall be responsible for, but not limited to:
 - (1) Ensure the Handler complete the assigned basic training program.
 - (2) Review the Canine Officer's monthly reports and maintain records of the same.

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- (3) Be responsible for all records regarding the Canine program, i.e., Handler training, monthly evaluations, activities, arrests and apprehensions. These records should be on file and available for inspection.
- (4) Ensure required maintenance training is conducted.
- (5) Assign public relations duties.
- (6) Conduct required kennel and vehicle inspections.

Sec. 3-23-2 Requests for Canine.

POLICY:

- (a) **Requests for Canine.** Department personnel are encouraged to freely solicit the use of the Canine. Outside agencies are welcome to request the use of the Department's Canine Unit. Such requests should be approved by the Chief of Police or a supervisor unless there is insufficient time to do so safely. In those cases, the Chief of Police or a supervisor should be notified as soon as practicable.
- (b) **Outside Agency Requests.** All requests for Canine assistance from outside agencies must be approved by the Canine Unit and are subject to the following:
 - (1) The Canine Unit shall not be used for any assignment that is not consistent with this policy.
 - (2) The Canine Handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.
 - (3) It shall be the responsibility of the Canine Handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.
 - (4) It shall be the responsibility of the Canine Handler to complete all necessary reports or as directed.
- (c) **Public Demonstrations.** All public requests for the Canine Unit shall be reviewed and, if appropriate, approved by the Chief of Police prior to making any resource commitment. The Canine Handler is responsible for obtaining resources and coordinating involvement in the demonstration to include proper safety protocols. Canine Handlers should not demonstrate any apprehension work unless authorized to do so by the Chief of Police.

Sec. 3-23-3 Department Employee Conduct.

POLICY:

The police Canine is a working member of the Department. As such, Department employees will adhere to the following rules regarding interaction with the Canine:

- (a) No Department members will touch, handle or pet the police Canine unless given permission by the Handler.
- (b) Department personnel shall not tease, agitate, or harass the police Canine.
- (c) Department members shall refrain from horseplay with other personnel or the Handler when the police Canine is present. Do not make aggressive gestures towards the Handler.
- (d) If a working Canine (e.g., an actively tracking, scenting, or apprehending Canine) approaches a Department employee, the employee should stand still.

Sec. 3-23-4 Apprehension Guidelines.

PROCEDURES:

- (a) A Canine may be used to locate and apprehend a suspect if the Canine Handler reasonably believes that the individual has either committed, is committing or threatening to commit any serious offense and if any of the following conditions exist:
 - (1) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, an Officer or the Handler.
 - (2) The suspect is physically resisting or threatening to resist arrest and the use of a Canine appears to be necessary to overcome such resistance.
 - (3) 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.
- (b) It is recognized that situations may arise that do not fall within the provisions set forth in this policy chapter. 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.
- (c) Absent a reasonable belief that a suspect has committed, is committing or threatening to commit a serious offense, mere flight from a pursuing Officer, without any of the above conditions, shall not service as the basis for the use of a Canine to apprehend a suspect.
- (d) Use of a canine to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires the approval from the Chief of Police. Absent a change in circumstances that present 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.

- (e) 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 reasonably possible.

Sec. 3-23-5 Canine Deployment.

PROCEDURES:

(a) Preparation for Deployment.

- (1) 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.
- (2) As circumstances permit, the Canine Handler should make every reasonable effort to communicate and coordinate with other involved Officers to minimize the risk of unintended injury.
- (3) 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 shall have the authority to decline the use of the Canine whenever he/she deems deployment is unsuitable.
- (4) A supervisor who is sufficiently apprised of the situation may prohibit deploying the Canine.
- (5) Unless otherwise directed by Chief of Police or a supervisor, assisting Officers should take direction from the Handler in order to minimize interference with the Canine.

(b) Warning and Announcements.

- (1) 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.

- (2) The Handler should allow a reasonable time for a suspect to surrender and should listen for any verbal response to the warning. If feasible, other Officers should be in a location opposite the warning to verify that the announcement could be heard. If available and practicable, warnings given in other languages should be considered, as necessary.
 - (3) If a warning is not to be given, the Canine Handler, when practicable, should first advise the Chief of Police or 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.
- (c) **Reporting Deployments, Bites and Injuries.**
- (1) Whenever a Canine deployment results in a bite or causes injury to an intended suspect, the Chief of Police or a supervisor should be promptly notified and the injuries documented in a Canine use report.
 - (2) The injured person shall be promptly treated by emergency medical services personnel and, if appropriate, transported to a medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report.
 - (3) Unintended bites or injuries caused by a Canine, whether on- or off-duty, shall be promptly reported to the Chief of Police. Unintended bites or injuries cause by a Canine should be documented on an Administrative Report, not in a Canine Use Report.
 - (4) If an individual alleges an injury, either visible or not visible, the Chief of Police or 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.
 - (5) A Canine is not subject to quarantine if the Canine is immunized against rabies. However, after a bite, the Canine shall be examined by a veterinarian on the day of the incident or the next day, on the tenth day after the incident and on one (1) intervening day. The Department shall ensure that the Canine is confined when not performing law enforcement functions until the third examination has been performed [Sec. 95.21, Wis. Stats.].
- (d) **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:

- (1) Absent a change in circumstances that present an immediate 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 an individual, if located.
 - (2) Unless otherwise directed by the Chief of Police or a supervisor, assisting Officers should take direction from the Handler in order to minimize interference with the Canine.
 - (3) Throughout the deployment the Handler should periodically give verbal commands that encourage the individual to make himself/herself known.
 - (4) Once the individual has been located, the Canine should be placed in a down-stay or otherwise secured as soon as it becomes reasonably practicable.
- (e) **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.
- (f) **Narcotics Detection.**
- (1) 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.
 - (2) 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.
- (g) **Bomb/Explosives Detection.**
- (1) Because of the high risk of danger to the public and Officers when a bomb or other explosive device is suspected, the use of the Canine Unit trained in explosive detection may be considered.
 - (2) 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.

- b. Assisting with searches at special events, VIP visits, official buildings and other restricted areas.
- c. Assisting in searches at transportation facilities and vehicles (e.g., buses, trains and aircraft).
- d. Searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.
- e. Assisting in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.
- f. At no time will an explosive detection trained Canine be used to render a suspected device safe or clear.

Sec. 3-23-6 Handler Responsibilities.

POLICY:

The Handler(s) shall perform general duties except when their services are required for special details or training:

- (a) **On-Duty Assignments.** The Canine Unit may be assigned to any incident where the Unit could be of assistance. Examples include, but are not limited to, the following:
 - (1) Burglary in progress calls, intrusion and/or robbery alarms, events in progress or that have just occurred.
 - (2) Felony or misdemeanor crimes where the suspect has fled on foot and a need for tracking exists.
 - (3) Drug searches for Canine Units certified in this field.
 - (4) Building or area searches for suspects.
 - (5) Searches for evidence or discarded contraband.
 - (6) Searches for lost or missing persons.
 - (7) Bomb searches for Canine Units qualified in this field.
 - (8) Department training presentations.
 - (9) Public relations.
- (b) **On-Duty Training.** The Canine Handler will notify the Chief of Police and Communications Center of scheduled on-duty training and the location. The Chief of Police will only clear the Canine Handler from training in the event of necessity.
- (c) **Prohibited Canine Unit Use.** The Canine Unit shall not be used with the following situations:

- (1) To search for other animals.
 - (2) To control a crowd, with the exception of situations where it is immediately imperative to prevent death or serious bodily harm to individuals.
 - (3) To perform breeding services except as approved by the Chief of Police.
 - (4) To accomplish any application where a strong potential exists for discrediting the City of Stanley Police Department and/or its Canine Unit.
 - (5) To be entered in any show or trial without the Chief of Police's prior approval.
 - (6) Be assigned a call that leaves the Canine unsupervised for an extended period of time or causes the Canine Unit to be unavailable for a call.
- (d) **Required Records.** Canine Handlers shall maintain accurate and up-to-date records in the following areas:
- (1) Training records.
 - (2) Medical and health records.
 - (3) Performance records.

Sec. 3-23-7 Canine in Public Areas.

PROCEDURES:

- (a) The Canine should be kept on a leash when in areas that allow access to the public. Exceptions to this would include specific law enforcement operations for which the Canine is trained.
- (b) A Canine shall not be left unattended in any area to which the public may have access.
- (c) 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 dog. Importantly, the Handler shall at all times ensure that the unattended vehicle remains habitable for the Canine.

Sec. 3-23-8 Availability of Handler.

PROCEDURES:

The Handler may be available for call-out under conditions specified by the Chief of Police.

Sec. 3-23-9 Care For The Canine and Equipment.

POLICY:

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 Handler shall be responsible for the following:

- (a) Unless required by a particular application, the Handler shall not expose the Canine to any foreseeable and unreasonable risk of harm.
- (b) The Handler shall maintain all Department equipment under his/her control in a clean and serviceable condition.
- (c) Handlers shall permit the Chief of Police to conduct on-site inspections of affected areas of their residence, as well as the Canine Unit, to verify that conditions and equipment conform to this policy upon reasonable suspicion.
- (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 Chief of Police as soon as possible.
- (e) When off-duty, Canines shall be maintained in kennels provided by the Department at the homes of their Handlers. When a Canine is kenneled at the Handler's home, the Handler will ensure the Canine is safely secured whenever the Canine is not under the direct control of the Handler.
- (f) Whenever a Canine Handler anticipates taking a vacation or an extended number of days off, it may be necessary to temporarily relocate the Canine. The Handler shall make the appropriate arrangements.
- (g) The City of Stanley Police Department shall provide:
 - (1) Food and veterinarian care.
 - (2) All other necessary equipment for training and patrol duties as deemed necessary by the Department through the usual process.
- (h) An off-duty Canine Handler may use the Department Canine vehicle as long as they are performing Canine duties and the Handler is prepared to respond to calls if needed. Any passenger, other than the Canine, shall abide by the Department policy concerning use of seat belts.

Sec. 3-23-10 Disposition of Canine.

POLICY:

- (a) Whenever a dog is removed from active service except for illness, viciousness, or some similar situation, the dog will be offered to the Handler.
- (b) If the dog is to be released from its Canine assignment, the new owner shall be required to sign a waiver of legal liability, releasing the City of Stanley, the Stanley Police Department, and Department personnel from all liability or responsibility for anything which concerns the dog from that day forward.
- (c) The new owner receiving the dog must, as a condition of their receipt of the dog, immediately re-license the dog in the new owner's name at their expense.
- (d) All pedigree papers will be given to the new owner receiving the Canine.
- (e) In the event of the death of the Canine, the following procedures shall be followed:
 - (1) The Chief of Police will immediately be notified.
 - (2) The veterinarian and/or District Attorney's office will be contacted to determine whether an autopsy is necessary and, if so, where the Canine can be transported.
 - (3) If no autopsy is necessary, the Handler shall make arrangements with the veterinarian for proper disposal.

Sec. 3-23-11 Canine Injury and Medical Care.

PROCEDURES:

- (a) 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 Chief of Police as soon as practicable and appropriately documented.
- (b) 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.

Sec. 3-23-12 Training.

PROCEDURES:

(a) **Training Parameters.**

- (1) Before assignment in the field, each Canine team shall be trained and certified to meet current nationally recognized standards or other recognized and approved certification standards. Cross-trained Canine Units or those Canine Units trained exclusively for the detection of narcotics and/or explosives also shall be trained and certified to meet current nationally recognized standards or other recognized and approved certification standards established for their particular skills.
- (2) The Canine Handler should schedule periodic training for all Department members in order to familiarize them with how to conduct themselves in the presence of Department Canines.
- (3) All Canine training should be conducted while on-duty unless otherwise approved by the Chief of Police.

(b) **Continued Training.** Each Canine Unit shall thereafter be recertified to a current nationally recognized standard or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:

- (1) Canine Units should receive training as defined in the current contract with the City of Stanley Police Department's Canine training provider.
- (2) Canine Handlers are encouraged to engage in additional training with approval of the Chief of Police.
- (3) 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.

(c) **Failure to Successfully Complete Training.** Any Canine Unit failing to graduate or obtain certification shall not be deployed in the field for tasks the Unit 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.

(d) **Training Records.** All Canine training records shall be maintained in the Canine training file maintained by the Chief of Police.

(e) **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 regarding the same. Alternatively, the City of Stanley Police Department may work with outside trainers with applicable licenses or permits.

- (f) **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 regarding the same. Alternatively, the City of Stanley Police Department may work with outside trainers with applicable licenses or permits.

- (g) **Controlled Substance Training Aids.**
 - (1) 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. [21 USC 823(f); Sec. 961.335, Wis. Stats.; CSB 3.05, Wis. Adm. Code].
 - (2) These substances are not required if the Canine Handler uses commercially available synthetic substances that are not controlled narcotics.

- (h) **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:
 - (1) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual Canine Handler or trainer.
 - (2) The weight and test results shall be recorded and maintained by the Department through the evidence records management system.
 - (3) Any person possessing controlled substance training samples pursuant to a court order 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.
 - (4) All controlled substance training samples will be inspected, weighed and tested, at a minimum, quarterly. The results of this testing shall be recorded and maintained by the Chief of Police. A copy should be forwarded to the dispensing agency if obtained from an outside agency.
 - (5) 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 and stored in an appropriate locked container. There are no exceptions to this procedure.

- (6) The Canine Handler and/or Chief of Police shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.
- (7) All unusable controlled substance training samples shall be returned to the Evidence Custodian or to the dispensing agency.
- (8) 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.

Sec. 3-23-13 Selection of Canine Handler.

POLICY:

The following are the minimum qualifications for the assignment of Canine Handler:

- (a) Officers shall be off probation and have eighteen (18) months experience with the City of Stanley Police Department before the start of their Canine Handler duties.
- (b) Officers shall be volunteers.
- (c) The Officer's residence shall be capable of housing the Canine and have adequate space for a kennel. The Officer shall be required to house the Canine at his/her residence.
- (d) In the event the Officer does not own the property where he/she resides, the Officer shall obtain the written permission from the property owner for the housing of the Canine on the premises.
- (e) Any Officer selected for the position of Canine Handler should expect to remain in the Canine Unit for the working life of the dog.
- (f) The Officer shall be in good health and not suffer from serious medical problems and must be strong enough to withstand the dog handling, training, and work conditions.
- (g) The Officer shall have family in agreement with their being assigned to the Canine Unit.
- (h) If there are other pets in the home, the Officer shall agree that if conflict occurs between the Department's animal and the pet which compromises the Canine's ability to live and function with the pet, that the Canine will be kept separate and handled independently from the pet.
- (i) The Officer shall understand and embrace the Canine Unit's mission and philosophy.

Title 3 ► Chapter 24

Court Appearances and Subpoenas

3-24-1 Court Appearances and Subpoenas

Sec. 3-24-1 Court Appearances and Subpoenas.

POLICY:

The City of Stanley Police Department shall respond appropriately to all subpoenas and any other court-ordered appearances. This policy chapter provides guidelines for Department personnel who must appear in court and to prepare for such court-related absences.

PROCEDURES:

(a) Notification Requirements.

- (1) Any Department 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 City Attorney or the prosecutor shall promptly notify the Chief of Police regarding:
 - a. Any civil case where the City or a Department member, due to his/her official capacity, is a party.
 - b. Any civil case where any other municipality, county, state or federal unit of government or a member of any such unit of government, due to 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 employee's on-duty activity or because of his/her association with the City of Stanley Police Department.
 - e. Any disciplinary or personnel matter when called to testify or to provide information by a government entity other than the City of Stanley Police Department.
- (2) When a subpoena is received, notification shall be given to the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police will determine if additional legal assistance is necessary.
- (3) No Department employee will be retaliated against for testifying in any legal matter.

(b) **Subpoenas.**

- (1) Only Department personnel authorized to receive subpoenas on behalf of the Department or any of its employees may do so.
- (2) Service of a subpoena or court notice requiring the appearance of any Department member related to a matter arising out of the employee's official duties may be accomplished as prescribed by Sec. 885.03, Wis. Stats.:
 - a. Personally serving a copy of the subpoena to the Department employee.
 - b. Delivering a copy to the Department employee's residence.
 - c. Exhibiting and reading the subpoena to the Department employee.
- (3) Except a subpoena on behalf of the State of Wisconsin, of a municipality in a forfeiture action, or of an indigent respondent in a paternity proceeding, no subpoena for a member of this Department as a witness in a civil action should be accepted unless accompanied by the appropriate witness fees as allowed by Sec. 885.06, Wis. Stats.

(c) **Civil Subpoena.**

- (1) The Department will compensate members who appear in their official capacities on civil matters arising out of their official duties on behalf of the Department.
- (2) The Department should seek reimbursement for the Department employee's compensation through the civil attorney of record who subpoenaed the employee.

- (d) **Off-Duty Subpoenas.** Department members receiving valid subpoenas for off-duty actions not related to their employment with the Department will not be compensated for their court appearance. Arrangements for time off shall be coordinated through the Chief of Police.

(e) **Court Appearances.**

- (1) When representing the Department in court, employees shall:
 - a. Be prepared and punctual to proceed with the case for which they are scheduled to appear.
 - b. Uniformed Officers wear their uniform. Plain clothes Officers should wear professional business attire, such as a suit.
 - c. Observe all rules of the court in which they are appearing and be alert to changes in the courtroom where the case is to be heard.
- (2) Before the court date, the subpoenaed Department employee shall review relevant reports and be familiar with their content in order to be prepared for his/her court appearance.

- (f) **Failure to Appear.** Any Department employee who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to Department discipline. This includes properly served orders to appear issued by a state administrative agency.

Title 3 ► Chapter 25

Rapid Entry Systems (Knox Box)

3-25-1 Rapid Entry Systems (Knox Box)

Sec. 3-25-1 Rapid Entry Systems (Knox Box).

POLICY:

- (a) The City of Stanley Fire Code requires by ordinance the use of a rapid entry lock box devices (Knox Box System) for all commercial, industrial, and residential buildings which have a fire sprinkler system and/or alarm systems with an annunciator panel. The Knox Box System involves the installation of miniature vaults on the exterior of such buildings, gateposts and/or other applicable locations to facilitate entry into such places in a timely manner during an emergency, such as alarms, burglaries, and fire and/or medical emergencies. Contained within these vaults are the keys necessary to gain entry into the building and/or keys to gain access to any locked equipment rooms or hazardous locations.
- (b) The use of rapid entry system keys will be used only in such situations that warrant their use. Whenever a key from a Knox Box is used, a report shall be completed.

PROCEDURES:

- (a) To allow for quick entry into certain properties in emergencies, the Department will equip patrol vehicles with a Knox Box key. The Knox Box key will be secured in a special lock box of its own located in the trunk or rear area of each squad car and at the station. Upon the call for an emergency where immediate entry is necessary, Officers may utilize the Knox Box key to open the Knox Box of the premises, which is usually located near the front entrance. Inside the Knox Box, Officers will find a master key to open the building. These emergencies shall be of an immediate nature where waiting for a regular key-holder could prove dangerous or when an emergency occurs during nighttime or closed hours.
- (b) Upon receiving a call of a possible emergency, the Officer shall respond to the location and advise the Communications Center of the call and ask the dispatcher to document the time of the call. If the Chief of Police or a supervisor is immediately available, he/she should

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be notified as soon as possible of the situation and be advised that that a Knox Box entry may be necessary.

- (c) For fires or a fire alarm, Officers may choose to unlock the door to expedite the Fire Department's response. Officers should not make entry unless they are reasonably sure that there is no danger to them.
- (d) If there is a medical emergency where ambulance personnel will have to make an entry, Officers shall make entry to assist the patient and provide quick entry for rescue personnel.
- (e) When a general alarm or intrusion alarm call is received, Officers shall conduct an exterior check for any unsecured point of entry. The Knox Box key may be used to enter if the incident meets the criteria listed below in Subsections (f) and (g).
- (f) In the event that a business is found open and it appears to be accidental, the Knox Box key may be used to secure the building if a key-holder is not available. The Officer shall attempt to notify the business owner or an employee that the Officer secured the building at the time of the discovery. Written notice left in an obvious location would be sufficient if personal notification is not possible.
- (g) Officers shall not enter a business by using the Knox Box key without the express permission from the business owner, operator, or designee, unless there is a reasonable indication that a crime is believed to be in progress involving imminent danger to the public or loss of property. Officers who use the Knox Box key to enter shall attempt to do so through a point of entry other than the one suspected of being used during the commission of the crime in order to preserve the crime scene. Officers shall conduct a sweep of the building for persons, secure the building, and then attempt to notify a person affiliated with the building.
- (h) After use of building keys from a Knox Box, the building key will be returned to the Knox Box and the box shall be secured. The Knox Box key shall be secured in the squad car key box.
- (i) The Chief of Police or a supervisor will be notified regarding the use of the key.

Title 3 ► Chapter 26

Protests, Demonstrations and Large Crowd Events

3-26-1	Large Crowd Events and Demonstrations
3-26-2	Administration of Large Crowd Event Responses
3-26-3	Response Procedures
3-26-4	Crowd Control – Use of Force
3-26-5	Post-Event Actions
3-26-6	Documenting Large Crowd Events

Sec. 3-26-1 Large Crowd Events and Demonstrations.

POLICY:

It may be necessary for the Stanley Police Department to respond to protests, demonstrations, and events requiring crowd control to protect free speech rights and the safety of participants and the general citizenry. The Department will intercede in crowd situations that become dangerous and to restore order as practical. Examples of such incidents include, but are not limited, political rallies, demonstrations/protests supporting or opposing an actual or proposed activity, etc.

DEFINITIONS:

"Crowd management" means steps taken with masses of people in peaceful, orderly, violent, or chaotic situations.

Sec. 3-26-2 Administration of Large Crowd Event Responses.

PROCEDURES:

The following establishes procedures regarding the Department's administrative response to an event involving protests, demonstrations, and the need for large crowd event management:

- (a) Pre-event information regarding planned demonstrations or other large crowd events is to be referred to the Chief of Police. Steps should be taken to obtain information regarding the event from its organizers and/or sponsors. If critical information is not made available,

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Department personnel may be assigned to gather information and intelligence regarding a known event.

- (b) When it becomes known that a demonstration or other large crowd event will occur, the Chief of Police shall assign personnel as needed to plan for the law enforcement response. As warranted by the event, this response may include the establishment of a command site, briefing area, media contact site, and staging area, as well as needed personnel, equipment, vehicles, communications resources, and related logistics. Such planning may also include bringing in outside law enforcement and emergency response personnel and resources.
- (c) For anticipated large-scale events, the preparation of an incident action plan should be utilized and should contain, as needed, the following information:
 - (1) If it is determined that a command center will be needed, one will be established at a secure location near the event site. Access, security and communications resources are considerations when planning for a command center site.
 - (2) If it is determined that a staging area will be needed, one will be established at a location separate from the command center location at a reasonably secure site near the area where the event is expected to occur. Primary considerations when planning for a staging area are access for Officers and vehicles assigned to the event and site security.
 - (3) If it is anticipated that media representatives may attend the event, a media contact site may be designated separate from the command center and the staging area.
 - (4) The incident action plan should contain a brief explanatory statement that highlights the challenges which may be faced by the Department, supplemented with any historical information relative to the protesting organization's possible actions. There should also be a brief explanatory statement addressing any information on any likely counter-protest groups. The site of the event should be described, along with police and emergency response resources which will be present and/or mobilized.
 - (5) The plan should concisely and clearly list the goal(s) of the Department's operation.
 - (6) Plan execution should address making specific assignments for all Officers and units involved in the operation.
 - (7) Response logistics shall be addressed in the plan, which should include, but not be limited to, reporting instructions, uniform requirements, timekeeping, communications resources and plans, medical support, arrest/court processing/jail processing, and provisions for breaks and meals.

Sec. 3-26-3 Response Procedures.

PROCEDURES:

The following procedures shall guide responses regarding demonstrations, protests, and large crowd control events:

- (a) If possible, the Department's response should start with an event briefing, followed by establishment of command and staging sites and deployment of personnel and resources. The Chief of Police or Incident Commander shall take steps to ensure that assigned Officers are briefed on or have copies of the incident action plan, their assigned duties, and expectations regarding communications.
- (b) Mobile response procedures may be utilized for non-static situations. Sufficient vehicles should be available to quickly move Officers and other necessary personnel. Vehicles should have assigned drivers and passengers. Security should be present at the site where vehicles will be staged.
- (c) Arrest Officers should be designated, as needed.
- (d) If large numbers of arrests requiring transport and booking are possible, this activity should be coordinated with the County Sheriff's Department.
- (e) All media contacts related to the event shall be through the Chief of Police. Any media inquiries to individual Officers on the scene shall be directed to the Chief of Police.

Sec. 3-26-4 Crowd Control – Use of Force

POLICY:

Officers shall strive to remain neutral at demonstration, protest or large crowd events. Verbal abuse directed towards law enforcement personnel are common when such events become disturbance events.

PROCEDURES:

- (a) Officers should not initiate arrests for verbal abuse or minor disorderly conduct within the crowd unless so directed by the Chief of Police or Incident Commander, particularly when such response might compromise the staffing of a post or line.
- (b) Department policies and procedures on the use of less lethal and non-lethal projectiles and OC spray shall be followed.

Sec. 3-26-5 Post-Event Actions.

PROCEDURES:

- (a) After the event has concluded and the crowd dispersed, the need for maintaining a law enforcement presence should be assessed. A limited but visible law enforcement presence may be needed for a number of hours after the event.

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- (b) The Chief of Police shall assign a Department member the duty of preparing a report regarding the demonstration, protest or large crowd event. The report should describe the event and response in general terms, should include estimates of crowd size, and reference any more specific reports related to the event.
- (c) For major disturbances or events where a significant degree of police action was necessary, a debriefing of the event may be necessary, with an emphasis on improving responses to future incidents of a similar manner.

Sec. 3-26-6 Documenting Large Crowd Events.

PROCEDURES:

- (a) Large crowd events should be photographed for the following:
 - (1) To protect persons involved in or present during an event.
 - (2) To protect property, legitimate functions, and the City.
 - (3) To provide evidence to aid in the apprehension and prosecution of those suspected of violating the law.
 - (4) Training purposes.
 - (5) To assist in documenting Department actions.
- (b) Photographs or other image recordings shall be stored electronically.
- (c) The Chief of Police, consistent with Department policies and the Wisconsin Open Records Law, is responsible for determining whether to release photographs or other image recordings of protests, demonstrations or large crowd events.
- (d) Recordings received as evidence shall be stored according to Department policies and proper evidence procedures.
- (e) Photographic records pertaining to such events shall be retained in accordance with Department policies and the Wisconsin Statutes. Photographic records which are not held as evidence or other Department needs shall be destroyed after one hundred and eighty (180) days.

Title 3 ► Chapter 27

Naloxone

3-27-1 Administering Naloxone

Sec. 3-27-1 Administering Naloxone

POLICY:

Naloxone is a medication, often in nasal spray form, that combats the effects of opiate drugs, primarily the depression of the respiratory system. Administration of Naloxone is intended to restore adequate respiratory function. The City of Stanley Police Department's use of Naloxone is guided by this Chapter.

PROCEDURES:

- (a) **Naloxone Coordinator.** The Chief of Police serves as the Department's Naloxone Coordinator. The Chief of Police is responsible for acquiring the Department's Naloxone, ensuring an adequate supply is maintained, and taking care that doses stored in designated locations are replaced prior to their expiration.
- (b) **Training.** Officers will be trained in the use of Naloxone. Training will be conducted with new hires and refresher training will be conducted at a minimum of every two (2) years or during CPR re-certification. Documentation of such training will be prepared.
- (c) **Naloxone.** Naloxone shall be stored in locations as directed by the Chief of Police.
- (d) **Officer Responses - Generally.** Officers with Naloxone should respond in emergency mode to medical response calls to the Department that involve a high likelihood for need of Naloxone, unless it is confirmed that an ambulance is already on-scene.
- (e) **Officer Actions At The Scene.** An Officer who arrives on-scene before adequate emergency medical personnel are present should render aid consistent with the Officer's Naloxone and CPR training until relieved of rescue duties by emergency medical personnel by taking the following actions:

- (1) The Officer shall administer Naloxone nasally in strict conformance with Naloxone training guidelines. An ambulance shall be requested for any person who has received Naloxone from a Department Officer, if an ambulance is not already enroute.
- (2) The Officer shall notify the Communications Center that he/she is administering Naloxone and confirm that an ambulance has been dispatched.
- (3) The Officer shall perform an assessment of the subject, including monitoring the subject for improvement of respiratory functions.
- (4) Unconscious subjects should be placed on their side to assist in preventing aspiration should they vomit or have other secretions.
- (5) If emergency medical personnel or other advanced life support has not yet arrived on scene and the subject has not returned to a state of normal breathing, subsequent doses of Naloxone may be administered every 2-3 minutes.
- (6) Upon the arrival of emergency medical personnel, the Officer should advise such personnel of the subject's original condition prior to the administration of Naloxone, the time of administration, and the observed response of the subject.

(f) **Indications Of Need For Naloxone Administration.** Officers shall consider the following indications for Naloxone administration:

- (1) The subject is unconscious and not responding to any verbal stimuli.
- (2) The subject has no detectable breathing or has poor respiratory effort such as:
 - a. Agonal breaths;
 - b. Loud snoring aspirations;
 - c. Occasional gasping breaths; or
 - d. Bluish cast to the skin due to low oxygen levels (cyanosis), especially on the hands, feet, eye lids, and/or lips.
- (3) There is evidence that the subject is suffering from an opiate overdose including, but not limited to:
 - a. An Officer was processing/testing drug-related evidence, investigating a drug-related case, or performing an evidentiary search.
 - b. Information suggests an arrestee/detainee may have been in possession of an opiate.
 - c. Bystanders have given information that the subject has taken or may have taken an opiate of some type.
 - d. There is physical evidence of opiate use, such as drug paraphernalia or prescription drug bottles.
 - e. The subject has a known history of opiate use.
 - f. The subject exhibits pinpoint eye pupils along with respiratory arrest or depression.
- (4) If another agency requests mutual aid in the form of a Department patrol car with Naloxone, the Department will make every effort to comply with the request.

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- (5) The Chief of Police shall be notified of any use of Naloxone.
 - (6) If Naloxone is administered, this shall be documented by the Officer in his/her report. The following information shall be included in the Officer's report:
 - a. Name of the Officer who administered the Naloxone.
 - b. Time or estimated time that the Naloxone was administered.
 - c. The nasal administration route (if used) - right or left nostril, or both.
 - d. Where the Naloxone was administered into the body if not done nasally.
 - e. Condition of the subject prior to Naloxone administration, including signs which indicated the need for Naloxone.
 - f. Condition of the subject after Naloxone administration, including signs that the Naloxone may have been effective or ineffective.
 - g. Time or estimated time of arrival of emergency medical personnel.
 - h. Any complications that occurred.
 - (7) The Chief of Police will review all reports involving the use of Naloxone to ensure consistency and that Department policies have been followed.
 - (8) After use, the Officer who administered the Naloxone is responsible for notifying the Chief of Police who shall be responsible for restocking the Naloxone.
 - (9) The Naloxone kit will be inspected and is the responsibility of the Officer(s) assigned the equipment. This shall be done by the end of each shift. The Chief of Police will also periodically inspect the Naloxone kits.
 - (10) Damaged, missing or expired Naloxone kits shall be reported immediately to the Chief of Police.

