

## **Chapter 5 - Traffic Operations**

## Traffic Function and Responsibility

### 500.1 PURPOSE AND SCOPE

The goal of traffic law enforcement is to reduce traffic collisions and improve the safety and quality of life for the community through traffic law compliance. This may be achieved through the application of such techniques as geographic/temporal assignment of personnel and equipment and the establishment of preventive patrols to deal with specific categories of unlawful driving behavior. Traffic enforcement techniques are based on collision data, enforcement activity records, traffic volume and traffic conditions. This department provides enforcement efforts toward violations, not only in proportion to the frequency of their occurrence in collision situations but also in terms of traffic-related needs.

### 500.2 TRAFFIC OFFICER DEPLOYMENT

Several factors are considered in the development of deployment schedules for officers of the Lorain Police Department. Information provided by the Ohio Traffic Safety Office (OTSO) is a valuable resource for traffic collision occurrences and therefore officer deployment. Some of the factors for analysis include:

- Location
- Time
- Day
- Violation factors

All officers assigned to patrol or traffic enforcement functions will emphasize enforcement of traffic laws and address collision-causing violations during those periods and at those locations where the incidence of collisions is increased. As a matter of routine, all officers will take directed enforcement action on request, and random enforcement action when appropriate, against violators. All officers shall maintain high visibility while working general enforcement, especially at high-collision incidence locations.

Other factors to be considered for deployment are citizen requests, construction zones, school zones or special events.

### 500.3 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas and the number of arrests or citations issued by any officer shall not be used as the sole criterion for evaluating officer overall performance. The visibility and quality of an officer's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

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##### 500.3.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and may be substituted for arrests or citations when circumstances warrant.

##### 500.3.2 TRAFFIC CITATIONS

Traffic citations may be issued when an officer believes it is appropriate. It is essential that officers fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation (ORC § 2935.27). Officers should provide the following information at minimum:

- (a) Explanation of the violation or charge.
- (b) Court appearance procedure, including the optional or mandatory appearance by the motorist.
- (c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court.
- (d) The court contact information.
- (e) The person's driver license will be suspended for failure to comply with the directions on the citation.
- (f) For drivers issued a citation related to use of a cellphone or other device while driving in violation of ORC § 4511.204, notice that the driver may decline a search of the cellphone or device.

##### 500.3.3 TRAFFIC CITATION COURT JURISDICTION

An officer who issues a traffic citation shall ensure that the citation is properly directed to the court having jurisdiction over the violation within the county in which the offense charged is alleged to have been committed (Ohio Traf. R. Rule 3(E)(1)).

##### 500.3.4 REFUSAL TO SIGN TRAFFIC CITATION OR PROVIDE SATISFACTORY IDENTIFICATION

A person who refuses to sign a traffic citation or provide satisfactory identification, and thereby declines to make a written promise to appear in court, may be arrested (ORC § 2935.26(A)(2); ORC § 2935.26(A)(3)). When reasonable under the circumstances, a supervisor may be requested to assist with resolution of the incident prior to resorting to an arrest.

#### **500.4 SUSPENDED OR REVOKED DRIVER LICENSE**

If an officer contacts a traffic violator for driving on a suspended, revoked, or restricted license and the violation is not an unclassified misdemeanor, the officer may, without a warrant, arrest the violator (ORC § 2935.03; ORC § 4510.11; ORC § 4510.14).

In addition, if the violator is arrested for driving under an operating a vehicle under the influence (OVI) suspension, the officer shall seize the vehicle and its license plates if the vehicle is registered in the arrested person's name (ORC § 4510.41(B)(1)). At the time of the seizure, the arresting officer shall notify the arrestee, in writing, of the following:

- (a) The vehicle and its license plates are being seized.

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- (b) The vehicle will either be kept by the Department or will be immobilized at least until the person's initial court appearance.
- (c) The court may order that the vehicle and license plates be released to the arrested person until the disposition of the charge.
- (d) If the arrestee is convicted, the court generally must order the immobilization of the vehicle and the impoundment of its license plates or the forfeiture of the vehicle.
- (e) The arrestee may be charged expenses or charges.

The arresting officer shall ensure that the Bureau of Motor Vehicles (BMV) Form 2255 is completed as required and that written notice of the seizure is forwarded to the court of initial jurisdiction (ORC § 4510.41(B)(2)).

#### **500.5 HIGH-VISIBILITY VESTS**

The Department has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of department members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601).

Although intended primarily for use while performing traffic-related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

##### **500.5.1 REQUIRED USE**

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, collision investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, officers should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used anytime a plainclothes officer might benefit from being readily identified as an officer.

##### **500.5.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS**

High-visibility vests shall be maintained in the designated storage area of each patrol and investigation unit, in the side box of each police motorcycle and in the saddlebag or gear bag of each police bicycle. Each vest should be stored in such a manner as to protect and maintain the vest in a serviceable condition. Before going into service, each employee shall ensure a serviceable high-visibility vest is properly stored.

Additional high-visibility vests will be maintained in the equipment room for replacement of damaged or unserviceable vests. The Training Coordinator should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

## Vehicle Towing and Release Policy

### 501.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Lorain Police Department and under the authority of ORC § 4510.41, ORC § 4511.67, ORC § 4513.60 and ORC § 4513.61 or other applicable municipal ordinance.

### 501.2 RESPONSIBILITIES

The responsibilities of those employees storing or impounding a vehicle are as follows.

#### 501.2.1 COMPLETION OF VEHICLE IMPOUND AND INVENTORY REPORT

Department members requesting storage of a vehicle shall complete a vehicle inventory report including a description of property within the vehicle.

Traffic Division personnel shall send a notice to the owner and any lienholder that the motor vehicle will be declared a nuisance and disposed of if not claimed within 10 days of the date of mailing of the notice (ORC § 4513.61).

Approved storage forms shall be promptly placed into the auto-file so that they are immediately available for release or for information should inquiries be made. The Support Services Commander shall ensure that records are maintained of motor vehicles towed and/or disposed of by this department, as required by Ohio law (ORC § 4513.60; ORC § 4513.61).

#### 501.2.2 REMOVAL OF VEHICLE DISABLED IN A TRAFFIC COLLISION

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if reasonably possible, and shall relay the request for the specified towing company to the Communications Center.

If the owner is incapacitated or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call the current contracted tow company. The officer will then conduct an inventory and store the vehicle using a vehicle inventory report.

#### 501.2.3 DRIVING A NON-CITY VEHICLE

Vehicles that have been towed by or at the direction of the Department should not be driven by police personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant, or to comply with posted signs.

#### 501.2.4 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

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##### **501.3 TOWING SERVICES**

The City of Lorain periodically selects one or more firms to act as official tow services and awards contracts to those firms. Those firms will be used in the following situations:

- (a) When it is necessary to safeguard a vehicle due to the inability of the owner or operator to take the required action.
- (b) When a vehicle is seized pursuant to a violation of ORC § 4511.195 or ORC § 4511.203.
- (c) When it is otherwise necessary to store a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles and the removal of vehicles obstructing traffic in violation of state or local regulations.

If more than one firm has been awarded contracts, they shall be placed on a rotation list. Nothing in this policy shall require the Department to tow a vehicle.

##### **501.4 TOWING AT ARREST SCENES**

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by towing the arrestee's vehicle subject to the exceptions described below. However, a vehicle shall be towed whenever it is needed for the furtherance of an investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be towed. For example, a vehicle shall be towed if it would present a traffic hazard or if it would be in jeopardy of theft or damage if left at the scene in a high-crime area.

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of towing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic-related warrant arrest
- Situations where the vehicle was not used to further the offense for which the occupant was arrested or is not subject to forfeiture proceedings
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene

In such cases, the handling employee shall note in the report that the owner was informed that the Department will not be responsible for theft or damages.

##### **501.5 VEHICLE INVENTORY**

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle inventory report. This includes the trunk and any compartments or containers, even if they are closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practicable in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while the owner is in police custody, to provide for the safety

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of officers and the public, and to protect the Department against fraudulent claims of lost, stolen or damaged property.

If the apparent potential for damage to a locked container reasonably appears to outweigh the protection of the items inside other options to consider regarding locked containers include, but are not limited to, obtaining access to the locked container from the owner, placing the locked container into safe keeping or obtaining a written waiver of responsibility for the contents of the locked container.

#### **501.6 SECURITY OF VEHICLES AND PROPERTY**

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, an officer should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cellular telephone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property.

## Impaired Driving

### 502.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of operating a vehicle under the influence of alcohol or drugs (OVI).

### 502.2 POLICY

The Lorain Police Department is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of Ohio's impaired driving laws.

### 502.3 INVESTIGATIONS

Officers should not enforce OVI laws to the exclusion of their other duties unless specifically assigned to OVI enforcement. All officers are expected to enforce these laws with due diligence.

Any OVI investigation will be documented using a case report which at a minimum should include the following:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The officer's observations that indicate impairment on the part of the individual, and the officer's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in Ohio or another jurisdiction.

### 502.4 FIELD TESTS

The Traffic Commissioner should identify standardized FSTs and any approved alternate tests for officers to use when investigating violations of OVI laws.

### 502.5 CHEMICAL TESTS

A person implies consent under Ohio law to a chemical test or tests, and to providing the associated chemical sample, under any of the following (ORC § 4511.191):

- (a) The arresting officer has reasonable grounds to believe the person was operating or in physical control of a motor vehicle while under the influence of alcohol, a drug or a combination of the two.
- (b) An officer has arrested a person under the age of 21 and has reasonable grounds to believe the person was OVI (ORC § 4511.19(B)).
- (c) The person has been arrested for a substantially equivalent municipal OVI ordinance.

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If a person withdraws this implied consent, the officer should consider implied consent revoked, and proceed as though the person has refused to provide a chemical sample.

Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code. (4511.191A4)

#### 502.5.1 STATUTORY NOTIFICATIONS

An officer arresting a person for OVI shall, prior to requesting that the person submit to a chemical test, read from a written BMV 2255 form the mandatory statutory advice provided by ORC § 4511.192(B). The reading of the advice shall be witnessed by one or more persons and the witness shall certify to this fact by signing the form (ORC § 4511.192(A)).

If the arrestee has a previous conviction for OVI as described in ORC § 4511.191, the officer (ORC § 4511.191(A)(5)):

- (a) Shall request the person to submit to a chemical test.
- (b) Is not required to advise the person of the consequences of submitting or refusing to submit to a chemical test.
- (c) Is not required to provide the person with the written form described in this policy.
- (d) Shall advise the person that the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test.
- (e) At the time of arrest, shall advise the person that he/she may have an independent chemical test taken at his/her own expense and permit such testing (ORC § 4511.19(D)(3)).

If an officer does not ask the arrestee to submit to a chemical test, the officer shall seize the person's driver license and forward it to the court in which the person is to appear, pursuant to ORC § 4511.192(C). If the person is not in possession of his/her license, the officer shall order the person to submit it to this department within 24 hours of the arrest.

#### 502.5.2 BREATH SAMPLES

The Traffic Commissioner should ensure that all devices used for the collection and analysis of breath samples are properly serviced and tested, and that a record of such service and testing is properly maintained.

Officers obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report and promptly reported to the Traffic Commissioner.

#### 502.5.3 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (ORC § 4511.19(D)(1)(b)). The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

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Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

If an arrestee cannot submit to a blood draw because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

#### **502.5.4 URINE SAMPLES**

If a urine test will be performed, the arrestee should be promptly transported to an appropriate testing site. The officer shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an officer or jail staff member of the same sex as the individual giving the sample. The arrestee tested should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample.

The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

#### **502.6 REFUSALS**

When an arrestee refuses to provide a chemical sample, officers should:

- (a) Advise the arrestee of the requirement to provide a sample (ORC § 4511.191).
- (b) Audio- and/or video-record the admonishment and the response when it is practicable.
- (c) Document the refusal in the appropriate report.

#### **502.6.1 STATUTORY NOTIFICATIONS UPON REFUSAL**

Upon refusal to submit to a chemical test as required by law, officers shall personally serve the notice of license suspension upon the person and take possession of any state-issued license to operate a motor vehicle that is held by that person. If a person was arrested only for having physical control of a vehicle while under the influence pursuant to ORC § 4511.194, the officer shall not seize the person's driver license if the person submits to the chemical tests, regardless of the amount of alcohol or controlled substances indicated by the test (ORC § 4511.192(D)).

#### **502.6.2 BLOOD SAMPLE WITHOUT CONSENT**

A blood sample may be obtained from a person who refuses to submit to a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained.
- (b) The officer can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of

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alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts, such as a lengthy delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

#### 502.6.3 FORCED BLOOD SAMPLE

If an arrestee indicates by word or action that he/she will physically resist a blood draw, the officer should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.
- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another officer) and attempt to persuade the person to submit to such a sample without physical resistance. This dialogue should be recorded on audio and/or video when practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure the forced blood draw is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances.
  1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
  2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
  3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.
- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, officers are expected to use sound judgment and perform as a responding supervisor, as set forth above.

#### **502.7 ARREST AND INVESTIGATION**

##### 502.7.1 DESIGNATION OF CHEMICAL TESTS

The type of chemical test to be administered to persons in violation of OVI laws shall be the type designated by the Department and administered at the direction of the arresting officer (ORC § 4511.191(A)(3)).

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##### **502.7.2 OFFICER RESPONSIBILITIES**

If a person refuses to submit to a chemical test, or submits to the test and the results indicate a prohibited concentration of alcohol, controlled substance or metabolite of a controlled substance, the officer shall (ORC § 4511.192(D)):

- (a) Confirm the arrested person's residence and notify the Bureau of Motor Vehicles (BMV) of any change.
- (b) Within 48 hours, forward a sworn report to the BMV and the court in which the arrested person will appear that contains the statements required by ORC § 4511.192(D)(1)(d).
- (c) Provide a copy of the officer's sworn report to the arrested person, if available. A copy of an unsworn report may be provided to the arrested person provided that the report is complete when given to the person and that it is subsequently sworn to by the arresting officer (ORC § 4511.192(E)).

##### **502.7.3 TIME TO CONSENT TO TEST**

If an officer requests that a person consent to providing a chemical sample pursuant to Ohio law, failure to consent to the test within two hours of the alleged violation automatically constitutes a refusal (ORC § 4511.192(A)).

##### **502.7.4 VEHICLE SEIZURE**

An officer arresting a person for OVI shall seize the vehicle the person was operating at the time of the offense if the person is the registered owner of the vehicle and either of the following conditions apply (ORC § 4511.195(B)):

- (a) The person is arrested for OVI or for a municipal OVI ordinance and has been previously convicted of or pleaded guilty to OVI, or an equivalent offense, within the last 10 years.
- (b) The person is arrested for OVI or for a municipal OVI ordinance and has been previously convicted of or pleaded guilty to a felony OVI offense, regardless of when the conviction or guilty plea occurred.

##### **502.8 RECORDS AND INFORMATION CENTER RESPONSIBILITIES**

The Support Services Commander will ensure that all case-related records are transmitted according to current records procedures and as required by the prosecuting attorney's office.

##### **502.9 ADMINISTRATIVE HEARINGS**

The Support Services Commander will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to the BMV.

Any officer who receives notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

An officer called to testify at an administrative hearing should document the hearing date and the BMV file number in a supplemental report. Specific details of the hearing generally should not be

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included in the report unless errors, additional evidence or witnesses are identified. The Records and Information Center should forward this to the prosecuting attorney as part of the case file.

#### **502.10 TRAINING**

The Training Coordinator should ensure that officers participating in the enforcement of OVI laws receive periodic training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to OVI investigations. The Training Coordinator should confer with the prosecuting attorney's office and update training topics as needed.

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## Traffic and Parking Citations

### 503.1 PURPOSE AND SCOPE

This policy outlines the responsibilities for issuing, correcting, voiding, and dismissing traffic and parking citations.

### 503.2 RESPONSIBILITIES

Members of this department shall use the Ohio Uniform Traffic Ticket for all traffic offense citations (Ohio Traf. R. Rule 3(A)). The Chief of Police or the authorized designee shall determine whether to use the Ohio Uniform Traffic Ticket or adopt a local parking ticket for parking violations (ORC § 4521.03).

The Records and Information Center shall be responsible for the supply and accounting of all traffic and parking citations issued to members of this department (Ohio Traf. R. Rule 3(D)). Citations will be kept in a secure location and issued to members by Records and Information Center staff. Citation books shall be electronically logged to the member by their shift OIC when issued, and the Records and Information Center is responsible for maintaining records of parking tickets issued by members of this department (ORC § 4521.03(D)).

#### 503.2.1 OFFICER RESPONSIBILITIES

The officer who issues a moving traffic ticket shall do all of the following (Ohio Traf. R. Rule 3(E)):

- (a) Complete the ticket with all available information and sign the ticket.
- (b) Serve a copy of the completed ticket on the defendant.
- (c) File the court copy with the court without unnecessary delay.
- (d) Notify the recipient that the recipient must comply with the directions on the ticket or the recipient's license will be cancelled, the recipient will not be eligible for the reissuance of a license for one year, and the recipient will be subject to any applicable criminal penalties.

#### 503.2.2 WRITTEN OR VERBAL WARNINGS

Written or verbal warnings may be issued when the department member believes it is appropriate. The Records and Information Center should maintain information relating to traffic stops in which a written warning is issued. Written warnings are retained by this department in accordance with the established records retention schedule.

### 503.3 PARKING CITATION APPEALS

Parking citations may be appealed in accordance with local and state law.

Disposition of notice of parking violation appeals is conducted pursuant to Ohio state law and local regulations (ORC § 4521.04 et seq.).

#### 503.3.1 APPEAL STAGES

Appeals may be pursued sequentially at three different levels:

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- (a) Administrative reviews are conducted by the Traffic Division, which will review written documentary data. Requests for administrative reviews are available at the front desk or Traffic Division of the Lorain Police Department. These requests are informal written statements outlining why the notice of parking violation should be dismissed. Copies of documentation relating to the notice of parking violation and the request for dismissal must be mailed to the current mailing address of the processing agency.
- (b) If the appellant wishes to pursue the matter beyond administrative review, an administrative hearing may be conducted in person or by written application at the election of the appellant. Independent referees review the existent administrative file, amendments and/or testimonial material provided by the appellant and may conduct further investigation or follow-up on their own.
- (c) If the appellant wishes to pursue the matter beyond an administrative hearing, an appellant may petition the court for a hearing as required (ORC § 4521.08).

#### 503.3.2 TIME REQUIREMENTS

Administrative review or appearance before a hearing examiner will not be provided if the mandated time limits are not adhered to by the violator.

- (a) Requests for an administrative review must be postmarked within 21 days of issuance of the notice of parking violation or within 10 days of the mailing of the Notice of Delinquent Parking Violation.
- (b) Requests for administrative hearings must be postmarked within 15 days of the mailing of the results of the administrative review.
- (c) Requests for appeal to the District Court must be made within 15 days of the mailing of the administrative hearing results (ORC § 4521.08).
- (d) Registered owners of leased or rented vehicles may transfer responsibility for the violation to the lessee or renter of the vehicle at the time of the violation if the name, address, and driver license number of the lessee/renter is provided to the processing agency within 30 days of actual receipt of the parking ticket or notification of infraction (ORC § 4521.09).

#### 503.3.3 COSTS

- (a) There is no cost for an administrative review.
- (b) Appellants must pay the full amount due for the citation or provide satisfactory proof of their inability to pay before receiving an administrative hearing.
- (c) An appeal through the District Court requires prior payment of filing costs, including applicable court charges and fees. These costs will be reimbursed to the appellant in addition to any previously paid fines if the appellant's liability is overruled by the District Court.

#### 503.4 POLICY

It is the policy of the Lorain Police Department to enforce traffic laws fairly and equally. Authorized members may issue a traffic citation, parking citation, or written or verbal warning based upon the circumstances of the contact and in the best interest of the motoring public and community safety.

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### **503.5 TRAFFIC CITATIONS**

#### **503.5.1 CORRECTION**

When a traffic citation is issued but is in need of correction, the member issuing the citation shall submit the citation to the member's immediate supervisor requesting a specific correction. Once approved, the citation shall then be forwarded to the Records and Information Center. The Support Services Commander or the authorized designee shall prepare a letter of correction to the court having jurisdiction and notify the citation recipient in writing.

#### **503.5.2 VOIDING**

Voiding a traffic citation may occur when the citation has not been completed, when it is completed but not issued. All copies of the voided citation shall be presented to a supervisor for approval. The citation and copies shall then be forwarded to the Records and Information Center.

#### **503.5.3 JUVENILE CITATIONS**

Completion of traffic citation forms for juveniles may vary slightly from the procedure for adults. The juvenile's age, place of residency, and the type of offense should be considered before issuing a juvenile a citation.

#### **503.5.4 DISPOSITION**

The court and file copies of all traffic citations issued by members of this department shall be forwarded to the member's immediate supervisor for review by the end of each shift. The citation copies shall then be filed with the Records and Information Center.

Upon separation from appointment or employment with this department, all members who were issued traffic citation books shall return any unused citations to the Records and Information Center.

#### **503.5.5 DISMISSAL**

Members of this department do not have the authority to dismiss a traffic citation once it has been issued. Only the court has that authority. Any request from a recipient to dismiss a citation shall be referred to the Traffic Commissioner. Upon a review of the circumstances involving the issuance of the traffic citation, the Traffic Commissioner may request the Patrol Operations Division Commander to recommend dismissal. If approved, the citation will be forwarded to the appropriate prosecutor with a request for dismissal. All recipients of traffic citations whose request for dismissal has been denied shall be referred to the appropriate court.

Prior to a court hearing, a member may submit a request for dismissal of a traffic citation to the member's supervisor. The request must be in writing and should include the reason for dismissal (i.e., in the interest of justice, prosecution is deemed inappropriate). Upon a review of the circumstances involving the issuance of the traffic citation, the supervisor may forward the request to the Patrol Operations Division Commander to recommend dismissal. If approved, the citation will be forwarded to the appropriate prosecutor with a request for dismissal.

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Should a member determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate, the member may request the court to dismiss the citation. Upon such dismissal, the member shall notify the member's immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required, and forward it to the Patrol Operations Division Commander for review.

## Disabled Vehicles

### 504.1 PURPOSE AND SCOPE

Law enforcement and other public agencies may develop and adopt a written policy to provide assistance to motorists in disabled vehicles that are within their primary jurisdiction.

### 504.2 OFFICER RESPONSIBILITIES

When an on-duty officer observes a disabled vehicle, the officer should make a reasonable effort to provide assistance. If that officer is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another available officer if available as soon as practicable.

### 504.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After assistance is rendered or arrangements for assistance are made, continued involvement by Department personnel will be contingent on the time of day, the location, the availability of Department resources and the vulnerability of the disabled motorist.

#### 504.3.1 MECHANICAL REPAIRS

Department personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

#### 504.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this department by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

## Abandoned and Overtime Parked Vehicles

### 505.1 PURPOSE AND SCOPE

This policy provides procedures for the removal, recording and storage of abandoned vehicles or overtime parked vehicles on public or private property under the authority of ORC § 4513.60 and ORC § 4513.61.

#### 505.1.1 DEFINITIONS

Definitions related to this policy include:

**Abandoned Junk Vehicle** - A motor vehicle meeting all of the following requirements (ORC § 4513.63):

- The motor vehicle has remained on private property for more than 48 hours without the permission of the property owner, or on a public street or upon or within the right-of-way of any road or highway for 48 hours or longer.
- The motor vehicle is three years old or older.
- The motor vehicle is extensively damaged, including but not limited to, any of the following: missing wheels, tires, motor or transmission.
- The motor vehicle is apparently inoperable.
- The motor vehicle has a fair market value of \$1,500 or less.

**Private Residential Property** - Private property on which is located (ORC § 4513.60(A)(3)):

- One or more structures that are used as a home, residence or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures.
- Does not include any private property on which is located one or more structures that are used as a home, residence or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

### 505.2 MARKING VEHICLES

Vehicles on public roadways suspected of being abandoned in violation of Ohio abandoned vehicle laws shall be marked and noted in the Lorain Police Department computer-aided dispatch (CAD) system.

The officer will take photos of the vehicle and its condition and location. The vehicle's condition and location will then be documented in the dispatch call narrative, or a case report may be left if the situation requires it. Additionally, the officer may wish to mark the roadway where the tires are resting with chalk, however, no markings shall be made on the vehicle, and no items for marking purposes shall be placed on the vehicle itself.

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#### *Abandoned and Overtime Parked Vehicles*

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##### 505.2.1 MARKED VEHICLE FILE

The Traffic Division shall be responsible for maintaining a file for all marked abandoned vehicles. In addition, abandoned vehicles may be entered into the Ohio Law Enforcement Automated Data System (LEADS) towed vehicle file.

The Traffic Division shall be responsible for the follow-up investigation of all abandoned violations noted on the marked vehicle cards or CAD system.

#### **505.3 VEHICLE STORAGE**

##### 505.3.1 PRIVATE PROPERTY

A vehicle, other than an abandoned junk motor vehicle, left on private residential or private agricultural property, that has not been established as a private tow-away zone, without the permission of the property owner, may be removed if (ORC § 4513.60(A)(1)):

- (a) A complaint is received from any person adversely affected and the motor vehicle has been left for at least four hours.
- (b) A complaint is received from a representative of a repair garage or place of storage because the motor vehicle has been left at the garage or place of storage for a period longer than that agreed upon.

##### 505.3.2 PUBLIC PROPERTY

Any motor vehicle, including an abandoned junk motor vehicle, left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, may be removed if the motor vehicle has been left for 48 hours or longer. When such a motor vehicle constitutes an obstruction to traffic, it may be ordered into storage immediately (ORC § 4513.61).

##### 505.3.3 VEHICLE STORAGE REPORTING

Any vehicle in violation shall be stored by the authorized towing service or municipal, impound facility and a vehicle inventory report shall be completed by the officer authorizing the storage of the vehicle.

The vehicle inventory report shall be submitted to the Records and Information Center as soon as practicable following the storage of the vehicle. It shall be the responsibility of the Traffic Division to search Ohio Bureau of Motor Vehicles records within five business days of the tow to identify the owner and any lien holder of a motor vehicle ordered into storage. Traffic Division personnel shall send a notice to the owner and any lien holder that the motor vehicle will be declared a nuisance and disposed of if not claimed within 10 days of the date of mailing the notice (ORC § 4513.61).

## **Chapter 6 - Investigation Operations**

## Investigation and Prosecution

### 600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

### 600.2 POLICY

It is the policy of the Lorain Police Department to investigate crimes thoroughly and with due diligence, and to evaluate and prepare criminal cases for appropriate clearance or submission to a prosecutor.

### 600.3 INITIAL INVESTIGATION

#### 600.3.1 OFFICER RESPONSIBILITIES

An officer responsible for an initial investigation shall complete no less than the following:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
  - 1. An initial statement from any witnesses or complainants.
  - 2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the officer shall:
  - 1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
  - 2. Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
  - 3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Watch Commander.
  - 4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
  - 5. Collect any evidence.
  - 6. Take any appropriate law enforcement action.
  - 7. Complete and submit the appropriate reports and documentation.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.
- (d) Patrol officers will not advise citizens that the CID will arrive and take fingerprints or gather other evidence for every reported offense. When necessary, evidence should either be tagged by the investigating officer, or, if too bulky or fragile preserved by the complainant. Either should be noted on the case report so CID personnel have knowledge of the evidence and can act on it in a timely and orderly manner.

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#### *Investigation and Prosecution*

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- (e) The CID does follow-up investigations on a case by case basis with respect to solvability factors. The decision to conduct a follow-up investigation will primarily depend on the facts reported in the initial case report.
- (f) Patrol officers will not advise citizens that their case will not be investigated due to lack of evidence.

#### SERIOUS INCIDENTS

The CID, Traffic Bureau, SWAT, Crisis Negotiators, Under Water Recovery, Health Department, etc. will be contacted when necessary and in accordance with procedures.

#### INVESTIGATIONS CONDUCTING

Investigations will be conducted in accordance with established policy and procedures. No officer shall investigate any case involving any family member. No officer shall personally file any criminal charge in a court of law, against any person for a criminal offense committed against any member of his family. Officers shall not intentionally become involved in neighborhood quarrels or disputes in their neighborhood when off duty. Such disputes shall be handled by on-duty officers.

#### IDENTIFICATION

Department personnel shall furnish their name and where applicable, identification number, or photo ID, to any person requesting that information when they are on duty or while holding themselves out as having an official capacity, except when the withholding of such information is necessary for the performance of their duties or is authorized by proper authority. Department personnel shall not lend to another person their identification cards or badges or permit them to be photographed or reproduced without the approval of the Chief of Police.

#### 600.3.2 CIVILIAN MEMBER RESPONSIBILITIES

A civilian member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.

#### 600.4 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

#### 600.4.1 AUDIO/VIDEO RECORDINGS

Any custodial interrogation of an individual who is suspected of having committed any violent felony offense should be recorded (audio or video with audio as available) in its entirety. Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment to accomplish such recordings.

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Consideration should also be given to recording a custodial interrogation, or any investigative interview, for any other offense when it is reasonable to believe it would be appropriate and beneficial to the investigation and is otherwise allowed by law.

If a person is suspected of committing a violation of any offense enumerated in ORC § 2933.81, officers should both audio and video record, in its entirety, any custodial interrogation occurring at the station, a jail or other place of detention (ORC § 2933.81).

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Criminal Investigations supervisor. Copies of recorded interrogations or interviews may be made in the same or a different format as the original recording, provided the copies are true, accurate and complete and are made only for authorized and legitimate law enforcement purposes.

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable.

#### **600.4.2 RECORD KEEPING AND RETENTION REQUIREMENTS**

Electronic recordings of custodial interrogations shall be clearly labeled and retained as required by ORC § 2933.81(D).

#### **600.4.3 REQUIRED RECORDING OF INDIVIDUALS**

Both audio and video recording of custodial interrogations is statutorily required when an individual is suspected of committing a violation of any offense enumerated in ORC § 2933.81 and the interrogation occurs at the station, a jail, or other place of detention except when (ORC § 2933.81):

- (a) The suspect requests that the interrogation not be recorded. Any such request shall be preserved in a recording or in writing.
- (b) The recording equipment malfunctions.
- (c) There are exigent circumstances related to public safety.
- (d) The interrogation occurs outside of the state.
- (e) The statements are made during routine processing or booking.
- (f) The statements are made spontaneously and not in response to interrogation.

#### **600.5 COLD CASE REGISTER**

The Department should maintain a confidential cold case register for offenses, including homicides and felony sexual offenses that have remained unsolved for more than one year. As reasonably practicable, cold cases should be revisited periodically for new information.

The Criminal Investigations Division should submit cold cases to the Ohio Bureau of Criminal Investigation (BCI), which will provide investigative support in accordance with the BCI's Unresolved Homicide Initiative.

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##### **600.6 DISCONTINUATION OF INVESTIGATIONS**

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

- (a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.
- (b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.
  - 1. In these cases, the investigator shall document that the person was warned and why prosecution was not sought.
  - 2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.
- (c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.
- (d) The case has been submitted to the appropriate prosecutor, charges have been filed, and further investigation is not reasonable, warranted or requested, and there is no need to take the suspect into custody.
- (e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted or requested.
- (f) Investigation has proven that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

The Domestic Violence, Child Abuse, Sexual Assault Investigations and Adult or Vulnerable Person Abuse policies may also require an arrest or submittal of a case to a prosecutor.

##### **600.7 COMPUTERS AND DIGITAL EVIDENCE**

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, officers should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, officers should take reasonable steps to prepare for such seizure and use the resources that are available.

##### **600.8 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES**

Use of social media and any other Internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights and civil liberties. Information gathered via the Internet should only be accessed by members while on-duty and for purposes related to the mission of this department. If a member encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment, the member should note the dates, times and locations of the information and report the discovery

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to his/her supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment.

Information obtained via the Internet should not be archived or stored in any manner other than department-established record keeping systems (see the Records Maintenance and Release and Criminal Organizations policies).

#### **600.8.1 ACCESS RESTRICTIONS**

Information that can be accessed from any department computer, without the need of an account, password, email address, alias or other identifier (unrestricted websites), may be accessed and used for legitimate investigative purposes without supervisory approval.

Accessing information from any Internet source that requires the use or creation of an account, password, email address, alias or other identifier, or the use of nongovernment IP addresses, requires supervisor approval prior to access. The supervisor will review the justification for accessing the information and consult with legal counsel as necessary to identify any policy or legal restrictions. Any such access and the supervisor approval shall be documented in the related investigative report.

Accessing information that requires the use of a third party's account or online identifier requires supervisor approval and the consent of the third party. The consent must be voluntary and shall be documented in the related investigative report.

Information gathered from any Internet source should be evaluated for its validity, authenticity, accuracy and reliability. Corroborative evidence should be sought and documented in the related investigative report.

Any information collected in furtherance of an investigation through an Internet source should be documented in the related report. Documentation should include the source of information and the dates and times that the information was gathered.

#### **600.8.2 INTERCEPTING ELECTRONIC COMMUNICATION**

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Officers should seek legal counsel before any such interception.

#### **600.9 MODIFICATION OF CHARGES FILED**

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a Division Commander or the Chief of Police. Any authorized request to modify the charges or to recommend dismissal of charges shall be made to the prosecutor.

#### **600.10 SCRAP METAL THEFT**

To assist in scrap metal theft investigations, the Criminal Investigations supervisor shall provide scrap metal dealers in this jurisdiction with an electronically searchable list of the names, descriptions and conviction information of persons known to be thieves or receivers of stolen property. A list may be requested from the appropriate clerk of the court or prepared pursuant to

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rules adopted by the Ohio Department of Public Safety (DPS). The list shall also be provided to DPS in the format and manner described in OAC § 4501:5-3-01. Following the initial submission of the list, if there are any updates, a new list shall be submitted to dealers and DPS on the first business day of each month (ORC § 4737.04; OAC § 4501:5-3-01).

An individual included on the list prepared by this department may request that his/her name be removed by filing an application with the Criminal Investigations. The Criminal Investigations supervisor or the authorized designee shall remove the applicant's name from the list if the individual has not been convicted of, or pleaded guilty to, either of the following (ORC § 4737.04):

- (a) A misdemeanor theft offense, as defined in ORC § 2913.01, within three years immediately prior to the date of the application
- (b) A felony theft offense within six years immediately prior to the date of the application

# Sexual Assault Investigations

## 601.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Adult or Vulnerable Person Abuse policies.

### 601.1.1 DEFINITIONS

Definitions related to this policy include:

**Sexual assault** - Any crime or attempted crime of a sexual nature, to include but not limited to offenses defined in Title 29, Chapter 2907 (Sex Offenses).

**Sexual Assault Response Team (SART)** - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

## 601.2 POLICY

It is the policy of the Lorain Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

## 601.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

- (a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations (ORC § 2907.30).
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.
- (e) Provide referrals to therapy services, victim advocates and support for the victim.
- (f) Participate in or coordinate with SART or other multidisciplinary investigative teams as applicable.

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#### *Sexual Assault Investigations*

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##### **601.4 REPORTING**

In all reported or suspected cases of sexual assault, a report should be reviewed for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

##### **601.5 VICTIM INTERVIEWS**

The primary considerations in sexual assault investigations, which begin with the initial call to the Communications Center, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of the SART should be included in the initial victim interviews.

An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator (ORC § 2907.30).

No opinions of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; ORC § 2907.10).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

##### **601.6 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE**

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault. If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately. The sexual assault will be sent to BCI for testing.

###### **601.6.1 COLLECTION AND TESTING REQUIREMENTS**

Members investigating sexual assaults or handling related evidence are required to do the following:

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- (a) Submit biological evidence to the appropriate crime laboratory within thirty days for a DNA analysis after it has been determined that any of the following offenses have occurred (ORC § 2933.82; OAC § 109:7-1-07):
  - 1. A rape offense (ORC § 2907.02).
  - 2. A sexual battery offense (ORC § 2907.03).
  - 3. Gross sexual imposition with a victim less than 13 years of age (ORC § 2907.05).
  - 4. Any sexual assault involving a homicide or an attempted homicide offense (ORC § 2907.02).
  - 5. Any sexual assault related to human trafficking (ORC § 2905.32).
- (b) Facilitate the testing of a suspect for disease as set forth in ORC § 2907.27 upon the request of a victim or the prosecutor.
- (c) Log and update information relating to sexual assault evidence kits into the state tracking system as required by OAC § 109:7-1-07 (e.g., receiving a kit, forwarding a kit to a laboratory, a change in the status of the case).

Additional guidance regarding evidence retention and destruction is found in the Evidence Room Policy.

#### **601.6.2 DNA TEST RESULTS**

Members investigating sexual assault cases should notify victims of any DNA test results as soon as reasonably practicable.

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

Members investigating sexual assaults cases should ensure that DNA results are entered into databases when appropriate and as soon as practicable.

#### **601.7 DISPOSITION OF CASES**

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Criminal Investigations supervisor.

Classification of a sexual assault case as unfounded requires the Criminal Investigations supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

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#### *Sexual Assault Investigations*

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##### **601.8 CASE REVIEW**

The Criminal Investigations supervisor should ensure cases are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process. The reviews should include an analysis of:

- (a) Case dispositions.
- (b) Decisions to collect biological evidence.
- (c) Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief of Police.

##### **601.9 RELEASING INFORMATION TO THE PUBLIC**

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Criminal Investigations supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

##### **601.10 TRAINING**

Subject to available resources, periodic training will be provided to:

- (a) Members who are first responders. This includes but is not limited to:
  - 1. Initial response to sexual assaults.
  - 2. Legal issues.
  - 3. Victim advocacy.
  - 4. Victim's response to trauma.
- (b) Qualified investigators who should receive advanced training on additional topics. This includes but is not limited to:
  - 1. Interviewing sexual assault victims.
  - 2. SART or multidisciplinary response team.
  - 3. Medical and legal aspects of sexual assault investigations.
  - 4. Serial crimes investigations.
  - 5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (VICAP).
  - 6. Techniques for communicating with victims to minimize trauma (ORC § 2907.30).

## Asset Forfeiture

### 602.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

#### 602.1.1 DEFINITIONS

Definitions related to this policy include:

**Fiscal agents** - The person or persons designated by the Chief of Police to be responsible for securing, reviewing, and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Lorain Police Department seizes property for forfeiture or when the Lorain Police Department is acting as the fiscal agent pursuant to a multi-agency agreement.

**Forfeiture** - The process by which legal ownership of an asset is transferred to a government or other authority.

**Property subject to forfeiture** - Includes the following (ORC § 2981.02; ORC § 2981.04; ORC § 2981.05):

- (a) Contraband involved in an offense.
- (b) Proceeds derived from or acquired through the commission of an offense.
- (c) An instrumentality that is used in, or intended to be used in, the commission or facilitation of any of the following offenses:
  1. A felony.
  2. A misdemeanor, when forfeiture is specifically authorized by a section of the Ohio Revised Code, or by a municipal ordinance that creates the offense or sets forth its penalties.
  3. An attempt to commit, complicity in committing or a conspiracy to commit either of the above.

**Seizure** - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

### 602.2 POLICY

The Lorain Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person's due process rights.

It is the policy of the Lorain Police Department that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

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### **602.3 ASSET SEIZURE**

Property may be seized for forfeiture as provided in this policy.

#### **602.3.1 PROPERTY SUBJECT TO SEIZURE**

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

- (a) Property subject to forfeiture identified in a search warrant or court order.
- (b) Property subject to forfeiture that is not the subject of a court order but for which an officer has probable cause to believe qualifies as property subject to forfeiture (ORC § 2981.03).

Whenever practicable, obtaining a search warrant or court order for seizure prior to making a seizure is the preferred method. Real property shall only be seized by court order unless an immediate need to protect the public exists (ORC § 2981.03).

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

#### **602.3.2 PROPERTY NOT SUBJECT TO SEIZURE**

The following property should not be seized for forfeiture:

- (a) Property that reasonably appears to the officer to have a value disproportionate to the severity of the crime considering the impact of the offense on the community, the extent to which the owners participated in the offense and whether the offense was completed or attempted (ORC § 2981.09).

When deciding to seize property as an alleged instrumentality of a crime under ORC Chapter 2981.02, officers should consider:

- Whether the offense could not have been committed or attempted but for the presence of the property.
- Whether the primary purpose in using the property was to commit or attempt to commit the offense, and
- The extent to which the property furthered the offense.

### **602.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS**

When property or cash subject to this policy is seized, the property officer making the seizure should ensure compliance with the following:

- (a) Complete any applicable seizure forms if required by applicable court case, and present the appropriate copy to the person from whom the property is seized. When property is seized and no one claims an interest in the property, the property officer will follow state guidelines for time limits to complete the seizure.
- (b) Complete and submit a report within 24 hours of the seizure, if practicable.

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The officer may book seized property as evidence with the notation in the comment section of the property form in the records management system.

Officers who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

#### **602.5 MAINTAINING SEIZED PROPERTY**

The property officer is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- (d) Property received for forfeiture is not used by the Department unless the forfeiture action has been completed.

#### **602.6 DISPOSITION OF FORFEITED PROPERTY**

Assets forfeited shall be disposed of as set forth in ORC § 2981.12 and ORC § 2981.13.

No member of this department may use property that has been seized for forfeiture until the forfeiture action has been completed and the Chief of Police has given written authorization to retain the property for official use. No department member involved in the decision to seize property should be involved in any decision regarding the disposition of the property.

#### **602.7 RECORDS REQUIREMENTS**

Detailed records related to the amount of forfeited property acquired by the Department under ORC Chapter 2981 and the date the property was acquired shall be kept and open to public inspection (ORC § 2981.11).

Detailed records of the disposition of acquired property shall be kept and open to public inspection. These shall include, but not be limited to (ORC § 2981.11):

- (a) The manner in which property was disposed, the date of disposition, detailed financial records concerning any property sold and the name of any person who received the property. The record shall not identify or enable identification of the individual officer who seized any item of property.
- (b) The general types of expenditures made with amounts that are gained from the sale of the property and that are retained by the department, including the specific amount expended on each general type of expenditure, except for the identification of any specific expenditure that is made in an ongoing investigation.

## Informants

### 603.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

#### 603.1.1 DEFINITIONS

Definitions related to this policy include:

**Informant** - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with the Lorain Police Department for law enforcement purposes. This also includes a person agreeing to supply information to the Lorain Police Department for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

### 603.2 POLICY

The Lorain Police Department recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this department that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

### 603.3 USE OF INFORMANTS

#### 603.3.1 INITIAL APPROVAL

Before using an individual as an informant, an officer must receive approval from his/her supervisor. The officer shall compile sufficient information through a background investigation and experience with the informant in order to determine the suitability of the individual, including age, maturity and risk of physical harm, as well as any indicators of his/her reliability and credibility.

Members of this department should not guarantee absolute safety or confidentiality to an informant.

#### 603.3.2 JUVENILE INFORMANTS

The use of informants under the age of 13 is prohibited.

In all cases, a juvenile 13 years of age or older may only be used as an informant with the written consent of each of the following:

- (a) The juvenile's parents or legal guardians
- (b) The juvenile's attorney, if any
- (c) The court in which the juvenile's case is being handled, if applicable
- (d) The Chief of Police or the authorized designee

#### 603.3.3 INFORMANT AGREEMENTS

All informants are required to sign and abide by the provisions of the designated department informant agreement. The officer using the informant shall discuss each of the provisions of the agreement with the informant.

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Details of the agreement are to be approved in writing by a supervisor before being finalized with the informant.

#### **603.4 INFORMANT INTEGRITY**

To maintain the integrity of the informant process, the following must be adhered to:

- (a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Division Commander, Narcotics Bureau supervisor or their authorized designees.
  - 1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.
- (b) Criminal activity by informants shall not be condoned.
- (c) Informants shall be told they are not acting as police officers, employees or agents of the Lorain Police Department, and that they shall not represent themselves as such.
- (d) The relationship between department members and informants shall always be ethical and professional.
  - 1. Members shall not become intimately involved with an informant.
  - 2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Narcotics Bureau supervisor.
  - 3. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- (e) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the Narcotics Bureau supervisor.
  - 1. Officers may meet informants alone in an occupied public place, such as a restaurant.
- (f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.
- (g) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.
- (h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

##### **603.4.1 UNSUITABLE INFORMANTS**

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Department and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file "unsuitable" when appropriate.

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Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

- (a) The informant has provided untruthful or unreliable information in the past.
- (b) The informant behaves in a way that may endanger the safety of an officer.
- (c) The informant reveals to suspects the identity of an officer or the existence of an investigation.
- (d) The informant appears to be using his/her affiliation with this department to further criminal objectives.
- (e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.
- (f) The informant engages in any other behavior that could jeopardize the safety of officers or the integrity of a criminal investigation.
- (g) The informant commits criminal acts subsequent to entering into an informant agreement.

#### **603.5 INFORMANT FILES**

Informant files shall be utilized as a source of background information about the informant, to enable review and evaluation of information provided by the informant, and to minimize incidents that could be used to question the integrity of department members or the reliability of the informant.

Informant files shall be maintained in a secure area within the Narcotics Bureau. The Narcotics Bureau supervisor or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief of Police, Division Commanders, Narcotics Bureau supervisor or their authorized designees.

The Criminal Investigations Division Commander should arrange for an audit using a representative sample of randomly selected informant files on a periodic basis, but no less than one time per year. If the Narcotics Bureau supervisor is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files.

##### **603.5.1 FILE SYSTEM PROCEDURE**

A separate file shall be maintained on each informant and shall be coded with an assigned informant control number. An informant history that includes the following information shall be prepared for each file:

- (a) Name and aliases
- (b) Date of birth
- (c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features

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- (d) Photograph
- (e) Current home address and telephone numbers
- (f) Current employers, positions, addresses and telephone numbers
- (g) Vehicles owned and registration information
- (h) Places frequented
- (i) Briefs of information provided by the informant and his/her subsequent reliability
  1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.
- (j) Name of the officer initiating use of the informant
- (k) Signed informant agreement
- (l) Update on active or inactive status of informant

#### **603.6 INFORMANT PAYMENTS**

No informant will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant's previous criminal activity
- The level of risk taken by the informant

The Narcotics Bureau supervisor will discuss the above factors with the Patrol Operations Division Commander and recommend the type and level of payment subject to approval by the Chief of Police.

#### **603.6.1 PAYMENT PROCESS**

Approved payments to an informant should be in cash using the following process:

- (a) Payments of \$500 and under may be paid in cash from a Narcotics Bureau buy/expense fund.
  1. The Narcotics Bureau supervisor shall sign the voucher for cash payouts from the buy/expense fund.
- (b) Payments exceeding \$500 shall be made by issuance of a check, payable to the officer who will be delivering the payment.
  1. The check shall list the case numbers related to and supporting the payment.
  2. A written statement of the informant's involvement in the case shall be placed in the informant's file.

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3. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
  4. Authorization signatures from the Chief of Police and the Safety Director are required for disbursement of the funds.
- (c) To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.
1. The cash transfer form shall include the following:
    - (a) Date
    - (b) Payment amount
    - (c) Lorain Police Department case number
    - (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.
  2. The cash transfer form shall be signed by the informant.
  3. The cash transfer form will be kept in the informant's file.

#### 603.6.2 REPORTING OF PAYMENTS

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed \$600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of officers or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as "other income" and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant's file.

#### 603.6.3 AUDIT OF PAYMENTS

The Narcotics Bureau supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least annually, the Chief of Police or the authorized designee should conduct an audit of all informant funds for the purpose of accountability and security of the funds. The funds and related documents (e.g., buy/expense fund records, cash transfer forms, invoices, receipts and logs) will assist with the audit process.

## Eyewitness Identification

### 604.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques (ORC § 2933.83).

#### 604.1.1 DEFINITIONS

Definitions related to the policy include:

**Eyewitness identification process** - Any field identification, live lineup or photographic identification.

**Field identification** - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

**Live lineup** - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

**Photographic lineup** - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

### 604.2 POLICY

The Lorain Police Department will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

### 604.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

### 604.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Criminal Investigations supervisor shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide (ORC § 2933.83):

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.

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- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all of the individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
  - 1. If applicable, the member shall advise the witness that the member does not know who the suspect is.
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures, instructions and any results.
- (j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.
- (k) Any witness identification of one or more fillers in the lineup.
- (l) Other process direction adopted by the Ohio Attorney General under ORC § 2933.831.

The process and related forms should be reviewed at least annually and modified when necessary.

#### **604.5 EYEWITNESS IDENTIFICATION**

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case. Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and/or video recorded and the recording should be retained according to current evidence procedures (ORC § 2933.83).

#### **604.6 PHOTOGRAPHIC AND LIVE LINEUP CONSIDERATIONS**

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a

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witness know which photograph or person in the lineup is being viewed by the witness. Techniques to achieve this include randomly numbering photographs, shuffling folders or using a computer program to order the persons in the lineup (ORC § 2933.83)

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup.

The member presenting the lineup should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

#### **604.7 FIELD IDENTIFICATION CONSIDERATIONS**

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination or show-up identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

- (a) Obtain a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering:
  1. The length of time the witness observed the suspect.
  2. The distance between the witness and the suspect.
  3. Whether the witness could view the suspect's face.
  4. The quality of the lighting when the suspect was observed by the witness.
  5. Whether there were distracting noises or activity during the observation.
  6. Any other circumstances affecting the witness's opportunity to observe the suspect.
  7. The length of time that has elapsed since the witness observed the suspect.
- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
- (d) When feasible, members should bring the witness to the location of the subject of the show up, rather than bring the subject of the show up to the witness.
- (e) A subject of the show up should not be shown to the same witness more than once.

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- (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show up one at a time.
- (g) The person who is the subject of the show up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.
- (h) If a witness positively identifies a subject of a show up as the perpetrator, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

#### **604.8 DOCUMENTATION**

A thorough description of the eyewitness process and the results of any eyewitness identification should be documented in the case report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report. The original photo line up itself will then be placed into evidence.

## Brady Material Disclosure

### 605.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called “*Brady* information”) to a prosecuting attorney.

#### 605.1.1 DEFINITIONS

Definitions related to this policy include:

**Brady information** - Information known or possessed by the Lorain Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

### 605.2 POLICY

The Lorain Police Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Lorain Police Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

### 605.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an officer learns of potentially incriminating or exculpatory information any time after submission of a case, the officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor’s office.

If information is believed to be privileged or confidential (e.g., informant or attorney-client information, attorney work product), the officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an officer is unsure whether evidence or facts are material, the officer should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the Department case file.

### 605.4 DISCLOSURE OF PERSONNEL INFORMATION

If a member of this department is a material witness in a criminal case, a person or persons designated by the Chief of Police shall examine the personnel file and/or internal affairs file of the

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officer to determine whether they contain *Brady* information. If *Brady* information is located, the following procedure shall apply:

- (a) In the event that a motion has not already been filed by the criminal defendant or other party, the prosecuting attorney and department member shall be notified of the potential presence of *Brady* material in the member's personnel file.
- (b) The prosecuting attorney or department counsel should be requested to file a motion in order to initiate an in-camera review by the court.
  1. If no motion is filed, the supervisor should work with counsel to determine whether the records should be disclosed to the prosecutor.
- (c) The Custodian of Records shall accompany all relevant personnel files during any in-camera inspection and address any issues or questions raised by the court.
- (d) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.
  1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such materials to the involved case and requiring the return of all copies upon completion of the case.
- (e) If a court has determined that relevant *Brady* information is contained in a member's file in any case, the prosecutor should be notified of that fact in all future cases involving that member.

The person or persons designated by the Chief of Police should periodically examine the personnel files and/or internal affairs files of all officers who may be material witnesses in criminal cases to determine whether they contain *Brady* information. The obligation to provide *Brady* information is ongoing. If any new *Brady* information is identified, the prosecuting attorney should be notified.

#### **605.5 INVESTIGATING BRADY ISSUES**

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

#### **605.6 TRAINING**

Department personnel should receive periodic training on the requirements of this policy.

## Warrant Service

### 607.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this department. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol officers.

### 607.2 POLICY

It is the policy of the Lorain Police Department to balance the safety needs of the public, the safety of department members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

### 607.3 OPERATIONS COMMANDER

The operations commander (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved supervisor to determine the risk level of the warrant service.

The operations commander will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelines in the Operations Planning and Deconfliction Policy.

### 607.4 SEARCH WARRANTS

Officers should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the officer will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will also complete the risk assessment form for high risk search warrant service and submit it, along with the warrant affidavit, to the appropriate supervisor and the operations commander for review and classification of risk (see the Operations Planning and Deconfliction Policy).

### 607.5 ARREST WARRANTS

If an officer reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the officer should complete a verbal risk assessment or written risk assessment form and submit it to the appropriate supervisor and the operations commander for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations commander. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a

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residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

#### **607.6 WARRANT PREPARATION**

An officer who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

- (a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime or no-knock warrant execution.
- (b) A clear explanation of the affiant's training, experience and relevant education.
- (c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.
- (d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
- (e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
- (f) A specific description of the location to be searched, including photographs of the location, if reasonably available.
- (g) A sufficient description of the items to be seized.

#### **607.7 HIGH-RISK WARRANT SERVICE**

The operations commander or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of officers deployed.

The member responsible for directing the service should ensure the following as applicable:

- (a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.
- (b) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.
- (c) Reasonable efforts are made during the search to maintain or restore the condition of the location.

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- (d) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.
- (e) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).
- (f) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.
- (g) A copy of the search warrant is left at the location.
- (h) The condition of the property is documented with video recording or photographs after the search.

#### **607.7.1 NO KNOCK WARRANT**

- (a) An affidavit must state facts that the affiant has probable cause to believe that complying with the “knock and announce” rule will result in a substantial risk of serious physical harm to officers.
- (b) No-knock warrants will not be sought when the affiant alleges only misdemeanor drug possession or the possession of drug paraphernalia.
- (c) Officers are required to wear readily identifiable markings when serving a no-knock warrant and identify themselves as soon as possible upon entry.
- (d) Absent exigent circumstances body cameras must be worn and activated when law enforcement officers are executing a no-knock search warrant, if the department has access to them.

#### **607.8 DETENTIONS DURING WARRANT SERVICE**

Officers must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, officers must be mindful that only reasonable force may be used and weapons should be displayed no longer than the officer reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Officers should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

#### **607.9 ACTIONS AFTER WARRANT SERVICE**

The supervisor shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

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##### **607.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS**

The operations commander will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the operations commander. The operations commander should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The commander should ensure that members of the Lorain Police Department are utilized appropriately. Any concerns regarding the requested use of Lorain Police Department members should be brought to the attention of the Chief of Police or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If the operations commander is unavailable, the Watch Commander should assume this role.

If officers intend to serve a warrant outside Lorain Police Department jurisdiction, the operations commander should provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

Officers will remain subject to the policies of the Lorain Police Department when assisting outside agencies or serving a warrant outside Lorain Police Department jurisdiction.

##### **607.11 MEDIA ACCESS**

No advance information regarding warrant service operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

##### **607.12 TRAINING**

The Training Coordinator should ensure officers receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

# Operations Planning and Deconfliction

## 608.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of high-risk operations.

Additional guidance on planning and serving high-risk warrants is provided in the Warrant Service Policy.

### 608.1.1 DEFINITIONS

Definitions related to this policy include:

**High-risk operations** - Operations, including service of search and high-risk arrest warrants and sting operations, that are likely to present higher risks than are commonly faced by officers on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

## 608.2 POLICY

It is the policy of the Lorain Police Department to properly plan and carry out high-risk operations, including deconfliction in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

## 608.3 OPERATIONS COMMANDER

The operations commander will develop and maintain a risk assessment form to assess, plan and coordinate operations. This form should provide a process to identify high-risk operations.

The operations commander will review risk assessment forms with involved supervisors to determine whether a particular incident qualifies as a high-risk operation. The commander will also have the responsibility for coordinating operations that are categorized as high risk.

## 608.4 RISK ASSESSMENT

### 608.4.1 RISK ASSESSMENT FORM PREPARATION

Supervisors assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form.

When preparing the form, the supervisor should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records.

The supervisor should gather available information that includes, but is not limited to:

- (a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.
- (b) Maps of the location.

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- (c) Diagrams of any property and the interior of any buildings that are involved.
- (d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).
- (e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).
- (f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).
- (g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).
- (h) Other available options that may minimize the risk to officers and others (e.g., making an off-site arrest or detention of the subject of investigation).

#### 608.4.2 RISK ASSESSMENT REVIEW

Supervisors will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to the operations commander.

The operations commander and assigned supervisor shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

#### 608.4.3 HIGH-RISK OPERATIONS

If the operations commander determines that the operation is high risk, the operations commander should:

- (a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:
  1. Special Weapons and Tactics (SWAT)
  2. Additional personnel
  3. Outside agency assistance
  4. Special equipment
  5. Medical personnel
  6. Persons trained in negotiation
  7. Additional surveillance
  8. Canines
  9. Evidence Room or analytical personnel to assist with cataloguing seizures
  10. Forensic specialists

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11. Specialized mapping for larger or complex locations
  - (b) Contact the appropriate department members or other agencies as warranted to begin preparation.
  - (c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.
  - (d) Coordinate the actual operation.

#### **608.5 DECONFLICTION**

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

The supervisor who is the operations lead should ensure the subject of investigation and operations information have been entered in any applicable deconfliction system to determine if there is reported conflicting activity. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. The supervisor should also enter relevant updated information when it is received.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

#### **608.6 OPERATIONS PLAN**

The operations commander should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

- (a) Operation goals, objectives and strategies.
- (b) Operation location and people:
  1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)
  2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids
  3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)

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4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties and children
- (c) Information from the risk assessment form by attaching a completed copy in the operational plan.
  1. The volume or complexity of the information may indicate that the plan includes a synopsis of the information contained on the risk assessment form to ensure clarity and highlighting of critical information.
- (d) Participants and their roles.
  1. An adequate number of uniformed officers should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.
  2. How all participants will be identified as law enforcement.
- (e) Whether deconfliction submissions are current and all involved individuals, groups and locations have been deconflicted to the extent reasonably practicable.
- (f) Identification of all communications channels and call-signs.
- (g) Use of force issues.
- (h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).
- (i) Plans for detaining people who are not under arrest.
- (j) Contingencies for handling children, dependent adults, animals and other people who might be at the location in accordance with the Child Abuse, Adult or Vulnerable Person Abuse, Child and Dependent Adult Safety and Animal Control Procedures policies.
- (k) Communications plan.
- (l) Responsibilities for writing, collecting, reviewing and approving reports.

#### **608.6.1 OPERATIONS PLAN RETENTION**

Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained in accordance with the established records retention schedule.

#### **608.7 OPERATIONS BRIEFING**

A briefing should be held prior to the commencement of any high-risk operation to allow all participants to understand the operation, see and identify each other, identify roles and responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

- (a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.
- (b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel should be directed to read the search warrant and

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initial a copy that is retained with the operation plan. Any items to be seized should be identified at the briefing.

- (c) The operations commander shall ensure that all participants are visually identifiable as law enforcement officers.
  - (a) Exceptions may be made by the operations commander for officers who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.
- (d) The briefing should include details of the communications plan.
  - (a) It is the responsibility of the operations commander to ensure that the Communications Center is notified of the time and location of the operation, and to provide a copy of the operation plan prior to officers arriving at the location.
  - (b) If the radio channel needs to be monitored by the Communications Center, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operation plan.
  - (c) The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

#### **608.8 SWAT PARTICIPATION**

If the operations commander determines that SWAT participation is appropriate, the operations commander and the SWAT supervisor shall work together to develop a written plan.

The on scene command will be handled by the incident commander, who will authorize the deployment of the SWAT team in accordance with the Crisis and Emergency Response policy.

#### **608.9 MEDIA ACCESS**

No advance information regarding planned operations shall be released without the approval of the Chief of Police. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

#### **608.10 OPERATIONS DEBRIEFING**

High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible. This debrief may be separate from any SWAT debriefing.

#### **608.11 TRAINING**

The Training Coordinator should ensure officers and SWAT team members who participate in operations subject to this policy should receive periodic training including, but not limited to, topics such as legal issues, deconfliction practices, operations planning concepts and reporting requirements.

## **Chapter 7 - Equipment**

## Department-Owned and Personal Property

### 700.1 PURPOSE AND SCOPE

This policy addresses the care of department-owned property and the role of the Department when personal property, the property of another, or department-owned property is damaged or lost.

### 700.2 DEPARTMENT-ISSUED PROPERTY

The Quartermaster should document all property and equipment issued by the Department in the appropriate file at the time of issuance. Receipt of issued items shall be acknowledged by the receiving member's signature. Upon separation from the Department, all issued property and equipment shall be returned. Documentation of the return shall be acknowledged by the signature of a supervisor.

#### 700.2.1 MEMBER RESPONSIBILITIES

Members shall be responsible for the safekeeping, serviceable condition, proper care, proper use, and replacement of department property that has been assigned or entrusted to them.

- (a) Members shall promptly report, through their chain of command, any loss, damage to, or unserviceable condition of any department-issued property or equipment.
- (b) The use of damaged or unserviceable property should be discontinued as soon as practicable, and the item replaced with a comparable item as soon as available.
- (c) Except when otherwise directed by a supervisor or when exigent circumstances exist, department-issued property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Department-issued property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without prior approval.
- (e) Members should obtain a supervisor's approval before any attempt to repair damaged or unserviceable property, unless the repair is of a minor or temporary nature.

### 700.3 RETURN OF EQUIPMENT AT SEPARATION

Upon an employee's separation from the Department, all issued equipment shall be returned and documentation of the return in the Asset Tracking System will be completed by the Quartermaster. Absent normal wear and tear, all issued equipment should be in good working order.

### 700.4 PERSONAL PROPERTY

Carrying and/or using personal property or equipment on-duty requires prior written approval by the Chief of Police or the appropriate Division Commander. The member should submit a request that includes a description of the property and the reason and length of time it will be used. Personal property of the type routinely carried by persons who are not performing law enforcement duties, and that is not a weapon, is excluded from this requirement.

The Department will not replace or repair items (e.g., jewelry, expensive watches) that are not reasonably required as part of work.

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##### **700.4.1 FILING CLAIMS FOR PERSONAL PROPERTY**

A member requesting reimbursement for damage to, or loss of, personal property must submit the request in writing to the member's immediate supervisor. The supervisor may require a separate written report.

Upon review by command staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief of Police, who will then forward the claim to the City department responsible for issuing payments.

##### **700.5 DAMAGE OF PROPERTY OF ANOTHER PERSON OR ENTITY**

Members who intentionally or unintentionally damage or cause to be damaged the real or personal property of another person or entity while performing any law enforcement function shall promptly report the damage through the member's chain of command.

##### **700.5.1 DAMAGE BY PERSONNEL OF ANOTHER AGENCY**

Personnel from another agency may intentionally or unintentionally cause damage to the real or personal property of the City of Lorain or of another person while performing their duties within the jurisdiction of this department. The department member present or the member responsible for the property is responsible to report the damage as follows:

- (a) A verbal report shall be made to the member's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted before the member goes off-duty or as otherwise directed by the supervisor.

##### **700.6 POLICY**

The Lorain Police Department will ensure that members are issued appropriate property and equipment necessary for the member's job function. The department will take steps to minimize the cost associated with maintaining department property, including personal property authorized for use in the member's duties.

##### **700.7 SUPERVISOR RESPONSIBILITIES**

The supervisor receiving a report that property, including personal property authorized for use, has been damaged should conduct an investigation and direct a memo to the appropriate Division Commander. The memo should include the result of the investigation and whether reasonable care was taken to prevent the loss, damage, or unserviceable condition.

Cases where the supervisor has reason to believe that misconduct or negligence was involved in the loss, damage, or unserviceable condition of property should be handled in accordance with the Standards of Conduct and Personnel Complaints policies.

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## Personal Communication Devices

### 701.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets and similar wireless two-way communications and/or portable internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, e-mailing, using video or camera features, playing games and accessing sites or services on the internet.

### 701.2 POLICY

The Lorain Police Department allows members to utilize department-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, members are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory staff.

### 701.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received or reviewed on any PCD issued or funded by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities (see the Information Technology Use Policy for additional guidance).

### 701.4 DEPARTMENT-ISSUED PCD

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue or fund a PCD for the member's use to facilitate on-duty performance. Department-issued or -funded PCDs may not be used for personal business either on- or off-duty unless authorized by the Chief of Police or the authorized designee. Such devices and the associated telephone number, if any, shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

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##### **701.5 PERSONALLY OWNED PCD**

Members may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provision of this policy.
- (b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) The PCD and any associated services shall be purchased, used and maintained solely at the member's expense.
- (d) The device should not be used for work-related purposes except in exigent circumstances (unavailability of radio communications). Members will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.
  - 1. Members may use personally owned PCDs on-duty for routine administrative work as authorized by the Chief of Police.
- (e) PCDs are not authorized to access, process, store, or transmit criminal justice information unless authorized by the Chief of Police.
- (f) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief of Police or the authorized designee.
- (g) Use of a personally owned PCD while at work or for work-related business constitutes consent for the Department to access the PCD to inspect and copy data to meet the needs of the Department, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Department with the telephone number of the device.
- (h) All work-related documents, emails, photographs, recordings or other public records created or received on a member's personally owned PCD should be transferred to the Lorain Police Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

Except with prior express authorization from their supervisors, members are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty. If a member is in an authorized status that allows for appropriate compensation consistent with policy or existing collective bargaining agreements, or if the member has prior express authorization from his/her supervisor, the member may engage in business-related communications. Should members engage in such approved off-duty communications or work, members entitled to compensation shall promptly document the time worked and communicate the information to their supervisors to ensure appropriate compensation. Members who independently document off-duty department-related business activities in any manner shall promptly provide the Department with a copy of such records to ensure accurate record keeping.

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##### **701.6 USE OF PCD**

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.
- (b) All PCDs in the workplace shall be set to silent or vibrate mode.
- (c) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.
- (d) Members may use a PCD to communicate with other personnel in situations where the use of the radio is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid or in lieu of regular radio communications.
- (e) Members are prohibited from taking pictures, making audio or video recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or the authorized designee, may result in discipline.
- (f) Members will not access social networking sites for any purpose that is not official department business.
- (g) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

##### **701.7 SUPERVISOR RESPONSIBILITIES**

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

- (a) Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.
- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.
  - 1. An investigation into improper conduct should be promptly initiated when circumstances warrant.
  - 2. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Chief of Police or the authorized designee.

##### **701.8 USE WHILE DRIVING**

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the

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use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD (ORC § 4511.204).

Except in an emergency, members who are operating vehicles that are not equipped with lights and siren shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use (ORC § 4511.204). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

#### **701.9 OFFICIAL USE**

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, members shall conduct sensitive or private communications on a land-based or other department communications network.

## Vehicle Maintenance

### 702.1 PURPOSE AND SCOPE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, maintained, refueled and present a clean appearance.

### 702.2 DEFECTIVE VEHICLES

When a Department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who becomes aware of the defective condition. Paperwork, describing the correction needed, shall be promptly forwarded to vehicle maintenance for repair.

#### 702.2.1 SUSPECTED DAMAGE OR POOR PERFORMANCE

Vehicles that may have suffered damage, perform poorly or whose control or safety features has been diminished shall be immediately removed from service for inspection and repair. All damage will be reported and documented in accordance with current procedures for damage and accidents.

#### 702.2.2 SEVERE USE INSPECTION

Vehicles operated under severe use conditions, including rough roadway or off-road operation, hard or extended braking, pursuits or prolonged high-speed operation, should be removed from service and subjected to a safety inspection as soon as reasonably possible.

#### 702.2.3 REMOVAL OF WEAPONS

All firearms, weapons and kinetic impact weapons shall be removed from a vehicle and properly secured prior to the vehicle being taken for maintenance, service or repair.

### 702.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all Department vehicles for emergency purposes and to perform routine duties. All Lorain Police Department patrol vehicles will be marked in accordance with directives developed through the Office of the Chief of Police and shall be marked in some distinctive manner or color. Lorain Police Department patrol vehicles will display the Lorain Police Department door emblem and other markings that are reflective in nature.

#### 702.3.1 PATROL VEHICLES

Officers shall inspect the patrol vehicle at the beginning of the shift and ensure that the following equipment, at a minimum, is present and in working order in the vehicle:

- emergency road flares
- At least one flashing, oscillating, or rotating colored light mounted outside on the top of the vehicle
- 1 roll crime scene barricade tape
- 1 first-aid kit

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- 1 fire extinguisher
- 1 traffic safety vest
- 1 hazardous materials emergency response handbook (can substitute mobile app)
- An electronic siren
- An exterior driver's side spotlight
- A public address system (PA)
- Rescue tool with window breaching device and seat belt cutter

#### **702.3.2 UNMARKED VEHICLES**

An employee driving an unmarked Department vehicle shall ensure that, at minimum, the equipment listed below is present in the vehicle:

- 1 roll crime scene barricade tape
- 1 first-aid kit
- 1 traffic safety vest

#### **702.4 VEHICLE REFUELING**

Absent emergency conditions or supervisor approval, officers driving patrol vehicles shall not place or operate a vehicle in service that has less than one-half tank of fuel. Vehicles shall only be refueled with authorized fuel. Officers on assigned training or outside the city will ensure that only fuel meeting manufacturer's recommendations is used. Prior to the end of any tour of duty, officers will ensure vehicles are fueled and ready for use by the next shift.

#### **702.5 WASHING OF VEHICLES**

All units shall be kept clean at all times and, weather conditions permitting, shall be washed as necessary to enhance their appearance.

Officers on patrol shall obtain clearance from the dispatcher before responding to the car wash. Only one marked unit should be at the car wash at a time unless otherwise approved by a supervisor.

Employees using a vehicle shall remove any trash or debris at the end of the shift. Confidential documents should be placed in a designated receptacle provided for the shredding of this material.

#### **702.6 CIVILIAN EMPLOYEE USE**

Civilian employees will only operate or transport marked vehicles with the approval of a supervisor. All weapons should be removed from the vehicle before being operated. Civilian employees should also prominently display the "out of service" placards or light bar covers at all times, if available. Civilian employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

## Vehicle Use

### 703.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure department vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of department vehicles and shall not be construed to create or imply any contractual obligation by the City of Lorain to provide assigned take-home vehicles.

### 703.2 POLICY

The Lorain Police Department provides vehicles for department-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments and other considerations.

### 703.3 USE OF VEHICLES

#### 703.3.1 SHIFT ASSIGNED VEHICLES

The Watch Commander shall ensure a copy of the shift assignment roster indicating member assignments and vehicle numbers is completed for each shift. If a member exchanges vehicles during his/her shift, the new vehicle number shall be documented on the roster.

#### 703.3.2 OTHER USE OF VEHICLES

Members utilizing a vehicle for any purpose other than their normally assigned duties or normal vehicle assignment (e.g., transportation to training, community event) shall first notify the Watch Commander. A notation will be made on the shift assignment roster indicating the member's name and vehicle number.

This subsection does not apply to those who are assigned to vehicle transportation duties to and from the maintenance yard or carwash.

#### 703.3.3 INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

The interior of any vehicle that has been used to transport any person other than a member of this department should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle. Contraband or other items found in any vehicle upon being searched, should reported to the Watch Commander or shift OIC, and may require an incident report or supplemental report to be completed.

When transporting any suspect, prisoner or arrestee, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

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All department vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

#### 703.3.4 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging). Officers who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

Members shall ensure all weapons are secured while the vehicle is unattended.

#### 703.3.5 MDT

Members assigned to vehicles equipped with a Mobile Data Computer (MDT) shall log onto the MDT with the required information when going on-duty. If the vehicle is not equipped with a working MDT, the member shall notify the Communications Center. Use of the MDT is governed by the Mobile Data Computer Use Policy.

#### 703.3.6 VEHICLE LOCATION SYSTEM

Patrol and other vehicles, at the discretion of the Chief of Police, may be equipped with a system designed to track the vehicle's location. While the system may provide vehicle location and other information, members are not relieved of their responsibility to use required communication practices to report their location and status.

Members shall not make any unauthorized modifications to the system.

System data may be accessed by supervisors at any time. However, access to historical data by other than supervisors will require Division Commander approval.

All data captured by the system shall be retained in accordance with the established records retention schedule.

#### 703.3.7 KEYS

Members who are assigned a specific vehicle should be issued keys for that vehicle. The loss of a key shall be promptly reported in writing through the member's chain of command. Members who lose vehicle ignition keys may be held financially responsible for the replacement and programming of electronic vehicle keys and remotes if lost due to negligence.

#### 703.3.8 AUTHORIZED PASSENGERS

Members operating department vehicles shall not permit persons other than City personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Along Policy.

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##### 703.3.9 ALCOHOL

Members who have consumed alcohol are prohibited from operating any department vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

##### 703.3.10 PARKING

Except when responding to an emergency or when urgent department-related business requires otherwise, members driving department vehicles should obey all parking regulations at all times.

Department vehicles should be parked in assigned areas. Members shall not park privately owned vehicles in areas assigned to department vehicles or in other areas of the parking lot that are not so designated unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

##### 703.3.11 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without written permission from the Executive Officer.

##### 703.3.12 CIVILIAN MEMBER USE

Civilian members using marked emergency vehicles shall ensure that all weapons have been removed before going into service. Civilian members shall prominently display the "out of service" placards or light bar covers at all times, when available. Civilian members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

#### **703.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES**

Department vehicles may be assigned to individual members at the discretion of the Chief of Police, and in accordance with the established Take Home Vehicles procedural directive. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform their regular assignment.

##### 703.4.1 ON-DUTY USE

Vehicle assignments shall be based on the nature of the member's duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other department members at the discretion of the Chief of Police or the authorized designee.

##### 703.4.2 UNSCHEDULED TAKE-HOME USE

Circumstances may arise where department vehicles must be used by members to commute to and from a work assignment. Members may take home department vehicles only with prior approval of a supervisor.

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##### **703.4.3 ASSIGNED VEHICLES**

Assignment of take-home vehicles shall be based on the current Take Home Vehicles directive, and in accordance with any applicable Collective Bargaining Agreement articles.

Department members shall sign a take-home vehicle agreement that outlines certain standards, including, but not limited to, how the vehicle shall be used, where it shall be parked when the member is not on-duty, vehicle maintenance responsibilities and member enforcement actions.

##### **703.4.4 ENFORCEMENT ACTIONS**

When driving a take-home vehicle to and from work outside of the jurisdiction of the Lorain Police Department or while off-duty, an officer shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

Officers may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

Officers driving take-home vehicles shall be armed, appropriately attired and carry their department-issued identification. Officers should also ensure that department radio communication capabilities are maintained to the extent feasible.

##### **703.4.5 MAINTENANCE**

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the Department for non take home vehicles. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

- (a) Members shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.
- (b) It is the member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.
- (c) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the department supervisor in charge of vehicle maintenance.
- (d) The Department shall be notified of problems with the vehicle and approve any major repairs before they are performed.
- (e) When leaving the vehicle at the maintenance facility, the member will complete a vehicle repair card explaining the service or repair, and leave it on the seat or dash.
- (f) All weapons shall be removed from any vehicle left for maintenance.
- (g) Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

##### **703.5 UNMARKED VEHICLES**

Vehicles are assigned to various divisions and their use is restricted to the respective division and the assigned member, unless otherwise approved by a division supervisor. Any member operating

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an unmarked vehicle shall record vehicle usage on the sign-out log maintained in the division for that purpose. Any use of unmarked vehicles by those who are not assigned to the division to which the vehicle is assigned shall also record the use with the Watch Commander on the shift assignment roster.

#### **703.6 DAMAGE, ABUSE AND MISUSE**

When any department vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction (see the Traffic Collision Response and Reporting Policy).

Damage to any department vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in memorandum format and forwarded to the Watch Commander. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

#### **703.7 TOLL ROAD ACCESS**

Law enforcement vehicles are exempt from incurring toll road charges while being used in the performance of official duties (ORC § 5537.16; OAC § 5537-4-05).

The administrative person assigned to fleet operations shall maintain a record of all exempt and nonexempt license plates and shall notify the Ohio Turnpike and Infrastructure Commission or other appropriate toll road authority regarding department vehicles that traverse the toll roads while in the performance of their official duties in order to prevent toll charges from occurring (ORC § 5537.16).

To avoid unnecessary toll road charges, all members operating department vehicles on a toll road shall adhere to the following:

- (a) Members operating department vehicles for any reason other than while in the performance of their official duties shall pay the appropriate toll charge or utilize the appropriate personal toll way transponder.
- (b) Members passing through a toll plaza or booth while in the performance of their official duties shall notify, in writing, the appropriate Division Commander within five working days explaining the circumstances.

#### **703.8 ATTIRE AND APPEARANCE**

When operating any department vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Department.

## Cash Handling, Security and Management

### 704.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure department members handle cash appropriately in the performance of their duties.

This policy does not address cash-handling issues specific to the Property and Evidence and Informants policies.

### 704.2 POLICY

It is the policy of the Lorain Police Department to properly handle and document cash transactions and to maintain accurate records of cash transactions in order to protect the integrity of department operations and ensure the public trust.

### 704.3 PETTY CASH FUNDS

The Chief of Police shall designate a person as the fund manager responsible for maintaining and managing the petty cash fund.

Each petty cash fund requires the creation and maintenance of an accurate and current transaction ledger and the filing of invoices, receipts, cash transfer forms and expense reports by the fund manager.

### 704.4 PETTY CASH TRANSACTIONS

The fund manager shall document all transactions on the ledger and other appropriate forms. Each person participating in the transaction shall sign or otherwise validate the ledger, attesting to the accuracy of the entry. Transactions should include the filing of an appropriate receipt, invoice or cash transfer form. Transactions that are not documented by a receipt, invoice or cash transfer form require an expense report.

### 704.5 PETTY CASH AUDITS

The fund manager shall perform an audit no less than once every six months. This audit requires that the manager and at least one other command staff member, selected by the Chief of Police, review the ledger and verify the accuracy of the accounting. The fund manager and the participating member shall sign or otherwise validate the ledger attesting to the accuracy of all documentation and fund accounting. A discrepancy in the audit requires documentation by those performing the audit and immediate reporting of the discrepancy to the Chief of Police.

Transference of fund management to another member shall require a separate petty cash audit and involve a command staff member.

A separate audit of each petty cash fund should be completed on a random date, approximately once each year by the Chief of Police or the City.

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##### **704.6 ROUTINE CASH HANDLING**

Those who handle cash as part of their property or Narcotics Bureau supervisor duties shall discharge those duties in accordance with the Property and Evidence and Informants policies.

Members who routinely accept payment for department services shall discharge those duties in accordance with the procedures established for those tasks.

##### **704.7 OTHER CASH HANDLING**

Members of the Department who, within the course of their duties, are in the possession of cash that is not their property or is outside their defined cash-handling responsibilities shall, as soon as practicable, verify the amount, summon another member to verify their accounting and process the cash for safekeeping or as evidence or found property, in accordance with the Property and Evidence and Informants policies.

Cash in excess of \$1000 requires immediate notification of a supervisor, special handling, verification and accounting by the supervisor. Each member involved in the process shall complete an appropriate report or record entry.

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# Personal Protective Equipment

## 705.1 PURPOSE AND SCOPE

This policy identifies the different types of personal protective equipment (PPE) provided by the Department as well the requirements and guidelines for the use of PPE.

This policy does not address ballistic vests or protection from communicable disease, as those issues are addressed in the Body Armor and Communicable Diseases policies.

### 705.1.1 DEFINITIONS

Definitions related to this policy include:

**Personal protective equipment (PPE)** - Equipment that protects a person from serious workplace injuries or illnesses resulting from contact with chemical, radiological, physical, electrical, mechanical or other workplace hazards.

**Respiratory PPE** - Any device that is worn by the user to protect from exposure to atmospheres where there is smoke, low levels of oxygen, high levels of carbon monoxide, or the presence of toxic gases or other respiratory hazards. For purposes of this policy, respiratory PPE does not include particulate-filtering masks such as N95 or N100 masks.

## 705.2 POLICY

The Lorain Police Department endeavors to protect members by supplying certain PPE to members as provided in this policy.

## 705.3 OFFICER RESPONSIBILITIES

Members are required to use PPE as provided in this policy and pursuant to their training.

Members are responsible for proper maintenance and storage of issued PPE. PPE should be stored in an appropriate location so that it is available when needed.

Any member who identifies hazards in the workplace is encouraged to utilize the procedures in the Illness and Injury Prevention Policy to recommend new or improved PPE or additional needs for PPE.

## 705.4 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed the requirements provided in OAC § 4167-3-03 and 29 CFR 1910.95.

## 705.5 EYE PROTECTION

Approved eye protection, including side protection, shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.

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The Training Coordinator shall ensure eye protection meets or exceeds the requirements provided in OAC § 4167-3-03 and 29 CFR 1910.133.

#### **705.6 HEAD AND BODY PROTECTION**

Members who make arrests or control crowds should be provided ballistic head protection with an attachable face shield.

#### **705.7 RESPIRATORY PROTECTION**

The Executive Officer is responsible for ensuring a respiratory protection plan is developed and maintained by a trained and qualified member. The plan shall include procedures for (OAC § 4167-3-03; 29 CFR 1910.134):

- (a) Selecting appropriate respiratory PPE based on hazards and risks associated with functions or positions.
- (b) Fit testing, including identification of members or contractors qualified to conduct fit testing.
- (c) Medical evaluations.
- (d) PPE inventory control.
- (e) PPE issuance and replacement.
- (f) Cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respiratory PPE, including schedules for these activities.
- (g) Regularly reviewing the PPE plan.
- (h) Remaining current with applicable National Institute for Occupational Safety and Health (NIOSH), American National Standards Institute (ANSI), Occupational Safety and Health Administration (OSHA), Environmental Protective Agency (EPA), and state PPE standards and guidelines.

##### **705.7.1 RESPIRATORY PROTECTION USE**

Designated members may be issued respiratory PPE based on the member's assignment (e.g., a narcotics investigator who is involved in clandestine lab investigations, SWAT members).

Respiratory PPE may be worn when authorized by a scene commander who will determine the type and level of protection appropriate at a scene based upon an evaluation of the hazards present.

Scene commanders are responsible for monitoring members using respiratory PPE and their degree of exposure or stress. When there is a change in work area conditions or when a member's degree of exposure or stress may affect respirator effectiveness, the scene commander shall reevaluate the continued effectiveness of the respirator and direct the member to leave the respirator use area when the scene commander reasonably believes (OAC § 4167-3-03; 29 CFR 1910.134):

- (a) It is necessary for the member to wash his/her face and the respirator facepiece to prevent eye or skin irritation associated with respirator use.

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- (b) The member detects vapor or gas breakthrough, or there is a change in breathing resistance or leakage of the facepiece.
- (c) The member needs to replace the respirator, filter, cartridge, or canister.

#### 705.7.2 MEMBER RESPONSIBILITIES FOR RESPIRATORY PROTECTION

Members shall not use self-contained breathing apparatus (SCBA), full-face respirators, or cartridge respirators unless they have completed training requirements for the equipment.

Members exposed to environments that are reasonably known to be harmful due to gases, smoke, or vapors shall use respiratory PPE.

Members using respiratory PPE shall (OAC § 4167-3-03; 29 CFR 1910.134):

- (a) Ensure that they have no facial hair between the sealing surface of the facepiece and the face that could interfere with the seal or the valve function. Members also shall ensure that they have no other condition that will interfere with the face-to-facepiece seal or the valve function.
- (b) Not wear corrective glasses, goggles, or other PPE that interferes with the seal of the facepiece to the face, or that has not been previously tested for use with that respiratory equipment.
- (c) Perform a user seal check per department-approved procedures recommended by the respirator manufacturer each time they put on a tight-fitting respirator.
- (d) Leave a respiratory use area whenever they detect vapor or gas breakthrough, changes in breathing resistance, or leakage of their facepiece and ensure that the respirator is replaced or repaired before returning to the affected area.

#### 705.7.3 GAS MASK

Full-face air-purifying respirators, commonly referred to as gas masks, may be fitted with mechanical pre-filters or combination cartridge/filter assemblies for use in areas where gases, vapors, dusts, fumes, or mists are present. Members must identify and use the correct cartridge based on the circumstances (OAC § 4167-3-03; 29 CFR 1910.134).

A scene commander may order the use of gas masks in situations where the use of a SCBA is not necessary. These incidents may include areas where tear gas has or will be used or where a vegetation fire is burning. Gas masks shall not be used if there is a potential for an oxygen-deficient atmosphere.

Members shall ensure their gas mask filters are replaced whenever:

- (a) They smell, taste, or are irritated by a contaminant.
- (b) They experience difficulty breathing due to filter loading.
- (c) The cartridges or filters become wet.
- (d) The expiration date on the cartridges or canisters has been reached.

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##### **705.7.4 SELF-CONTAINED BREATHING APPARATUS**

Incident scene commanders may direct members to use SCBA when entering an atmosphere that may pose an immediate threat to life, would cause irreversible adverse health effects or would impair an individual's ability to escape from a dangerous atmosphere. These situations may include but are not limited to:

- (a) Entering the hot zone of a hazardous materials incident.
- (b) Entering any area where contaminant levels may become unsafe without warning, or any situation where exposures cannot be identified or reasonably estimated.
- (c) Entering a smoke- or chemical-filled area.

The use of SCBA should not cease until approved by the incident commander.

##### **705.7.5 RESPIRATOR FIT TESTING**

No member shall be issued respiratory PPE until a proper fit testing has been completed by a designated member or contractor (OAC § 4167-3-03; 29 CFR 1910.134):

After initial testing, fit testing for respiratory PPE shall be repeated (OAC § 4167-3-03; 29 CFR 1910.134):

- (a) At least once every 12 months.
- (b) Whenever there are changes in the type of SCBA or facepiece used.
- (c) Whenever there are significant physical changes in the user (e.g., obvious change in body weight, scarring of the face seal area, dental changes, cosmetic surgery or any other condition that may affect the fit of the facepiece seal).

All respirator fit testing shall be conducted in negative-pressure mode.

##### **705.7.6 RESPIRATORY MEDICAL EVALUATION QUESTIONNAIRE**

No member shall be issued respiratory protection that forms a complete seal around the face until (OAC § 4167-3-03; 29 CFR 1910.134):

- (a) The member has completed a medical evaluation that includes a medical evaluation questionnaire.
- (b) A physician or other licensed health care professional has reviewed the questionnaire.
- (c) The member has completed any physical examination recommended by the reviewing physician or health care professional.

##### **705.8 RECORDS**

The Training Coordinator is responsible for maintaining records of all:

- (a) PPE training.
- (b) Initial fit testing for respiratory protection equipment.
- (c) Annual fit testing.

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- (d) Respirator medical evaluation questionnaires and any subsequent physical examination results.

1. These records shall be maintained in a separate confidential medical file.

The records shall be maintained in accordance with the established records retention schedule, OAC § 4167-3-03 and 29 CFR 1910.134.

#### **705.9 TRAINING**

Members should be trained in the respiratory and other hazards to which they may be potentially exposed during routine and emergency situations.

All members shall be trained in the proper use and maintenance of PPE issued to them, including when the use is appropriate; how to put on, remove, and adjust PPE; how to care for the PPE; and the limitations (OAC § 4167-3-03; 29 CFR 1910.132).

Members issued respiratory PPE shall attend periodic training on the proper use of respiratory protection devices (OAC § 4167-3-03; 29 CFR 1910.134).

## **Chapter 8 - Support Services**

## Crime Analysis

### 800.1 PURPOSE AND SCOPE

Crime analysis should provide current, useful information to aid operational personnel in meeting its tactical crime control and prevention objectives. Crime Analysis is intended to help identify and analyze the methods of operation of individual criminals, providing crime pattern recognition and analysis of data from field interrogations and arrests. Crime analysis can be useful to the Department's long-range planning efforts by providing estimates of future crime trends and assisting in the identification of enforcement priorities.

### 800.2 DATA SOURCES

Crime analysis data is extracted from many sources including, but not limited to:

- Crime reports
- Field Interview cards
- Parole and probation records
- Computer Aided Dispatch data
- Department of Public Safety - Crime Records Service

### 800.3 CRIME ANALYSIS FACTORS

The following minimum criteria should be used in collecting data for crime analysis:

- Frequency by type of crime
- Geographic factors
- Temporal factors
- Victim and target descriptors
- Suspect descriptors
- Suspect vehicle descriptors
- Modus operandi factors
- Physical evidence information

### 800.4 CRIME ANALYSIS DISSEMINATION

For a crime analysis system to function effectively, information should be disseminated to the appropriate units or persons on a timely basis. Information that is relevant to the operational and tactical plans of specific line units should be sent directly to those units. Information relevant to the development of the Department's strategic plans should be provided to the appropriate staff units. When information pertains to tactical and strategic plans, it should be provided to all affected units.

# Communications Center

## 801.1 PURPOSE AND SCOPE

This policy establishes guidelines for the basic functions of the Communications Center. It addresses the immediate information needs of the Department in the course of its normal daily activities and during emergencies.

## 801.2 POLICY

It is the policy of the Lorain Police Department to provide 24-hour telephone service to the public for information and for routine or emergency assistance.

The Department provides two-way radio capability for continuous communication between the Communications Center and department members in the field.

The Communications Center will never be un-staffed during hours of operation unless the center is evacuated due to a threat to the safety of personnel working in the center.

## 801.3 THE COMMUNICATIONS CENTER SECURITY

The communications function is vital and central to all emergency service operations. The safety and security of the Communications Center, its members and its equipment must be a high priority. Special security procedures should be established in a separate operations manual for the Communications Center.

Access to the Communications Center shall be limited to the Communications Center members, the Watch Commander, command staff and department members with a specific business-related purpose.

## 801.4 RESPONSIBILITIES

### 801.4.1 COMMUNICATIONS SUPERVISOR

The Support Services Commander shall serve as the Communications Supervisor.

The responsibilities of the Communications Supervisor include but are not limited to:

- (a) Overseeing the efficient and effective operation of the Communications Center in coordination with other supervisors.
- (b) Scheduling and maintaining telecommunicator time records.
- (c) Supervising, training, and evaluating telecommunicators.
- (d) Ensuring the radio and telephone recording system is operational.
  1. Recordings shall be maintained in accordance with the established records retention schedule and as required by law.
- (e) Processing requests for copies of the Communications Center information for release.
- (f) Maintaining the Communications Center database systems.
- (g) Maintaining and updating the Communications Center procedures manual.

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1. Procedures for specific types of crime reports may be necessary. For example, specific questions and instructions may be necessary when talking with a victim of a sexual assault to ensure that the victim's health and safety needs are met, as well as steps that the victim may take to preserve evidence.
  2. Ensuring telecommunicator compliance with established policies and procedures.
  3. Procedures should be consistent with the requirements of OAC 5507-1-06, including requirements that 9-1-1 calls are always an emergency function and guidelines regarding the transfer of calls (OAC 5507-1-06).
- (h) Handling internal and external inquiries regarding services provided and accepting personnel complaints in accordance with the Personnel Complaints Policy.
- (i) Maintaining a current contact list of City personnel to be notified in the event of a utility service emergency.

#### 801.4.2 ADDITIONAL PROCEDURES

The Communications Supervisor should establish procedures for:

- (a) Recording all telephone and radio communications and playback issues.
- (b) Storage and retention of recordings.
- (c) Security of audio recordings (e.g., passwords, limited access, authorized reviewers, preservation of recordings past normal retention standards).
- (d) Availability of current information for telecommunicators (e.g., Watch Commander contact, rosters, member tracking methods, member contact, maps, emergency providers, tactical dispatch plans).
- (e) Procurement of external services (e.g., fire suppression, ambulances, aircraft, tow trucks, taxis).
- (f) Protection of essential equipment (e.g., surge protectors, gaseous fire suppression systems, uninterruptible power systems, generators).
- (g) Protection of radio transmission lines, antennas and power sources for the Communications Center (e.g., security cameras, fences).
- (h) Handling misdirected, silent and hang-up calls.
- (i) Handling private security alarms, if applicable.
- (j) Radio interoperability issues.

#### 801.4.3 TELECOMMUNICATORS

Telecommunicators report to the Communications Supervisor. The responsibilities of the telecommunicator include, but are not limited to:

- (a) Receiving and handling all incoming and transmitted communications, including:
  1. Emergency 9-1-1 lines.
  2. Business telephone lines.

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3. Telecommunications Device for the Deaf (TDD)/Text Telephone (TTY) equipment.
  4. Radio communications with department members in the field and support resources (e.g., fire department, emergency medical services (EMS), allied agency law enforcement units).
  5. Other electronic sources of information (e.g., text messages, digital photographs, video).
- (b) Documenting the field activities of department members and support resources (e.g., fire department, EMS, allied agency law enforcement units).
  - (c) Inquiry and entry of information through the Communications Center, department and other law enforcement database systems (e.g., Bureau of Motor Vehicles (BMV) records, Ohio Law Enforcement Automated Data System (LEADS) and NCIC).
  - (d) Monitoring department video surveillance systems.
  - (e) Maintaining the current status of members in the field, their locations and the nature of calls for service.
  - (f) Notifying the Watch Commander or field supervisor of emergency activity, including, but not limited to:
    1. Vehicle pursuits.
    2. Foot pursuits.
    3. Assignment of emergency response.

#### **801.5 CALL HANDLING**

This department provides members of the public with access to the 9-1-1 system for a single emergency telephone number.

When a call for services is received, the telecommunicator will reasonably and quickly attempt to determine whether the call is an emergency or non-emergency, and shall quickly ascertain the call type, location and priority by asking four key questions:

- Where?
- What?
- When?
- Who?

If the telecommunicator determines that the caller has a hearing and/or speech impairment or disability, he/she shall immediately initiate a connection with the individual via available TDD/TTY equipment or Telephone Relay Service (TRS), as mandated by the Americans with Disabilities Act (ADA).

If the telecommunicator determines that the caller is a limited English proficiency (LEP) individual, the telecommunicator should quickly determine whether sufficient information can be obtained to

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initiate an appropriate response. If language assistance is still needed, the language is known and a language-appropriate authorized interpreter is available in the Communications Center, the telecommunicator should immediately connect the LEP caller to the authorized interpreter.

If no authorized interpreter is available or the telecommunicator is unable to identify the caller's language, the telecommunicator will contact the contracted telephonic interpretation service and establish a three-party call connecting the telecommunicator, the LEP individual and the interpreter.

Telecommunicators should be courteous, patient and respectful when dealing with the public.

#### **801.5.1 EMERGENCY CALLS**

A call is considered an emergency when there is an immediate or potential threat to life or serious property damage, and the timely arrival of public safety assistance is of the utmost importance. A person reporting an emergency should not be placed on hold until the telecommunicator has obtained all necessary information to ensure the safety of the responding department members and affected individuals.

Emergency calls should be dispatched immediately. The Watch Commander shall be notified of pending emergency calls for service when department members are unavailable for dispatch.

#### **801.5.2 NON-EMERGENCY CALLS**

A call is considered a non-emergency call when there is no immediate or potential threat to life or property. A person reporting a non-emergency may be placed on hold, if necessary, to allow the telecommunicator to handle a higher priority or emergency call.

The reporting person should be advised if there will be a delay in the telecommunicator returning to the telephone line or when there will be a delay in the response for service.

#### **801.5.3 STATE-MANDATED NOTIFICATION**

Telecommunicators who receive a call about an apparent drug overdose should make reasonable efforts, upon the caller's inquiry, to inform the caller about the immunity from prosecution for minor drug possession (ORC § 128.04).

#### **801.6 RADIO COMMUNICATIONS**

The police radio system is for official use only, to be used by telecommunicators to communicate with department members in the field. All transmissions shall be professional and made in a calm, businesslike manner, using proper language and correct procedures. Such transmissions shall include, but are not limited to:

- (a) Members acknowledging the telecommunicator with their radio identification call signs and current location.
- (b) Telecommunicators acknowledging and responding promptly to all radio transmissions.
- (c) Members keeping the telecommunicator advised of their status and location.

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- (d) Member and telecommunicator acknowledgements shall be concise and without further comment unless additional information is needed.

The Communications Supervisor shall be notified of radio procedure violations or other causes for complaint. All complaints and violations will be investigated and reported to the complainant's supervisor and processed through the chain of command.

#### **801.6.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE**

Lorain Police Department radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and requirements.

#### **801.6.2 RADIO IDENTIFICATION**

Radio call signs are assigned to department members based on factors such as duty assignment, uniformed patrol assignment and/or member identification number. Telecommunicators shall identify themselves on the radio with the appropriate station name or number, and identify the department member by his/her call sign. Members should use their call signs when initiating communication with the telecommunicator. The use of the call sign allows for a brief pause so that the telecommunicator can acknowledge the appropriate department member. Members initiating communication with other law enforcement or support agencies shall use their entire radio call sign, which includes the department station name or number.

#### **801.7 DOCUMENTATION**

It shall be the responsibility of the Communications Center to document all relevant information on calls for service or self-initiated activity. Telecommunicators shall attempt to elicit, document and relay as much information as possible to enhance the safety of the member and assist in anticipating conditions that may be encountered at the scene. Desirable information would include, at a minimum:

- Incident control number.
- Date and time of request.
- Name and address of the reporting person, if possible.
- Type of incident reported.
- Involvement of weapons, drugs and/or alcohol.
- Location of incident reported.
- Identification of members assigned as primary and backup.
- Time of dispatch.
- Time of the responding member's arrival.
- Time of member's return to service.
- Disposition or status of reported incident.

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#### **801.8 TRAINING AND CERTIFICATION**

The Communications Supervisor shall ensure that all telecommunicators receive initial and ongoing training (ORC § 4742.01 et seq.; OAC § 5507-1-07).

Training shall include providing notice to individuals who call about an apparent drug overdose of the immunity from prosecution available under ORC § 2925.11 (ORC § 128.04).

#### **801.8 CONFIDENTIALITY**

Information that becomes available through the Communications Center may be confidential or sensitive in nature. All members of the Communications Center shall treat information that becomes known to them as confidential and release that information in accordance with the Protected Information Policy.

Automated data, such as BMV records, warrants, criminal history information, records of internal police files or medical information, shall only be made available to authorized law enforcement personnel. Prior to transmitting confidential information via the radio, an admonishment shall be made that confidential information is about to be broadcast.

## Evidence Room

### 802.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, security and disposition of evidence and other property. This policy also provides for the protection of the chain of custody and those persons authorized to remove and/or destroy property (ORC § 2981.11).

#### 802.1.1 EVIDENCE ROOM SECURITY

The Evidence Room shall maintain secure storage and control of all property necessitating custody by the Department. The Evidence Officer reports to the Criminal Investigations Division supervisor and is responsible for the security of the Evidence Room. Evidence Room keys are maintained only by the Evidence Officer and the Criminal Investigations Division supervisor. An additional key is in a sealed and initialed envelope maintained in the safe in the Chief of Police's office. The Evidence Officer and the Criminal Investigations Division supervisor shall not loan Evidence Room keys to anyone and shall maintain keys in a secure manner.

Any individual entering the Evidence Room other than the Evidence Officer must be accompanied by the Evidence Officer or the Criminal Investigations Division supervisor and must sign in and out on the logbook, giving the date and time of entry and exit, and the purpose, including a specific case or property number. The entry shall be initialed by the accompanying individual.

### 802.2 DEFINITIONS

Definitions related to this policy include:

**Contraband** - Includes property or evidence that is illegal to possess and cannot be returned to the owner.

**Evidence** - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a criminal case. This includes photographs, documents temporary and latent fingerprints.

**Found Property** - Includes property found by an employee or citizen where the owner cannot be readily identified or contacted and has no apparent evidentiary value related to a criminal investigation.

**Property** - Includes all items of evidence, items taken for safekeeping, found property and contraband.

**Safekeeping** - Includes the following types of property:

- Property obtained by the Department for safekeeping, such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law

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### **802.3 PROPERTY HANDLING**

Any employee who first comes into possession of any property, shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room, along with the property label. Care shall be taken to maintain the chain of custody for all evidence.

Any property seized by an officer with or without a warrant, shall be safely kept for as long as necessary for the purpose of being produced as evidence or for any other lawful purpose (ORC § 2981.11(A)(1)).

Seized property held as evidence shall be returned to its rightful owner unless subject to lawful detention or ordered destroyed or otherwise disposed of by the court (ORC § 2981.12 and ORC § 2981.13).

Where ownership can be established as to found property that has no apparent evidentiary value, excluding contraband, such property may be released to the owner without the need for booking. The property documentation must be completed to document the release of property not booked. The owner shall sign the documentation acknowledging receipt of the item.

#### **802.3.1 PROPERTY BOOKING PROCEDURE**

All property must be booked prior to the employee going off-duty. Employees booking property shall observe the following guidelines:

- (a) Complete the property label describing each item separately, listing all serial numbers, owner's name, finder's name and other identifying information or markings.
- (b) The officer shall mark each item of evidence with initials and date.
- (c) Items too small to mark, or that will be damaged, degraded or devalued by marking, should be individually packaged, labeled and the package marked with initials and date.
- (d) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (e) Place the case number in the upper right corner or in the appropriate field of the evidence/property tag.
- (f) When the property is too large to be placed in a temporary property locker, the item may be temporarily stored in any department supply room or other location that can be secured from unauthorized entry. The location shall be secured to prevent entry and a completed property label placed into a numbered property locker indicating the location of the property.

#### **802.3.2 NARCOTICS AND DANGEROUS DRUGS**

All narcotics and dangerous drugs shall be booked separately using a separate property record. Drug and narcotics paraphernalia shall also be booked separately.

The officer seizing the narcotics and dangerous drugs shall place them in the designated temporary property locker.

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##### 802.3.3 EXPLOSIVES

Officers who encounter a suspected explosive device shall promptly notify an immediate supervisor or the Watch Commander. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the police facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The Evidence Officer is responsible for disposing of any fireworks or signaling devices that are not retained as evidence according to current procedures for disposing of such materials.

##### 802.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Bodily fluids such as blood or semen stains shall be air-dried prior to booking.
- (b) All bicycles and bicycle frames require a property record. Property tags will be securely attached to each bicycle or bicycle frame. The property will then be placed in the bicycle storage area.
- (c) All cash shall be counted in the presence of another officer or departmental member, and the envelope initialed by both. A supervisor shall be contacted for cash in excess of \$1,000.
- (d) All evidence collected by personnel processing a crime scene requiring specific storage requirements pursuant to laboratory procedures should clearly indicate storage requirements on the property label.
- (e) Items that are potential biohazards shall be appropriately packaged and marked to reduce the risk of exposure or contamination.

City property, unless connected to a known criminal case, should be released directly to the appropriate City department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

##### 802.3.5 TESTING OF BIOLOGICAL EVIDENCE

The Evidence Room supervisor shall ensure that department records are reviewed and that all biological evidence that relates to specific homicide and sex offenses is sent to the BCI or another crime laboratory for DNA analysis (ORC § 2933.82).

#### **802.4 PACKAGING OF PROPERTY**

Packaging will conform to certain procedures. Certain items require special consideration and shall be booked separately as follows:

- (a) Controlled substances
- (b) Firearms (ensure they are unloaded, rendered safe, and booked separately from ammunition)

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- (c) Property with more than one known owner
- (d) Drug paraphernalia
- (e) Fireworks
- (f) Contraband
- (g) Biohazards

#### 802.4.1 PACKAGING CONTAINER

Employees shall package all property, except controlled substances, in a suitable container that is appropriate for its size. Knife boxes should be used to package knives, handgun boxes should be used for handguns and syringe tubes should be used to package syringes and needles when the item is being sent for lab testing.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

#### 802.4.2 PACKAGING CONTROLLED SUBSTANCES

The officer seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged and placed in the designated evidence locker. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected controlled substances. When conducted, the result of this test shall be included in the officer's report.

Narcotics and dangerous drugs shall be double packaged in heat sealed plastic. The booking officer shall date and initial the sealed plastic. Controlled substances shall not be packaged with other property.

The booking officer shall weigh the suspected narcotics or dangerous drugs in the container in which it was seized. A full description of the item, along with packaging and total weight of the item as seized, will be placed in the case report and on the property label. After packaging and sealing as required, the package will be initialed and dated by the packaging officer.

Any change in weight should be immediately reported to the Criminal Investigations supervisor.

A completed property tag shall be attached to the outside of the container.

#### 802.4.3 RIGHT OF REFUSAL

The Evidence Officer has the right to refuse any piece of property that is hazardous or that has not properly documented or packaged. Should the Evidence Officer refuse an item of property, he/she shall maintain secure custody of the item in a temporary property locker or other safe location and inform the Watch Commander or ranking shift supervisor.

#### **802.5 RECORDING OF PROPERTY**

The Evidence Officer receiving custody of evidence or property shall create a property control card for each piece of property received. The property control card will be the permanent record of the property in the Evidence Room. The Evidence Officer will record his/her signature, gross package

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weight if it is a controlled substance to be used as evidence, the date and time the property was received and where the property will be stored on the property control card (ORC § 2981.11(B)(1)(a)).

A property logbook in the records management system shall be maintained and a unique property number created for each piece of property received. The logbook shall record by property number, the date received, case number, tag number, item description, item location and date disposed. A unique property number shall be obtained for each item or group of items from the logbook. This number shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the Lorain Police Department shall be noted in the property logbook.

#### **802.6 PROPERTY CONTROL**

Each time the Evidence Officer receives property or releases property to another person, he/she shall enter this information in the evidence records management system. Officers desiring property for court shall contact the Evidence Officer at least one day prior to the court day.

##### **802.6.1 RESPONSIBILITIES OF OTHER PERSONNEL**

Every time property is released or received, an appropriate entry shall be completed to maintain the chain of custody. No property or evidence is to be released without first receiving authorization from a supervisor or investigator.

Request for analysis of items other than controlled substances shall be completed on the appropriate forms and submitted to the Evidence Officer. This request may be filled out anytime after booking of the property or evidence.

##### **802.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY**

The transporting employee will check the evidence out of property.

The Evidence Officer releasing the evidence must complete the required information on the property control card and the evidence. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the officer will record the delivery time on both copies and indicate the locker in which the item was placed or the employee to whom it was delivered. The original copy of the lab form will remain with the evidence and the copy will be returned to the Records and Information Center for filing with the case.

##### **802.6.3 STATUS OF PROPERTY**

Each person receiving property will make the appropriate entry to document the chain of custody. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, time and to whom it was released.

The Evidence Officer shall obtain the signature of the person to whom property was released and the reason for release. Any employee receiving property shall be responsible for such property until it is returned to the Evidence Room or released to another authorized person or entity.

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The return of the property should be recorded on the property control card, indicating date, time and the person who returned it.

#### 802.6.4 AUTHORITY TO RELEASE PROPERTY

The Evidence Officer shall not release any property without authorization from an appropriate supervisor or subpoena. The evidence officer will then retain a copy of the subpoena. The Criminal Investigations Division commander or his/her designee shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

For property in custody of the Department for investigatory or prosecutorial purposes and owned by a victim or witness, an Evidence Officer shall, upon the request of the owner:

- (a) Provide a list describing the property, unless such release would seriously impede an investigation.
- (b) Return the property expeditiously, unless the property is contraband or required as evidence.

Upon the direction of a prosecuting attorney, property held as evidence of a crime may be photographed and released to the owner.

#### 802.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify and locate the rightful owner of found property or evidence not needed for an investigation, either by telephone and/or mail, when sufficient identifying information is available.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or investigator and must conform to the items listed on the property label or must specify the specific item to be released. Release of all property shall be properly documented.

An Evidence Officer shall release the property to the owner or finder upon valid identification and proper documentation presented by the owner or finder for which an authorized release has been received. The owner or finder shall also pay any costs incurred by the agency, including costs for advertising or storage. A signature of the person receiving the property shall be recorded on the original property documentation. After release of all property entered on the property control card, the card shall be forwarded to the Records and Information Center for filing with the case. If some items of property have not been released, the property card will remain with the Evidence Room.

Release of unclaimed or forfeited property to an authorized finder shall be released in compliance with existing laws and as deemed appropriate by a court (ORC § 2981.12(B)).

Upon release or other form of disposal, the proper entry shall be recorded in all property documentation and logs (ORC § 2981.11(B)(1)(b)).

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##### 802.6.6 STOLEN OR EMBEZZLED PROPERTY

Stolen or embezzled property or property believed to be stolen or embezzled that is in the custody of this department shall be restored to the legal owner. Such property may be released from law enforcement custody when the following are satisfied:

- (a) Photographs of the property are filed and retained by the Evidence Room.
- (b) Satisfactory proof of ownership is shown by the owner.
- (c) A declaration of legal ownership is signed under penalty of perjury.
- (d) A receipt for the property is obtained from the owner upon delivery.

##### 802.6.7 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a court order or other proof of the undisputed right to the involved property.

All parties should be advised that their claims are civil. In extreme situations, legal counsel for the Department may be asked to file an interpleader in court to resolve the disputed claim.

##### 802.6.8 RELEASE AND DISPOSAL OF FIREARMS

A firearm may not be released until it has been verified that the person receiving the weapon is not prohibited from receiving or possessing the weapon by 18 USC § 922(d) or ORC § 2923.13.

The Department shall make best efforts to identify the owner and shall retain the firearm for at least 90 days. If the owner cannot be found at the expiration of such period, the firearm or dangerous ordnance suitable for law enforcement work may be retained for that purpose. Firearms suitable for sporting use or as museum pieces or collectors' items may be sold at public auction pursuant to ORC § 2981.12(B). The Department shall properly destroy all other firearms and dangerous ordnance or send them to the Bureau of Criminal Identification and Investigation (BCI) (ORC § 2981.12(A)(2)).

##### 802.6.9 FIREARMS RECEIVED FROM CORONER'S OFFICE

When a firearm is delivered to this department by the coroner, a receipt for the firearm that states the date of delivery and an accurate description of the firearm shall be issued to the coroner. The firearm shall be used for evidentiary purposes only. Once the firearm is no longer needed as evidence, the Chief of Police or the authorized designee shall give the firearm to the person who has been assigned the rights of disposition for the deceased person, upon request, and if the person is lawfully allowed to possess the firearm. The Chief of Police or the authorized designee shall keep a record of the person to whom the firearm is given, the date of delivery, and a description of the firearm. If the person who has been assigned the rights of disposition for the deceased person does not request the firearm, or is prohibited from possessing the firearm, it may be used at the discretion of the Chief of Police (ORC § 313.14).

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#### **802.7 DISPOSITION OF PROPERTY**

The Department shall make a reasonable effort to locate persons entitled to possession of the property, to notify them of when and where it may be claimed, and to return the property to them at the earliest possible time. In the absence of evidence identifying persons entitled to the property, it shall be described in a local newspaper, inviting persons to view and establish their right before final disposition (ORC § 2981.11(C)).

The Evidence Officer shall request a disposition or status on all property which has been held in excess of 120 days and for which no disposition has been received from a supervisor or detective.

All property not held for evidence in a pending criminal investigation or proceeding, and where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws (ORC § 2981.12 and ORC § 2981.13).

Upon any release or disposal of any property, the proper notation shall be made on the property control card and in the property logbook to include the final disposition, date of disposition, financial recordings and expenditures related to the property if it was sold, and the name of any person who received the property. However, the record shall not identify or enable identification of the individual employee who seized any item of property or the specific expenditure related to the property in an ongoing investigation (ORC § 2981.11(B)(1)(b)).

#### **802.7.1 EXCEPTIONAL DISPOSITIONS**

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law or by a court of competent jurisdiction (ORC § 2981.12):

- Firearms and dangerous ordnance
- Obscene materials
- Beer, intoxicating liquor or alcohol
- Vehicles, watercraft, aircraft or parts thereof
- Animals, birds and equipment related to their care and containment that have been ordered forfeited by the court
- Counterfeiting equipment
- Gaming devices
- Computers, computer networks, systems, or software

#### **802.7.2 UNCLAIMED MONEY**

If found or seized money is no longer required as evidence and remains unclaimed after any applicable statutory period, the money is presumed unclaimed property and may be retained as allowed by law (ORC § 2981.12).

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##### 802.7.3 RETENTION OF BIOLOGICAL EVIDENCE

The Evidence Room Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable (ORC § 2933.82):

- (a) The defendant
- (b) The defendant's attorney
- (c) The state public defender
- (d) The appropriate prosecutor
- (e) The Attorney General
- (f) Any sexual assault victim
- (g) The Criminal Investigations Division Supervisor

Biological evidence shall be retained for a minimum period established by ORC § 2933.82, the Evidence Room Supervisor or the expiration of any sentence imposed related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail, return receipt requested, and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion for retesting or a written request for retention is filed and served on the Department within one year of the date of the notification.

A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence shall be retained in the appropriate file and a copy forwarded to the Criminal Investigations Division Supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

##### 802.7.4 MARIJUANA

At the first sign of mold growth, stored marijuana shall be photographed showing the mold growth. As soon as practicable, the Evidence Officer shall make efforts to lawfully destroy the contaminated marijuana, in compliance with this policy. The Evidence Officer should consult with the member assigned to the case investigation for authorization to destroy the remaining marijuana, after taking representative samples, and should request assistance from the appropriate prosecutor in obtaining a court order for immediate destruction.

##### 802.7.5 MEDICAL MARIJUANA

The investigating member should advise the Evidence Officer and the prosecutor if the party from whom the marijuana was seized holds a valid medical permit to possess marijuana or claims that the possession of the marijuana is for medical purposes.

The Evidence Officer shall store marijuana, drug paraphernalia, or other related property that is seized from a person engaged in or assisting with the use of medical marijuana in a manner that is consistent with the provisions of the Medical Marijuana Policy.

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Marijuana that is infected with mold shall not be returned. This includes marijuana seized from a person who holds a valid medical permit to possess marijuana or who claims that possession of the marijuana is for medical purposes.

#### **802.8 REPORTS**

If the Department has any seized or forfeited property in its custody, including amounts distributed under ORC § 2981.13, a report covering the calendar year shall be sent to the Attorney General not later than the first day of March in the following calendar year (ORC § 2981.11(B)(2)).

##### **802.8.1 PUBLIC ACCESS**

This policy and records kept under this policy shall be open to public inspection during regular business hours as allowed or required by law (ORC § 2981.11(B)(3)).

#### **802.9 INSPECTIONS OF THE EVIDENCE ROOM**

On a monthly basis, the Criminal Investigations supervisor shall inspect the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

- (a) Unannounced inspections of evidence storage areas shall be conducted annually, as directed by the Chief of Police.
- (b) An annual audit of evidence held by the Department shall be conducted by a Division Commander who is not routinely or directly connected with evidence control, as assigned by the Chief of Police.
- (c) Whenever a change is made in personnel who have access to the Evidence Room, an inventory of all evidence/property shall be made by an individual not associated with the Evidence Room or function to ensure that records are correct and all evidence property is accounted for.
- (d) Periodic inspections of property storage areas may be conducted and documented by the Criminal Investigations Division Commander to ensure compliance with policies and law.

## Records and Information Center Procedures

### 803.1 PURPOSE AND SCOPE

The Support Services Commander shall keep the Department Records and Information Center procedures continuously updated to reflect the procedures being followed within the Records and Information Center. Policies and procedures that apply to all employees of this department are contained in this chapter.

#### 803.1.1 NUMERICAL FILING SYSTEM

Case reports are filed numerically by Records and Information Center personnel.

Reports are numbered commencing with the last two digits of the current year followed by a sequential number beginning with 00001 starting at midnight on the first day of January of each year. As an example, case number 11-00001 would be the first new case beginning January 1, 2011.

### 803.2 FILE ACCESS

All reports including, but not limited to, initial, supplemental, follow-up, evidence and all reports related to a case shall be maintained in the Records Management System within the Records and Information Center, accessible only to authorized Records and Information Center personnel.

#### 803.2.1 REQUESTING ORIGINAL REPORTS

Generally, original reports shall not be removed from the Records and Information Center. Should an original report be needed for any reason, the requesting employee shall first obtain authorization from the Support Services Commander. All original reports removed from the Records and Information Center shall be recorded on the report check-out log, which shall constitute the only authorized manner by which an original report may be removed from the Records and Information Center.

### 803.3 RECORDS MANAGER TRAINING

The Support Services Commander shall receive training in records management, including proper maintenance, retention and disposal of records and the proper release of records under state and federal law.

### 803.4 REQUISITION OF SUPPLIES

All personnel in need of supplies shall complete a Requisition of Supplies Form, available in the Records and Information Center. The form shall be approved by a supervisor and submitted to the supply clerk in the Records and Information Center.

Only Records and Information Center personnel shall issue supplies from the supply room. No supplies will be provided without a Requisition of Supplies Form.

## Records Maintenance and Release

### 804.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

### 804.2 POLICY

The Lorain Police Department is committed to providing public access to records in a manner that is consistent with the Ohio Public Records Act (ORC § 149.43).

### 804.3 CUSTODIAN OF RECORDS

The Chief of Police shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to (ORC § 149.43):

- (a) Managing the records management system for the Department, including the retention, archiving, release and destruction of department public records.
- (b) Maintaining and updating the department records retention schedule, including:
  1. Identifying the minimum length of time the Department must keep records.
  2. Identifying the department division responsible for the original record.
  3. Making a copy of the current retention schedule readily available to the public.
- (c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records.
  1. The Custodian of Records may limit the number of records requested by a person that the Department will physically deliver via mail or by another delivery service to 10 records per month unless the requester certifies in writing that he/she does not intend to use or forward the requested records, or information contained in the records, for commercial purposes.
  2. Records in digital format that are publicly available on the internet may be limited as set forth in ORC § 149.43.
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring the availability of a current schedule of fees for public records as allowed by law.
- (g) Preparing a notice that incorporates this policy and ensuring that it is displayed in conspicuous places in all locations where department records are available to the public.
- (h) Maintaining current information on the department website that relates to public records release.

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- (i) Ensuring that records are organized and maintained in such a manner as to make them available for inspection or copying.
- (j) Selecting appropriate public records, if any, to publish on the department website.

#### **804.4 PROCESSING REQUESTS FOR PUBLIC RECORDS**

Any department member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

##### **804.4.1 REQUESTS FOR RECORDS**

The processing of requests for any record is subject to the following (ORC § 149.43):

- (a) The Department is not required to create records that do not exist.
- (b) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
  - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
  - 2. The requester shall be notified of any redaction in the public record if the redaction is not plainly visible.
- (c) If a request is ambiguous or overly broad, or if the Custodian of Records cannot reasonably identify what public records are being requested, the request may be denied.
  - 1. The requester shall be provided with an opportunity to revise the request and shall be informed by the Custodian of Records of the manner in which records are maintained by the Department and how the records are accessed in the ordinary course of business.
- (d) A person requesting records may be asked to make a request for records in writing to expedite processing of the request and may be asked for his/her identity. Prior to such a request, the person shall be told that:
  - 1. There is no requirement to provide a written request.
  - 2. There is no requirement to provide his/her identity.
  - 3. There is no requirement to disclose the intended use of the records.
  - 4. The purpose of the written request or disclosure of the person's identity or intended use would benefit the person making the request by enhancing the ability of the Custodian of Records to identify, locate or deliver the records requested.
- (e) Fees for copies or the cost of delivery of the records to the requester via mail should be paid in advance.

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- (f) If a request is denied, either in whole or in part, the Custodian of Records shall provide the requester with an explanation setting forth the reason(s) for the denial, including the legal authority relied upon in making the determination. If the initial request was in writing, the explanation shall also be provided in writing.

#### **804.5 RELEASE RESTRICTIONS**

Examples of release restrictions include:

- (a) Any personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any department record, including traffic collision reports, is restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722; ORC § 4501.27; ORC § 149.45).
- (b) Victim information that may be protected by statutes, including photographs or images of victims as prohibited by ORC § 149.43 (ORC § 2907.11).
- (c) Juvenile-related information that may be protected by statutes (ORC § 149.435).
- (d) Confidential investigatory records of the Department that pertain to a law enforcement matter of criminal, quasi-criminal, civil, or administrative nature if release would create a high probability of disclosure of any of the following (ORC § 149.43):
  1. Identity of a suspect not yet charged with an offense to which the record pertains.
  2. Identity of an information source or witness to whom confidentiality has been reasonably assured. This also includes information provided by an information source or witness if the release would tend to disclose the person's identity.
  3. Confidential investigatory techniques, procedures, or specific investigatory work product.
  4. Information that would endanger the life or physical safety of a member, crime victim, witness, or confidential information source.
- (e) Certain types of reports involving but not limited to child abuse and molestation (ORC § 2151.421) and adult abuse (ORC § 5101.61).
- (f) Records pertaining to the residential or family information of peace officers and telecommunicators (ORC § 149.43).
- (g) Personally identifiable information of a program participant of the Ohio Secretary of State's address confidentiality program (ORC § 149.43).
- (h) Restricted portions of recordings made by a dashcam or a member's body-worn camera as provided in ORC § 149.43(A)(1). Certain recordings may be disclosed with the consent of the subject of the recording or the subject's representative pursuant to the requirements of ORC § 149.43 (H)(1).
- (i) Telephone numbers for a person involved in a motor vehicle accident or a witness of a crime as provided in ORC § 149.43.
- (j) Any other information that may be appropriately denied by ORC § 149.43(A)(1).

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##### **804.5.1 ENHANCED RECORDS ACCESS BY JOURNALISTS**

- (a) Journalists, as defined in ORC § 149.43, are entitled to enhanced access to certain records not available to the general public provided:
  - 1. The request is in writing.
  - 2. Journalists identify themselves by name, title, and employer's name and address.
  - 3. Journalists establish and sign a request that the information sought is in the public interest.
- (b) Records available to journalists but not the general public include:
  - 1. Personal residential addresses of an officer or telecommunicator of this department (ORC § 149.43).
  - 2. The business name and address of a spouse, former spouse, or child of an officer of this department, only if employed by a public office (ORC § 149.43).
  - 3. Coroner records pursuant to ORC § 313.10.
  - 4. The name, county of residence, and date of birth of a person for whom the sheriff issued, suspended, or revoked a permit for a concealed weapon (ORC § 2923.129).
  - 5. The names, addresses, and telephone numbers of workers' compensation claimants subject to the requirements and restrictions in ORC § 4123.88(D).
  - 6. Limited information about minors involved in a school vehicle accident (ORC § 149.43).

##### **804.6 SUBPOENAS AND DISCOVERY REQUESTS**

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the City Prosecutor, Law Director or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to the Legal Liaison or legal counsel for the Department so that a timely response can be prepared.

##### **804.7 RELEASED RECORDS TO BE MARKED**

Each audio/video recording released should include the department name and to whom the record was released.

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#### **804.8 SECURITY BREACHES**

Members who become aware that any Lorain Police Department system containing personal information may have been breached should notify the Support Services Commander as soon as practicable. The Support Services Commander shall ensure the required notice is given to any resident of this state whose unsecured personal information is reasonably believed to have been acquired by an unauthorized person (ORC § 1347.12).

Notice shall be given in the most expedient time possible but not later than 45 days following its discovery or notice of the breach consistent with any measures necessary to determine the scope of the breach, including which residents' personal information was accessed and acquired and to restore the reasonable integrity of the data system. Notice may be delayed if notification will impede a criminal investigation or jeopardize homeland or national security but notice shall be made once it is determined that disclosure or notification will not compromise the investigation or jeopardize homeland or national security (ORC § 1347.12).

For the purposes of the notice requirement, personal information includes an individual's first name or first initial and last name in combination with any one or more of the following (ORC § 1347.12):

- (a) Social Security number
- (b) Driver's license number or Ohio identification card number
- (c) Full account number, credit or debit card number, in combination with and linked to any required security code, access code, or password that would permit access to an individual's financial account

If the breach reasonably appears to have been made to protected information covered in the Protected Information Policy, the Support Services Commander should promptly notify the appropriate member designated to oversee the security of protected information (see the Protected Information Policy).

#### **804.9 SEALED RECORDS OR EXPUNGEMENT**

Expungement orders or an order to seal records received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records or his/her designee shall expunge or seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once expunged or sealed, members shall respond to any inquiry as though the record did not exist.

##### **804.9.1 JUVENILE EXPUNGEMENT ORDERS**

Upon notification by Juvenile Court of any sealing, destruction, or Expungement Order, units will immediately comply by forwarding records to Juvenile Court or otherwise complying with the Court's specifications.

Failure to comply with the legal reporting and retention requirements is a misdemeanor offense, as well as a violation of policy and procedure.

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### **804.10 TRAINING**

The Custodian of Records and any member who may be responsible for access or release of public records shall attend training approved by the Ohio Attorney General, such as that provided by the Ohio Association of Chiefs of Police (OACP).

The Custodian of Records and all department members shall acknowledge and sign that they have read and received a copy of this policy (ORC § 149.43).

## Protected Information

### 805.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Lorain Police Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the public records information covered in the Records Maintenance and Release Policy.

#### 805.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the Lorain Police Department and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

### 805.2 POLICY

Members of the Lorain Police Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

### 805.3 RESPONSIBILITIES

The Chief of Police shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, Ohio Law Enforcement Gateway (OHLEG), National Law Enforcement Telecommunications System (NLETS), Bureau of Motor Vehicles (BMV) records and Ohio Law Enforcement Automated Data System (LEADS) (OAC § 4501:2-10-03; OAC § 4501:2-10-06).
- (b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.
- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

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##### **805.4 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Lorain Police Department policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access (OAC § 4501:2-10-03).

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

##### **805.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION**

Protected information may be released only to authorized recipients who have both a right to know and a need to know (OAC § 4501:2-10-06(C)).

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Support Services Commander for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Records and Information Center to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of officers, other department members or the public is at risk.

Nothing in this policy is intended to prohibit broadcasting warrant information.

##### **805.6 SECURITY OF PROTECTED INFORMATION**

The Chief of Police will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include, but are not limited to (OAC § 4501:2-10-03):

- (a) Developing and maintaining security practices, procedures and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.

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- (d) Tracking, documenting and reporting all breach of security incidents to the Chief of Police and appropriate authorities.

#### **805.6.1 MEMBER RESPONSIBILITIES**

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

#### **805.7 DEPUTY SUZANNE HOPPER ACT**

The Records and Information Center shall enter into NCIC information provided by a court regarding (ORC § 2929.44):

- (a) The conditional release of a person found incompetent to stand trial or not guilty by reason of insanity.
- (b) An order that a person convicted of an offense of violence receive a mental health evaluation or treatment for a mental illness.

Members of this department who have contact with a person who has such information entered into NCIC shall report the contact to the Department of Mental Health and Addiction Services, and, if the terms of the release require the defendant or person to receive mental health treatment, to the treatment provider.

#### **805.8 TRAINING**

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination (OAC § 4501:2-10-03).

## Animal Control

### 806.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for interacting with animals and responding to calls for service that involve animals.

### 806.2 POLICY

It is the policy of the Lorain Police Department to be responsive to the needs of the community regarding animal-related issues. This includes enforcing local, state and federal laws relating to animals and appropriately resolving or referring animal-related problems, as outlined in this policy.

### 806.3 HUMANE OFFICER RESPONSIBILITIES

Animal control services are generally the primary responsibility of the Lorain County Dog Warden.

### 806.4 MEMBER RESPONSIBILITIES

Members who respond to or assist with animal-related calls for service should evaluate the situation to determine appropriate actions to control the situation.

Due to the hazards of handling animals without proper training and equipment, responding officers generally should not attempt to capture and pick up any animal, but should keep the animal under observation until the arrival of appropriate assistance.

Members may consider acting before the arrival of such assistance when:

- (a) There is a threat to public safety.
- (b) An animal has bitten someone. Members should take measures to confine the animal and prevent further injury.
- (c) An animal is creating a traffic hazard.
- (d) An animal is seriously injured.
- (e) The owner/handler of an animal has been arrested or is incapacitated. In such circumstances, the member should find appropriate placement for the animal.
  - 1. This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.
  - 2. With the owner's consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.
  - 3. If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.

### 806.5 ANIMAL CRUELTY COMPLAINTS

Laws relating to the cruelty to animals should be enforced, including but not limited to animal cruelty and animal fights (ORC § 959.13; ORC § 959.15; ORC § 959.16).

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- (a) An investigation should be conducted on all reports of animal cruelty.
- (b) Legal steps should be taken to protect an animal that is in need of immediate care or protection from acts of cruelty.

#### **806.5.1 NOTIFICATION TO SOCIAL SERVICE AGENCY**

Members who have knowledge or reasonable cause to suspect that a violation involving a companion animal (as defined by ORC § 959.131) has occurred or is occurring shall immediately notify the appropriate social service agency of the violation when the member (ORC § 959.08):

- (a) Has knowledge or reasonable cause to suspect that a child or older adult resides with the alleged violator.
  - 1. An older adult is a person age 60 or older who suffers from the infirmities of aging or who has an impairment that prevents the person from protecting the person (ORC § 959.07).
- (b) The violation may have an impact on the child or older adult residing with the alleged violator.

Members who fail to comply with the requirements of ORC § 959.08 shall be subject to discipline (ORC § 959.10).

See the Child Abuse and Adult or Vulnerable Person Abuse policies for additional guidance.

#### **806.5.2 SOCIAL SERVICE AGENCY NOTIFICATION PROCEDURE**

Members may make the notification in writing or orally. Notification should contain the following information if known (ORC § 959.09):

- (a) The name and description of the companion animal involved.
- (b) The address and telephone number of the owner or other person responsible for care of the companion animal.
- (c) The nature and extent of the suspected abuse.
- (d) Any other information that may be useful in establishing the existence of the suspected violation or the identity of the person causing the violation.

Information that is confidential or information that the member reasonably believes would jeopardize a pending criminal investigation may be excluded from the report (ORC § 959.09).

#### **806.6 ANIMAL BITE REPORTS**

Members investigating an animal bite should file a complete case report. Officers should follow current procedures for quarantine of animals.

#### **806.7 STRAY DOGS**

If the dog has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the dog should be released to the owner and a citation may be issued, if appropriate. If a dog is taken into custody, it shall be transported to the appropriate shelter/holding pen.

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Members shall provide reasonable treatment to animals in their care (e.g., food, water, shelter).

#### **806.8 DANGEROUS ANIMALS**

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, the Lorain County Dog Warden should be contacted.

#### **806.9 PUBLIC NUISANCE CALLS RELATING TO ANIMALS**

Members should diligently address calls related to nuisance animals (e.g., barking dogs), because such calls may involve significant quality-of-life issues.

#### **806.10 DECEASED ANIMALS**

When a member becomes aware of a deceased animal all reasonable attempts should be made to preliminarily determine if the death of the animal is related to criminal activity.

Deceased animals on public property should be removed by the City of Lorain Street Department whenever possible.

Members should not climb onto or under any privately owned structure for the purpose of removing a deceased animal.

#### **806.11 INJURED ANIMALS**

When a member becomes aware of an injured domesticated animal, all reasonable attempts shall be made to contact the owner or responsible handler. If an owner or responsible handler cannot be located, the animal may be taken to a designated animal care facility. Officers should follow established procedures for the destruction of injured or sick animals.

## Jeanne Clery Campus Security Act

### 807.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines to ensure this department fulfills its obligation in complying with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

### 807.2 POLICY

The Lorain Police Department encourages accurate and prompt reporting of all crimes and takes all such reports seriously (20 USC § 1092(f)(1)(C)(iii)). Reports will be accepted in any manner, including in person or in writing, at any Lorain Police Department facility. Reports will be accepted anonymously, by phone or via email or on the institution's website.

It is the policy of the Lorain Police Department to comply with the Clery Act. Compliance with the Clery Act requires a joint effort between the Lorain Police Department and the administration of the institution.

Supervisors assigned areas of responsibility in the following policy sections are expected to be familiar with the subsections of 20 USC § 1092(f) and 34 CFR 668.46 that are relevant to their responsibilities.

### 807.3 POLICY, PROCEDURE AND PROGRAM DEVELOPMENT

The Chief of Police will:

- (a) Ensure that the Lorain Police Department establishes procedures for immediate emergency response and evacuation, including the use of electronic and cellular communication and testing of these procedures (20 USC § 1092(f)(1)(J)(i); 20 USC § 1092(f)(1)(J)(iii)).
- (b) Enter into agreements as appropriate with local law enforcement agencies to:
  1. Identify roles in the investigation of alleged criminal offenses on campus (20 USC § 1092(f)(1)(C)(ii)).
  2. Assist in the monitoring and reporting of criminal activity at off-campus student organizations that are recognized by the institution and engaged in by students attending the institution, including student organizations with off-campus housing facilities (20 USC § 1092(f)(1)(G)).
  3. Ensure coordination of emergency response and evacuation procedures, including procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation (20 USC § 1092(f)(1)(J)).

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4. Notify the Lorain Police Department of criminal offenses reported to local law enforcement agencies to assist the institution in meeting its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)).
  5. Notify the Lorain Police Department of criminal offenses reported to local law enforcement agencies to assist in making information available to the campus community in a timely manner and to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).
- (c) Appoint a designee to develop programs that are designed to inform students and employees about campus security procedures and practices, and to encourage students and employees to be responsible for their own security and the security of others (20 USC § 1092(f)(1)(D)).
  - (d) Appoint a designee to develop programs to inform students and employees about the prevention of crime (20 USC § 1092(f)(1)(E)).
  - (e) Appoint a designee to develop educational programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking, and what to do if an offense occurs, including, but not limited to, who should be contacted, the importance of preserving evidence and to whom the alleged offense should be reported (20 USC § 1092(f)(8)(B)). The designee shall also develop written materials to be distributed to reporting persons that explains the rights and options provided for under 20 USC § 1092 (20 USC § 1092(f)(8)(C)).
  - (f) Appoint a designee to make the appropriate notifications to institution staff regarding missing person investigations in order to ensure that the institution complies with the requirements of 34 CFR 668.46(h).

#### **807.4 RECORDS COLLECTION AND RETENTION**

The Records and Information Center Supervisor is responsible for maintaining Lorain Police Department statistics and making reasonable good-faith efforts to obtain statistics from other law enforcement agencies as necessary to allow the institution to comply with its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)). The statistics shall be compiled as follows:

- (a) Statistics concerning the occurrence of the following criminal offenses reported to this department or to local police agencies that occurred on campus, in or on non-campus buildings or property, and on public property including streets, sidewalks and parking facilities within the campus or immediately adjacent to and accessible from the campus (20 USC § 1092(f)(1)(F)(i); 34 CFR 668.46(c)):
  1. Murder
  2. Sex offenses, forcible or non-forcible
  3. Robbery

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4. Aggravated assault
  5. Burglary
  6. Motor vehicle theft
  7. Manslaughter
  8. Arson
  9. Arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations and weapons possession
  10. Dating violence, domestic violence and stalking
- (b) Statistics concerning the crimes described in the section above, theft, simple assault, intimidation, destruction, damage or vandalism of property, and other crimes involving bodily injury to any person where the victim was intentionally selected because of his/her actual or perceived race, sex, religion, gender, gender identity, sexual orientation, ethnicity or disability. These statistics should be collected and reported according to the category of prejudice (20 USC § 1092(f)(1)(F)(ii); 34 CFR 668.46(c)).
- (c) The statistics shall be compiled using the definitions in the FBI's Uniform Crime Reporting (UCR) system and modifications made pursuant to the Hate Crime Statistics Act (20 USC § 1092(f)(7); 34 CFR 668.46(c)(9)). For the offenses of domestic violence, dating violence and stalking, such statistics shall be compiled in accordance with the definitions used in the Violence Against Women Act (20 USC § 1092(f)(7); 34 USC § 12291; 34 CFR 668.46(a)). The statistics will be categorized separately as offenses that occur in the following places (20 USC § 1092(f)(12); 34 CFR 668.46(c)(5)):
1. On campus.
  2. In or on a non-campus building or property.
  3. On public property.
  4. In dormitories or other on-campus, residential or student facilities.
- (d) Statistics will be included by the calendar year in which the crime was reported to the Lorain Police Department (34 CFR 668.46(c)(3)).
- (e) Stalking offenses will include a statistic for each year in which the stalking conduct is reported and will be recorded as occurring either at the first location where the stalking occurred or the location where the victim became aware of the conduct (34 CFR 668.46(c)(6)).
- (f) Statistics will include the three most recent calendar years (20 USC § 1092(f)(1)(F); 34 CFR 668.46(c)).
- (g) The statistics shall not identify victims of crimes or persons accused of crimes (20 USC § 1092(f)(7)).

#### 807.4.1 CRIME LOG

The Records and Information Center Supervisor is responsible for ensuring a daily crime log is created and maintained as follows (20 USC § 1092(f)(4) and 34 CFR 668.46(f)):

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- (a) The daily crime log will record all crimes reported to the Lorain Police Department, including the nature, date, time and general location of each crime, and the disposition, if known.
- (b) All log entries shall be made within two business days of the initial report being made to the Department.
- (c) If new information about an entry becomes available, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police department or security department.
- (d) The daily crime log for the most recent 60-day period shall be open to the public for inspection at all times during normal business hours. Any portion of the log that is older than 60 days must be made available within two business days of a request for public inspection. Information in the log is not required to be disclosed when:
  - 1. Disclosure of the information is prohibited by law.
  - 2. Disclosure would jeopardize the confidentiality of the victim.
  - 3. There is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, may cause a suspect to flee or evade detection, or could result in the destruction of evidence. In any of these cases, the information may be withheld until that damage is no longer likely to occur from the release of such information.

#### **807.5 INFORMATION DISSEMINATION**

It is the responsibility of the Chief of Police or his/her appointed designee to ensure that the required Clery Act disclosures are properly forwarded to campus administration and community members in accordance with the institution's procedures. This includes:

- (a) Procedures for providing emergency notification of crimes or other incidents and evacuations that might represent an imminent threat to the safety of students or employees (20 USC § 1092(f)(3) and 34 CFR 668.46(e) and (g)).
- (b) Procedures for notifying the campus community about crimes considered to be a threat to other students and employees in order to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).
- (c) Information necessary for the institution to prepare its annual security report (20 USC § 1092(f)(1); 34 CFR 668.46(b)). This report will include, but is not limited to, the following:
  - 1. Crime statistics
  - 2. Crime and emergency reporting procedures
  - 3. Policies concerning security of and access to campus facilities
  - 4. Crime and sexual assault prevention programs
  - 5. Enforcement policies related to alcohol and illegal drugs

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6. Locations where the campus community can obtain information about registered sex offenders
7. Emergency response and evacuation procedures
8. Missing student notification procedures

## **Chapter 9 - Custody**

## Temporary Custody of Adults

### 900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Lorain Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

#### 900.1.1 DEFINITIONS

Definitions related to this policy include:

**Holding cell/cell** - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

**Safety checks** - Direct, visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

**Temporary custody** - The time period an adult is in custody at the Lorain Police Department prior to being released or transported to a housing or other type of facility.

### 900.2 POLICY

The Lorain Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

### 900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than twelve hours (OAC § 5120:1-7-02(A)(3)).

#### 900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Lorain Police Department, but should be transported to a county facility, a medical facility or other type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.
- (b) Any individual who has a medical condition, including pregnancy, or who may require medical attention, supervision or medication while in temporary custody.
- (c) Any individual who is seriously injured.
- (d) Individuals who are a suspected suicide risk (see the Civil Commitments Policy).

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1. If the officer taking custody of an individual believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release or a transfer to an appropriate facility is completed.
  - (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
  - (f) Individuals who are under the influence of alcohol, a controlled substance or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
  - (g) Any individual who has exhibited extremely violent or continuously violent behavior.
  - (h) Any individual who has claimed, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk.
  - (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

#### 900.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized department member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability.

At least one female department member should be present when a female adult is in temporary custody. In the event that none is readily available, the female in custody should be transported to another facility or released pursuant to another lawful process.

Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present.

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

#### 900.3.3 ENTRY RESTRICTIONS

Entry into any location where a person is held in custody should be restricted to:

- (a) Authorized members entering for official business purposes.
- (b) Emergency medical personnel when necessary.
- (c) Any other person authorized by the Watch Commander.

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When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

#### **900.4 INITIATING TEMPORARY CUSTODY**

The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The receiving officer should ask the arresting officer if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the City jail or the appropriate mental health facility.

The officer should promptly notify the Watch Commander of any conditions that may warrant immediate medical attention or other appropriate action. The Watch Commander shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

#### **900.4.1 SCREENING AND PLACEMENT**

The officer responsible for an individual in custody shall:

- (a) Advise the Watch Commander of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).
- (b) Evaluate the following issues against the stated risks in (a) to determine the need for placing the individual in a single cell:
  1. Consider whether the individual may be at a high risk of being sexually abused based on all available known information (28 CFR 115.141), or whether the person is facing any other identified risk.
  2. Provide any individual identified as being at a high risk for sexual or other victimization with heightened protection. This may include (28 CFR 115.113; 28 CFR 115.141):
    - (a) Continuous, direct sight and sound supervision.
    - (b) Single-cell placement in a cell that is actively monitored on video by a member who is available to immediately intervene.
  3. Ensure individuals are separated according to severity of the crime (e.g., felony or misdemeanor).
  4. Ensure males and females are separated by sight and sound when in cells.
  5. Ensure restrained individuals are not placed in cells with unrestrained individuals.
- (c) Ensure that those confined under civil process or for civil causes are kept separate from those who are in temporary custody pending criminal charges.

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- (d) Ensure separation, as appropriate, based on other factors, such as age, criminal sophistication, assaultive/non-assaultive behavior, mental state, disabilities and sexual orientation.

#### 900.4.2 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Patrol Operations Division Commander will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to department members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for documentation. Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

Department members assigned to process a foreign national shall:

- (a) Inform the individual, without delay, that he/she may have his/her consular officers notified of the arrest or detention and may communicate with them.
  - 1. This notification should be documented.
- (b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
  - 1. If the country is on the mandatory notification list, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Tell the individual that this notification has been made and inform him/her without delay that he/she may communicate with consular officers.
    - (c) Forward any communication from the individual to his/her consular officers without delay.
    - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
  - 2. If the country is not on the mandatory notification list and the individual requests that his/her consular officers be notified, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Forward any communication from the individual to his/her consular officers without delay.

#### 900.5 SAFETY, HEALTH AND OTHER PROVISIONS

##### 900.5.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the Lorain Police Department, the custody shall be promptly and properly documented in a custody log, including:

- (a) Identifying information about the individual, including his/her name.

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- (b) Date and time of arrival at the Department.
- (c) Any charges for which the individual is in temporary custody and any case number.
- (d) Time of all safety checks.
- (e) Any medical and other screening requested and completed.
- (f) Any emergency situations or unusual incidents.
- (g) Any other information that may be required by other authorities, such as compliance inspectors.
- (h) Date and time of release from the Lorain Police Department.

Detention Officers will maintain a jail log in accordance with state requirements.

#### 900.5.2 TEMPORARY CUSTODY REQUIREMENTS

Members monitoring or processing anyone in temporary custody shall ensure:

- (a) Safety checks and significant incidents/activities are noted on the log.
- (b) Individuals in custody are informed that they will be monitored at all times, except when using the toilet.
  - 1. There shall be no viewing devices, such as peep holes or mirrors, of which the individual is not aware.
  - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (c) There is reasonable access to toilets and wash basins.
- (d) There is reasonable access to a drinking fountain or water.
- (e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (f) There is privacy during attorney visits.
- (g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (h) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
  - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- (i) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (j) Adequate furnishings are available, including suitable chairs or benches.

#### 900.5.3 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to department members. At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

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Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by an officer.

Those who require medication while in temporary custody, generally should not be at the Lorain Police Department. They should be released or transferred to another facility as appropriate.

#### 900.5.4 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

Whenever a prosthetic or orthopedic appliance is removed, the Watch Commander shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists.

#### 900.5.5 TELEPHONE CALLS

Every individual in temporary custody should be allowed to make a reasonable number of completed telephone calls as soon as possible after arrival.

- (a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at his/her own expense.
  - 1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).
- (b) The individual should be given sufficient time to contact whomever he/she desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.
  - 1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use his/her judgment in determining the duration of the calls.
- (c) Calls between an individual in temporary custody and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded.

#### 900.5.6 RELIGIOUS ACCOMMODATION

Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated. Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The responsible supervisor should be advised any time a request for religious accommodation is denied.

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Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings shall be searched before being worn.

Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual's head and face may be temporarily removed during the taking of any photographs.

#### **900.5.7 FIREARMS AND OTHER SECURITY MEASURES**

Firearms shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor. Other control devices or CEDs may be used by certified trained members, upon approval of the Chief of Police while on duty in the Lorain City Jail.

All perimeter doors to secure areas shall be kept locked at all times, except during routine cleaning, when no individuals in custody are present or in the event of an emergency, such as an evacuation.

#### **900.6 USE OF RESTRAINT DEVICES**

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Lorain Police Department unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

#### **900.6.1 PREGNANT ADULTS**

Women who are known to be pregnant or in any period of postpartum recovery (which can be up to six weeks after delivery) may only be restrained in accordance with the Handcuffing and Restraints Policy (ORC § 2901.10).

#### **900.7 PERSONAL PROPERTY**

The personal property of an individual in temporary custody should be removed, inventoried and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (i.e., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient's signature on the appropriate form.

Upon release of an individual from temporary custody, his/her items of personal property shall be compared with the inventory, and he/she shall sign a receipt for the property's return. If the individual is transferred to another facility or court, the member transporting the individual is

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required to obtain the receiving person's signature as notice of receipt. The Department shall maintain a copy of the property receipt.

The Watch Commander shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Watch Commander shall attempt to prove or disprove the claim.

#### **900.8 HOLDING CELLS**

A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection also should be conducted when he/she is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

- (a) The individual shall be searched (see the Custodial Searches Policy), and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces and jackets, shall be removed.
- (b) The individual shall constantly be monitored by an audio/video system during the entire custody.
- (c) The individual shall have constant auditory access to department members.
- (d) The individual's initial placement into and removal from a locked enclosure shall be logged.
- (e) Safety checks by department members shall occur no less than every 15 minutes.
  1. Safety checks should be at varying times.
  2. All safety checks shall be logged.
  3. The safety check should involve questioning the individual as to his/her well-being.
  4. Individuals who are sleeping or apparently sleeping should be awakened.
  5. Requests or concerns of the individual should be logged.

#### **900.9 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY**

The Patrol Operations Division Commander will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the Lorain Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate.
- (b) Immediate notification of the Watch Commander, Chief of Police and Division Commander.
- (c) Notification of the spouse, next of kin or other appropriate person.
- (d) Notification of the appropriate prosecutor.
- (e) Notification of the Law Director.

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- (f) Notification of the Coroner.
- (g) Evidence preservation.

A suicide or suicide attempt by a detainee while housed in the temporary holding facility shall be documented on the appropriate report and forwarded to the facility manager. If the incident involves a completed suicide, the facility manager shall ensure that a copy of the report is forwarded to the Division of Parole and Community Services within 30 days (OAC § 5120:1-12-09).

#### **900.10 RELEASE AND/OR TRANSFER**

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

- (a) All proper reports, forms and logs have been completed prior to release.
- (b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.
- (c) It has been confirmed that the correct individual is being released or transported.
- (d) All property, except evidence, contraband or dangerous weapons, has been returned to, or sent with, the individual.
- (e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, medical records, an itemized list of his/her property, warrant copies).
- (f) The individual is not permitted in any nonpublic areas of the Lorain Police Department unless escorted by a member of the Department.
- (g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if he/she is being sent to another facility.
  - 1. The department member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.
- (h) Generally, persons of the opposite sex should not be transported in the same vehicle unless they are physically separated by a solid barrier. If segregating individuals is not practicable, officers should be alert to inappropriate physical or verbal contact and take appropriate action as necessary. Juveniles shall not be transported with adults.
- (i) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with his/her personal needs as reasonable.

#### **900.11 ASSIGNED ADMINISTRATOR**

The Executive Officer will ensure any reasonably necessary supplemental procedures are in place to address the following issues:

- (a) General security
- (b) Key control
- (c) Sanitation and maintenance

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- (d) Emergency medical treatment
- (e) Escapes
- (f) Evacuation plans
- (g) Fire- and life-safety
- (h) Disaster plans
- (i) Building and safety code compliance

### **900.12 TRAINING**

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

# Custodial Searches

## 901.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Lorain Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

### 901.1.1 DEFINITIONS

Definitions related to this policy include:

**Custody search** - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

**Physical body cavity search** - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

**Strip search** - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

## 901.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

## 901.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

## 901.4 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the Lorain Police Department facilities. Except in exigent circumstances, the search should be conducted by a

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member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

#### 901.4.1 PROPERTY

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member. The inventory should include the case number, date, time, member's Lorain Police Department identification number and information regarding how and when the property may be released.

#### 901.4.2 VERIFICATION OF MONEY

Generally all money shall be counted in front of the individual from whom it was received by corrections staff. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The department member sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope. If money is seized by any member of the CID for an active investigation, counting the sum in front of the individual may be omitted if circumstances indicate it may compromise an active investigation. In these instances, the money should be counted by an investigator, and the amount verified by a supervisor or his/her designee before being secured into evidence.

#### 901.5 STRIP SEARCHES

No individual in temporary custody at any Lorain Police Department facility shall be subjected to a strip search unless there is probable cause based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining probable cause include, but are not limited to:

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- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.
- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
  - 1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex detainee shall be searched or examined for the sole purpose of determining the detainee's genital status. If the detainee's genital status is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, as part of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

#### 901.5.1 STRIP SEARCH PROCEDURES

Strip searches at Lorain Police Department facilities shall be conducted as follows (28 CFR 115.115):

- (a) Written authorization from the Watch Commander shall be obtained prior to the strip search unless there is a legitimate medical reason or medical emergency (ORC § 2933.32(5)).
- (b) All members involved with the strip search shall be of the same sex as the individual being searched (ORC § 2933.32(B)(6)).
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.
- (e) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.
- (f) The primary member conducting the search shall prepare a written report to include (ORC § 2933.32):
  - 1. The facts that led to the decision to perform a strip search.

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2. The reasons less intrusive methods of searching were not used or were insufficient.
  3. The written authorization for the search, obtained from the Watch Commander. If the strip search was conducted before or without the granting of written authorization by the Watch Commander, the legitimate medical reason or medical emergency that made obtaining written authorization impracticable.
  4. The name of the individual who was searched.
  5. The name and sex of the members who conducted the search.
  6. The name, sex and role of any person present during the search.
  7. The time and date of the search.
  8. The place at which the search was conducted.
  9. A list of the items, if any, that were recovered.
  10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.
- (h) A copy of the written report shall be retained and a copy shall be provided to the individual searched (ORC § 2933.32(C)(2)).

#### 901.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with Watch Commander authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Watch Commander authorization does not need to be in writing.

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#### **901.6 BODY CAVITY SEARCH**

Physical body cavity searches shall be subject to the following:

- (a) No individual shall be subjected to a physical body cavity search without written approval of the Watch Commander and only upon a search warrant or approval of legal counsel. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).
- (b) Only a physician, registered nurse or licensed practical nurse who is registered or licensed to practice in Ohio who is of the same sex as the individual to be searched may conduct a physical body cavity search (ORC § 2933.32(B)(4)).
- (c) All persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present (ORC § 2933.32(B)(6)).
- (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search (ORC § 2933.32(B)(4); ORC § 2933.32(B)(6)).
- (e) All such searches shall be documented in a written report, including (ORC § 2933.32):
  - 1. The facts that led to the decision to perform a physical body cavity search of the individual.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The Watch Commander's written approval.
  - 4. Legal counsel approval if the search was conducted for a legitimate medical reason or medical emergency without a warrant.
  - 5. A copy of the search warrant.
  - 6. The name of the individual searched.
  - 7. The time, date and location of the search.
  - 8. The medical personnel present.
  - 9. The names, sex and roles of any department members present.
  - 10. Any contraband or weapons discovered by the search.
- (f) A copy of the written report shall be retained and shall be provided to the individual who was searched or other authorized representative (ORC § 2933.32(C)(2)).

#### **901.7 TRAINING**

The Training Coordinator shall ensure members have training that includes (28 CFR 115.115):

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- (a) Conducting searches of cross-gender individuals.
- (b) Conducting searches of transgender and intersex individuals.
- (c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

## Prison Rape Elimination

### 902.1 PURPOSE AND SCOPE

This policy provides guidance for complying with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect and respond to sexual abuse, harassment and retaliation against detainees in the Lorain Police Department Temporary Holding Facilities (28 CFR 115.111).

#### 902.1.1 DEFINITIONS

Definitions related to this policy include:

**Intersex** - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

**Sexual abuse** - Any of the following acts, if the detainee does not consent, is coerced into such act by overt or implied threats of violence or is unable to consent or refuse:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or the buttocks of another person, excluding contact incidental to a physical altercation (28 CFR 115.6)

Sexual abuse also includes abuse by a staff member, contractor or volunteer as follows, with or without consent of the detainee or resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Contact between the mouth and any body part where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object or other instrument, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or the buttocks, that is unrelated to official duties, or where the staff member, contractor or volunteer has the intent to abuse, arouse or gratify sexual desire

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- Any attempt, threat or request by a staff member, contractor or volunteer to engage in the activities described above
- Any display by a staff member, contractor or volunteer of his/her uncovered genitalia, buttocks or breast in the presence of a detainee or resident
- Voyeurism by a staff member, contractor or volunteer (28 CFR 115.6)

**Sexual harassment** - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures or actions of a derogatory or offensive sexual nature by one detainee or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to a detainee or resident by a staff member, contractor or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6).

**Transgender** - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

#### **902.2 POLICY**

The Lorain Police Department has zero tolerance toward all forms of sexual abuse and sexual harassment (28 CFR 115.111). The Department will not tolerate retaliation against any person who reports sexual abuse or sexual harassment or who cooperates with a sexual abuse or sexual harassment investigation.

The Lorain Police Department will take immediate action to protect detainees who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162).

#### **902.3 PREA COORDINATOR**

The Chief of Police shall appoint an upper-level manager with sufficient time and authority to develop, implement and oversee department efforts to comply with PREA standards in the Lorain Police Department Temporary Holding Facilities (28 CFR 115.111). The PREA Coordinator's responsibilities shall include:

- (a) Developing and maintaining procedures to comply with the PREA Rule.
- (b) Ensuring that any contract for the confinement of Lorain Police Department detainees includes the requirement to adopt and comply with applicable PREA and the PREA Rule, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).
- (c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect detainees from sexual abuse (28 CFR 115.113). This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.
- (d) Developing methods for staff to privately report sexual abuse and sexual harassment of detainees (28 CFR 115.151).

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- (e) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators and department leadership to an incident of sexual abuse (28 CFR 115.165).
- (f) Ensuring a protocol is developed for investigating allegations of sexual abuse in the Temporary Holding Facility. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):
  - 1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents" or a similarly comprehensive and authoritative protocol.
  - 2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.
  - 3. A process to document all referrals to other law enforcement agencies.
  - 4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.
  - 5. In accordance with security needs, provisions to permit, to the extent available, detainee access to victim advocacy services if the detainee is transported for a forensic examination to an outside hospital that offers such services.
- (g) Ensuring that detainees with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect and respond to sexual abuse and sexual harassment. This includes, as appropriate, access to interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills, intellectual, hearing or vision disabilities) (28 CFR 115.116).
  - 1. The agency shall not rely on other detainees for assistance except in limited circumstances where an extended delay in obtaining an interpreter could compromise the detainee's safety, the performance of first-response duties under this policy, or the investigation of a detainee's allegations of sexual abuse, harassment or retaliation.
- (h) Publishing on the department's website:
  - 1. Information on how to report sexual abuse and sexual harassment on behalf of a detainee (28 CFR 115.154).

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2. A protocol describing the responsibilities of the Department and any other investigating agency that will be responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).
- (i) Establishing a process that includes the use of a standardized form and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under this agency's direct control (28 CFR 115.187).
  1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.
  2. The data shall be aggregated at least annually.
- (j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all Temporary Holding Facilities used to house detainees overnight (28 CFR 115.193).
- (k) Ensuring contractors or others who work in the Temporary Holding Facility are informed of the agency's zero-tolerance policy regarding sexual abuse and sexual harassment (28 CFR 115.132).

#### **902.4 REPORTING SEXUAL ABUSE AND HARASSMENT**

Detainees may make reports verbally, in writing, privately or anonymously of any of the following (28 CFR 115.151):

- Sexual abuse
- Sexual harassment
- Retaliation by other detainees or staff for reporting sexual abuse or sexual harassment
- Staff neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

During intake the Department shall notify all detainees of the zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the Department and that is able to receive and immediately forward detainee reports of sexual abuse and sexual harassment to agency officials. This allows the detainee to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

##### **902.4.1 MEMBER RESPONSIBILITIES**

Department members shall accept reports from detainees and third parties and shall promptly document all reports (28 CFR 115.151).

All members shall report immediately to the Watch Commander any knowledge, suspicion or information regarding:

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- (a) An incident of sexual abuse or sexual harassment that occurs in the Temporary Holding Facility.
- (b) Retaliation against detainees or the member who reports any such incident.
- (c) Any neglect or violation of responsibilities on the part of any department member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

#### **902.4.2 WATCH COMMANDER RESPONSIBILITIES**

The Watch Commander or shift OIC shall report to the department's designated investigators all allegations of sexual abuse, harassment, retaliation, neglect or violations leading to sexual abuse, harassment or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a vulnerable adult, the Watch Commander shall also report the allegation as required under mandatory reporting laws and department policy.

Upon receiving an allegation that a detainee was sexually abused while confined at another facility, the Watch Commander shall notify the head of the facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible but no later than 72 hours after receiving the allegation. The Watch Commander shall document such notification (28 CFR 115.163).

If an alleged detainee victim is transferred from the Temporary Holding Facility to a jail, prison or medical facility, the Department shall, as permitted by law, inform the receiving facility of the incident and the detainee's potential need for medical or social services, unless the detainee requests otherwise (28 CFR 115.165).

#### **902.5 INVESTIGATIONS**

The Department shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received department-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

##### **902.5.1 FIRST RESPONDERS**

The first officer to respond to a report of sexual abuse or sexual assault shall (28 CFR 115.164):

- (a) Separate the parties.
- (b) Establish a crime scene to preserve and protect any evidence. Identify and secure witnesses until steps can be taken to collect any evidence.
- (c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request that the alleged victim not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

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- (d) If the abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating.

If the first responder is not an officer the responder shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify a law enforcement staff member (28 CFR 115.164).

#### 902.5.2 INVESTIGATOR RESPONSIBILITIES

Investigators shall (28 CFR 115.171):

- (a) Gather and preserve direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.
- (b) Interview alleged victims, suspects and witnesses.
- (c) Review any prior complaints and reports of sexual abuse involving the suspect.
- (d) Conduct compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (e) Assess the credibility of the alleged victim, suspect or witness on an individual basis and not by the person's status as a detainee or a member of the Lorain Police Department.
- (f) Document in written reports a description of physical, testimonial, documentary and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.
- (g) Refer allegations of conduct that may be criminal to the City Prosecutor for possible prosecution, including any time there is probable cause to believe a detainee sexually abused another detainee in the Temporary Holding Facility (28 CFR 115.178).
- (h) Cooperate with outside investigators and remain informed about the progress of any outside investigation.

#### 902.5.3 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment or control of this department shall not be used as a basis for terminating an investigation (28 CFR 115.171).

#### 902.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS

No detainee who alleges sexual abuse shall be required to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

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Detainee victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

#### **902.5.5 CONCLUSIONS AND FINDINGS**

All completed investigations shall be forwarded to the Chief of Police, or if the allegations may reasonably involve the Chief of Police, to the Safety Director. The Chief of Police or Safety Director shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All personnel shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for department members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with detainees and reported to any relevant licensing bodies (28 CFR 115.177). The Chief of Police shall take appropriate remedial measures and consider whether to prohibit further contact with detainees by a contractor or volunteer.

#### **902.6 RETALIATION PROHIBITED**

All detainees and members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other individual who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that individual.

The Watch Commander or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for detainee victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for detainees or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

The Watch Commander or the authorized designee shall identify a staff member to monitor the conduct and treatment of detainees or members who have reported sexual abuse and of detainees who were reported to have suffered sexual abuse. The staff member shall act promptly to remedy any such retaliation. In the case of detainees, such monitoring shall also include periodic status checks.

#### **902.7 REVIEWS AND AUDITS**

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##### 902.7.1 INCIDENT REVIEWS

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include upper-level management officials and seek input from line supervisors and investigators (28 CFR 115.186).

The review shall (28 CFR 115.186):

- (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.
- (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
- (d) Assess the adequacy of staffing levels in that area during different shifts.
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief of Police and the PREA Coordinator. The Chief of Police or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

##### 902.7.2 DATA REVIEWS

The facility shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

- (a) Identification of any potential problem areas.
- (b) Identification of any corrective actions taken.
- (c) Recommendations for any additional corrective actions.
- (d) A comparison of the current year's data and corrective actions with those from prior years.
- (e) An assessment of the department's progress in addressing sexual abuse.

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The report shall be approved by the Chief of Police and made readily available to the public through the department website or, if it does not have one, through other means. Material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the Temporary Holding Facility. However, the nature of the redacted material shall be indicated.

All aggregated sexual abuse data from Lorain Police Department facilities and private facilities with which it contracts shall be made readily available to the public at least annually through the department website or, if it does not have one, through other means. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

#### **902.8 RECORDS**

The Department shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is held or employed by the Department, plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

#### **902.9 TRAINING**

All employees, volunteers and contractors who may have contact with detainees shall receive department-approved training on the prevention and detection of sexual abuse and sexual harassment within this facility. The Training Coordinator shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):

- The Department's zero-tolerance policy and detainees' right to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- The dynamics of sexual abuse and harassment in confinement settings, including which detainees are most vulnerable.
- The right of detainees and staff members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
- Detecting and responding to signs of threatened and actual abuse.
- Communicating effectively and professionally with all detainees.
- Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):

- Techniques for interviewing sexual abuse victims.
- Proper use of *Miranda* and *Garrity* warnings.

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- Sexual abuse evidence collection in confinement settings.
- Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Training Coordinator shall maintain documentation that employees, volunteers, contractors and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current employees and volunteers who may have contact with detainees shall be trained within one year of the effective date of the PREA standards. The agency shall provide annual refresher information to all such employees and volunteers to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

## **Chapter 10 - Personnel**

## Recruitment and Selection

### 1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Lorain Police Department and that are promulgated and maintained by the Human Resources.

### 1000.2 POLICY

In accordance with applicable federal, state, and local law, the Lorain Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

### 1000.3 RECRUITMENT

The Administration Division Commander shall employ a comprehensive recruitment and selection strategy/plan to recruit and select employees from a qualified and diverse pool of candidates.

The strategy/plan may include but is not limited to the following activities:

- (a) Identification of racially and culturally diverse target markets
- (b) Use of marketing strategies to target diverse applicant pools (e.g., distributing informational brochures)
- (c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.
- (d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military
- (e) Employee referral and recruitment incentive programs
- (f) Consideration of shared or collaborative regional testing processes

The Administration Division Commander shall avoid advertising, recruiting, and screening practices that tend to stereotype, focus on homogeneous applicant pools, or screen applicants in a discriminatory manner.

The Department should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of their status in the recruiting process.

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#### **1000.4 SELECTION PROCESS**

The Department shall actively strive to identify a diverse group of candidates that have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department should employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
- (b) Driving record
- (c) Reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks
- (h) Polygraph or voice stress analyzer examination (when legally permissible)
- (i) Medical and psychological examination (may only be given after a conditional offer of employment)
- (j) Review board or selection committee assessment

##### **1000.4.1 VETERAN PREFERENCE**

Veterans or reservists of the United States Armed Forces who are residents of Ohio, separated from the armed forces under honorable conditions following more than six months of active duty and are candidates for job openings shall receive preference as applicable (ORC § 124.23(C)).

In the event that ratings are equal, candidates who are eligible for veteran's preference shall receive priority in rank on eligibility lists and in original appointments over non-veterans on the list. Ties among veterans or reservists shall be decided by priority of filing the application. A tie between a veteran and a reservist shall be decided in favor of the veteran (ORC § 124.26).

##### **1000.4.2 APPLICATION PROCESS**

The Office of Professional Standards Commander shall maintain documentation defining a fair and impartial application process.

- (a) All elements of the process, including physical ability testing, shall be job-related and nondiscriminatory.
- (b) All elements of the process shall be administered, scored and interpreted in a uniform manner.

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#### **1000.5 BACKGROUND INVESTIGATION**

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Lorain Police Department.

##### 1000.5.1 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA (15 USC § 1681d).

##### 1000.5.2 REVIEW OF SOCIAL MEDIA SITES

Due to the potential for accessing unsubstantiated, private or protected information, the Background Investigators should not require candidates to provide passwords, account information or access to password-protected social media accounts.

Investigators should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches and/or review information from social media sites to ensure that:

- (a) The legal rights of candidates are protected.
- (b) Material and information to be considered are verified, accurate and validated.
- (c) The Department fully complies with applicable privacy protections and local, state and federal law.

Regardless of whether a third party is used, potentially impermissible information should not be available to any person involved in the candidate selection process.

##### 1000.5.3 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file.

##### 1000.5.4 RECORDS RETENTION

The background report and all supporting documentation shall be maintained in accordance with the established records retention schedule.

#### **1000.6 DISQUALIFICATION GUIDELINES**

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time

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- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

#### **1000.7 EMPLOYMENT STANDARDS**

All candidates shall meet the minimum standards required by state law. Candidates will be evaluated based on merit, ability, competence and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community.

Validated, job-related and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Human Resources Director should maintain validated standards for all positions.

##### **1000.7.1 STANDARDS FOR OFFICERS**

Candidates shall meet the minimum standards for training and certification established by the Ohio Peace Officer Training Commission (OPOTC) prior to permanent employment as a peace officer (ORC § 109.73).

#### **1000.8 PROBATIONARY PERIODS**

The Chief of Police should coordinate with the Lorain Human Resources Department to identify positions subject to probationary periods and procedures for:

- (a) Appraising performance during probation.
- (b) Assessing the level of performance required to complete probation.
- (c) Extending probation.
- (d) Documenting successful or unsuccessful completion of probation.

#### **1000.9 ANNUAL REVIEW**

The Employee Review Board should review the personnel recruitment and hiring process annually. This review will be documented.

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##### **1000.10 TRAINING**

Annual recruitment and hiring training should be provided for those members involved in recruitment and hiring activities. Training should include, but is not limited to, the recruitment and hiring plan, the department's equal employment opportunity plan, recruitment and hiring qualifications, the department's application and selection processes, and the department's annual review/analysis of the recruitment and hiring process.

##### **1000.10.1 POLICY ACKNOWLEDGEMENT**

Applicable department members shall initially read and sign that they understand this policy.

## Evaluation of Employees

### 1001.1 PURPOSE AND SCOPE

The Department's evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement.

### 1001.2 POLICY

The Lorain Police Department utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to special unit assignment, reassignment, discipline, demotion, and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

### 1001.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented performance during that period. Subordinates are to be formally evaluated twice a year by their immediate supervisor(s). These reports will be submitted for periods ending 30 June and 31 December. Evaluation reports will be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for his/her input.

All newly promoted supervisors shall receive training in the proper methods of conducting employee evaluations prior to assuming this duty.

Each supervisor should discuss the tasks of the position, standards of performance expected, and the evaluation criteria with each employee at the beginning of the rating period.

Assessment of an employee's job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise.

Non-probationary employees demonstrating substandard performance shall be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity.

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so via e-mail to the Division Commander.

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The evaluation categories are divided into two sections. The first section is General Characteristics and will be weighted higher than section two. Section two is Assignment Specific Characteristics. Section one will be scored at a total of 100 points. Section two will be scored for a total of 50 points.

#### **1001.4 FULL-TIME PROBATIONARY PERSONNEL**

Personnel must successfully complete the probationary period before being eligible for certification as regular employees. Probationary personnel are also evaluated prior to the end of their probation period to determine suitability for retained employment.

#### **1001.5 FULL-TIME REGULAR STATUS PERSONNEL**

##### 1001.5.1 RATINGS

The definition of each rating category is as follows:

**EXCEPTIONAL:** The employee's performance always surpasses the generally acceptable level of performance for an evaluation category. The employee should demonstrate that their performance is exemplary to achieve this rating. (10 points)

**ABOVE STANDARD:** The employee's performance exceeds the generally acceptable level of performance a majority of the time. The employee demonstrates the ability to function with a minimum of direct supervision. (8 points)

**MEETS STANDARD:** This is the first level of acceptable performance. The employee meets all criteria for a given evaluation category. Mistakes at this level of performance are rare. When mistakes do occur they are immediately corrected and steps are taken to ensure they do not recur. (5 points)

**NEEDS IMPROVEMENT:** Employee demonstrates that they fail to meet the generally accepted criteria for an evaluation category. Occasional mistakes are made. The employee fails to recognize mistakes and requires motivation to make necessary corrections. (2 points)

**UNSATISFACTORY:** The employee's level of performance falls far below generally accepted levels for a given evaluation category. Mistakes are frequent and the employee fails to take steps to ensure that they do not recur. (0 points)

Space for written comments is provided at the end of the evaluation in the rater comments section. This section allows the rater to document the employee's strengths, weaknesses and suggestions for improvement. Any rating under any job dimension marked unsatisfactory or outstanding shall be substantiated in the rater comments section.

#### **1001.6 EVALUATION INTERVIEW**

When the supervisor has completed the preliminary evaluation, arrangements shall be made for a private discussion of the evaluation with the employee. The supervisor should discuss the results of the recently completed rating period and clarify any questions the employee may have. If the employee has valid and reasonable protests of any of the ratings, the supervisor may make appropriate changes to the evaluation. Areas needing improvement and goals for

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reaching the expected level of performance should be identified and discussed. The supervisor should also provide relevant counseling regarding advancement, specialty positions and training opportunities. The supervisor and employee will sign and date the evaluation. Employees may also write comments in the employee comments section of the performance evaluation report.

#### **1001.7 EVALUATION REVIEW**

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded to the Watch Commander for review, and then to the Division Commander. The Division Commander shall review the evaluation for fairness, impartiality, uniformity and consistency. The Division Commander shall use the quality of performance ratings prepared as a factor to evaluate the supervisor.

#### **1001.8 EVALUATION DISTRIBUTION**

The original performance evaluation shall be maintained in the employee's personnel file in the Human Resources Department.

## Special Assignments and Promotions

### 1002.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Lorain Police Department.

### 1002.2 POLICY

The Lorain Police Department determines assignments and promotions in a non-discriminatory manner based upon job-related factors and candidate skills and qualifications and in accordance with applicable collective bargaining agreement sections.

### 1002.3 SPECIAL ASSIGNMENT POSITIONS

The following positions are considered special assignments and not promotions:

- (a) Special Weapons and Tactics member
- (b) Criminal Investigations Division
- (c) Motorcycle officer
- (d) Bicycle Patrol officer
- (e) Canine handler
- (f) Traffic Commissioner/Investigators
- (g) Field Training Officer
- (h) Community Relations/Community Resource Officer
- (i) Training Coordinator
- (j) All other specialized assignments

#### 1002.3.1 GENERAL REQUIREMENTS

The following requirements while not mandatory should be considered when selecting a candidate for a special assignment:

- (a) Three years of relevant experience
- (b) Off probation
- (c) Possession of or ability to obtain any certification required by the Ohio Peace Officer Training Commission (OPOTC) or law
- (d) Exceptional skills, experience, or abilities related to the special assignment

#### 1002.3.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignment:

- (a) Presents a professional, neat appearance.
- (b) Maintains a physical condition that aids in his/her performance.
- (c) Expressed an interest in the assignment.

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- (d) Demonstrates the following traits:
  - 1. Emotional stability and maturity
  - 2. Stress tolerance
  - 3. Sound judgment and decision-making
  - 4. Personal integrity and ethical conduct
  - 5. Leadership skills
  - 6. Initiative
  - 7. Adaptability and flexibility
  - 8. Ability to conform to department goals and objectives in a positive manner

#### **1002.3.3 SELECTION PROCESS**

The selection process for special assignments will include an administrative evaluation as determined by the Chief of Police to include:

- (a) Supervisor recommendations - Each supervisor who has supervised or otherwise been involved with the candidate will submit a recommendation.
  - 1. The supervisor recommendations will be submitted to the Division Commander for whom the candidate will work.
- (b) Board interview - The Division Commander will schedule interviews with each candidate.
  - 1. Based on supervisor recommendations and those of the Division Commander after the interview, the Division Commander will submit his/her recommendations to the Chief of Police.
- (c) Assignment by the Chief of Police.

The selection process for all special assignment positions may be waived for temporary assignments, emergency situations, training, and at the discretion of the Chief of Police.

#### **1002.4 PROMOTIONAL REQUIREMENTS**

Requirements and information regarding any promotional process are available in the current collective bargaining agreement, and promotions are conducted through the Civil Service Commission.

## Grievance Procedures

### 1003.1 PURPOSE AND SCOPE

It is the policy of this department that all grievances be handled quickly and fairly without discrimination against employees who file a grievance. The Department's philosophy is to promote free verbal communication between employees and supervisors.

#### 1003.1.1 GRIEVANCE DEFINED

The term "grievance" shall mean an allegation by a bargaining unit employee, group of employees, or the Employer that there has been a breach, misinterpretation, or improper application of the applicable Collective Bargaining Agreement. It is not intended that the grievance procedure be used to effect changes in the agreement, nor these matters not otherwise covered by, superseded by, or in conflict with the agreement, which are controlled by Federal, State, or local laws.

Specifically excluded from the category of grievances are:

- (a) Complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy.
- (b) Complaints related to state workers' compensation.
- (c) Personnel complaints consisting of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state, or local law as set forth in the Personnel Complaint Procedure Policy.

### 1003.2 PROCEDURE

Except as otherwise required under a collective bargaining agreement, if an employee believes that he/she has a grievance as defined above, the employee shall observe the following procedure:

- (a) The employee may attempt to resolve the issue through informal discussion with his/her immediate supervisor, Division Commander, or the Chief of Police. This informal attempt at resolution is not required before progressing to the formal Grievance Procedure.
- (b) If the issue cannot be settled by the immediate supervisor, Division Commander, or the Chief of Police, the formal Grievance Procedure in the respective employee's Collective Bargaining Agreement should be followed. The employee must ensure the appropriate Grievance Officer is contacted prior to the expiration of the time frame specified in the Grievance Procedure of the appropriate bargaining agreement.

### 1003.3 PUNITIVE ACTION

At no time will punitive action be taken against an employee for exercising any rights during the grievance procedure.

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## *Grievance Procedures*

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### **1003.4 GRIEVANCE RECORDS**

At the conclusion of the grievance process, all documents pertaining to the process shall be kept by the respective employee's union. A second copy of the written grievance will be maintained by the Safety Director's office to monitor the grievance process.

### **1003.5 JUDICIAL RELIEF**

Any employee or representative may, after exhausting the internal grievance procedure, and, if applicable, arbitration, apply to the proper court for judicial relief as allowed by contract or law.

## Anti-Retaliation

### 1004.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or collective bargaining agreement.

### 1004.2 POLICY

The Lorain Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

### 1004.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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#### *Anti-Retaliation*

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#### **1004.4 COMPLAINTS OF RETALIATION**

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief of Police or the City Human Resources Director.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

#### **1004.5 SUPERVISOR RESPONSIBILITIES**

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

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#### *Anti-Retaliation*

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##### **1004.6 COMMAND STAFF RESPONSIBILITIES**

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

##### **1004.7 WHISTLE-BLOWING**

Ohio law protects employees who report violations of a state or federal statute, an ordinance or regulation of the City, or department policy when there is a reasonable belief that the violation is one of the following (ORC § 4113.52):

- (a) A criminal offense that is likely to create an imminent risk of physical harm to persons or a hazard to public health or safety
- (b) A felony
- (c) An improper solicitation for contribution
- (d) Fraud or misuse of public resources (ORC § 124.341)

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Office of Professional Standards for investigation pursuant to the Personnel Complaints Policy.

##### **1004.8 RECORDS RETENTION AND RELEASE**

The Support Services Commander shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

##### **1004.9 TRAINING**

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

# Reporting of Employee Convictions

## 1005.1 PURPOSE AND SCOPE

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

## 1005.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

Ohio and federal law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

## 1005.3 CRIMINAL ARRESTS

Any sworn employee shall promptly notify his/her immediate supervisor in writing if a firearm used by the employee as part of his/her assigned duties has been confiscated as a result of involvement in a crime and/or domestic violence incident (see Domestic Violence Policy Firearms section).

## 1005.4 CRIMINAL CONVICTIONS

Any person convicted of a felony is prohibited from being a peace officer in the State of Ohio (see generally ORC § 737.052 and ORC § 737.162).

Even when legal restrictions are not imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by a member of this department may prohibit him/her from carrying out law enforcement duties.

- (a) State law prohibits any person convicted of a felony, a fugitive from justice, an unlawful user or addict of any controlled substance, a person who is mentally ill or illegally in the United States from possessing a firearm.
- (b) If a person is convicted of a crime involving family violence or stalking or is currently subject to a restraining order, injunction or other order for protection against domestic violence, it may be unlawful for the person to carry a concealed weapon.

### 1005.4.1 COURT ORDERS

All employees shall promptly notify the department if they are part of any court order. Court orders or failure to comply with certain subpoenas or warrants may require suspension of their peace officer certification.

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## *Reporting of Employee Convictions*

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### **1005.5 REPORTING PROCEDURE**

All members of this department and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing of any past or current criminal arrest or conviction regardless of whether the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief of Police in the case of retired officers) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on paid or unpaid administrative leave, reassignment and/or termination.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

## Drug- and Alcohol-Free Workplace

### 1006.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

### 1006.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

### 1006.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Watch Commander or appropriate supervisor as soon as the member is aware that the member will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, the member shall be immediately removed and released from work (see the Work Restrictions section in this policy).

#### 1006.3.1 USE OF MEDICATIONS

Members should not use any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to the member's immediate supervisor prior to commencing any on-duty status.

#### 1006.3.2 MEDICAL CANNABIS

Possession, use, or being under the influence of medical cannabis on-duty is prohibited and may lead to disciplinary action.

### 1006.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing, or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member is impaired due to drug or alcohol use.

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#### *Drug- and Alcohol-Free Workplace*

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Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

#### **1006.5 EMPLOYEE ASSISTANCE PROGRAM**

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

#### **1006.6 WORK RESTRICTIONS**

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

#### **1006.7 SCREENING TESTS**

A supervisor may require an employee to submit to a screening test under any of the following circumstances:

- (a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing the employee's ability to perform duties safely and efficiently.
- (b) The employee discharges a firearm in the performance of the employee's duties (excluding training or authorized euthanizing of an animal).
- (c) The employee discharges a firearm issued by the Department while off-duty, resulting in injury, death, or substantial property damage.
- (d) The employee drives a motor vehicle in the performance of the employee's duties and becomes involved in an incident that results in bodily injury, death, or substantial damage to property.

##### **1006.7.1 SUPERVISOR RESPONSIBILITIES**

The supervisor shall prepare a written record documenting the specific facts that led to the decision to require the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.
- (b) The result of the test is not admissible in any criminal proceeding against the employee.

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- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

#### 1006.7.2 DISCIPLINE

An employee may be subject to disciplinary action if the employee:

- (a) Fails or refuses to submit to a screening test.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that the employee took the controlled substance as directed, pursuant to a current and lawful prescription issued in the employee's name.

#### **1006.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

#### **1006.9 CONFIDENTIALITY**

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained in the member's confidential medical file in accordance with the Personnel Records Policy.

## Sick Leave

### 1007.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the City personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) and state law (29 USC § 2601 et seq.; ORC § 124.38 et seq.).

### 1007.2 POLICY

It is the policy of the Lorain Police Department to provide eligible employees with a sick leave benefit.

### 1007.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences. Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity, or other activity that may impede recovery from the injury or illness (see the Outside Employment Policy).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

#### 1007.3.1 NOTIFICATION

All members should notify the Communications Center or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor.

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the Department with no less than 30 days' notice of the impending absence.

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

### 1007.4 EXTENDED ABSENCE

Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

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Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days.

#### **1007.5 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
  - 1. Negatively affected the member's performance or ability to complete assigned duties.
  - 2. Negatively affected department operations.
- (c) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (d) Referring eligible members to an available employee assistance program when appropriate.

# Communicable Diseases

## 1008.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

### 1008.1.1 DEFINITIONS

Definitions related to this policy include:

**Communicable disease** - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include but are not limited to hepatitis B virus (HBV), HIV, and tuberculosis.

**Exposure** - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (i.e., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Lorain Police Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred).

## 1008.2 POLICY

The Lorain Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

## 1008.3 EXPOSURE CONTROL

The Chief of Police or his/her designee shall develop an exposure control plan that includes:

- (a) Exposure-prevention and decontamination procedures.
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
- (c) The provision that department members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) that is appropriate for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them.
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
  1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff 136).
  2. Employment risk standards (OAC § 4167-3-03 et seq.).
  3. Emergency temporary employment risk standards (OAC § 4167-3-02).
  4. Bloodborne pathogen precautions (OAC § 4167-3-05).

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The ECO should also act as the liaison with the Ohio Public Employment Risk Reduction Program (PERRP) and may request voluntary compliance inspections. The ECO should periodically review and update the exposure control plan and review implementation of the plan.

#### **1008.4 EXPOSURE PREVENTION AND MITIGATION**

##### 1008.4.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes but is not limited to:

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area of department vehicles, as applicable.
- (b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.
- (e) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (f) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing, portable radio) as soon as possible if the equipment is a potential source of exposure.
  1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
- (g) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
- (h) Avoiding eating, drinking, or smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (i) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

##### 1008.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost.

#### **1008.5 POST EXPOSURE**

##### 1008.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

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- (a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).
- (b) Obtain medical attention as appropriate.
- (c) Notify a supervisor as soon as practical.

#### 1008.5.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented:

- (a) Name of the member exposed
- (b) Date and time of incident
- (c) Location of incident
- (d) The potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure
- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., cleanup and notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Illness and Injury Reporting and the Illness and Injury Prevention policies).

#### 1008.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary.

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

- (a) Whether the member has been informed of the results of the evaluation.
- (b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

#### 1008.5.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure.

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##### **1008.5.5 SOURCE TESTING**

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate. Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Submitting a complaint to compel testing under ORC § 3701.247.
- (c) Requesting notification from a medical facility under ORC § 3701.248.

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the Law Director to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

##### **1008.6 CONFIDENTIALITY OF REPORTS**

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

##### **1008.7 TRAINING**

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training:

- (a) Should be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
- (b) Should be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.
- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

## Smoking and Tobacco Use

### 1009.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Lorain Police Department facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

### 1009.2 POLICY

The Lorain Police Department recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy (ORC § 3794.02).

### 1009.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Lorain Police Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

### 1009.4 ADDITIONAL PROHIBITIONS

Members shall not be allowed to smoke in areas of ingress or egress to any department facility (ORC § 3794.02).

#### 1009.4.1 NOTICE

The Chief of Police or the authorized designee shall ensure that proper signage is in place to provide notice of restricted tobacco use areas (ORC § 3794.06).

## Personnel Complaints

### 1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Lorain Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

### 1010.2 POLICY

The Lorain Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

### 1010.3 DEFINITIONS

**EMPLOYEE REVIEW BOARD (ERB)** – The employee review board will consist of three Division Commanders or Captains. An alternate designee may serve on the ERB in place of a Captain if a Captain is unavailable. The ERB will be convened in all cases where discipline will be a Written Reprimand or higher.

### 1010.4 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

#### 1010.4.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

**Informal** - A matter in which the Office of Professional Standards commander is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member. Also referred to internally as an Inquiry, sometimes resulting from an allegation that is actually a question of procedure or law. An informal complaint may not require a complete Internal Affairs Investigation.

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**Formal** - A matter in which the Office of Professional Standards determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Office of Professional Standards, depending on the seriousness and complexity of the investigation. A Formal Complaint requires a complete Internal Affairs investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Office of Professional Standards, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

#### 1010.4.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

Types of sources of internal affairs complaints, include, but are not limited to the following examples:

- (a) Citizens
- (b) Department supervisors, command officers or other members of the Department. c. The Office of the Mayor or Safety Director
- (c) Other law enforcement agencies.
- (d) Anonymous NOTE: When an allegation of employee misconduct is made anonymously, the employee shall be apprised of the circumstance, as much as practicable, without compromising the integrity of a possible investigation.
- (e) Confidential NOTE: A confidential allegation shall not be considered as an anonymous complaint, except in the instance in which the person making the allegation is unwilling to testify in any subsequent hearing.

#### 1010.5 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

##### 1010.5.1 COMPLAINT FORMS

Standardized public complaint packages (both in English & Spanish) may be obtained by those wishing to file a written allegation against a Police Department employee at the following locations:

- (a) Records/Information window of the Police Station, 1st Floor, Justice Center

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- (b) Safety/Service Director's Office, 7th Floor, City Hall.
- (c) From any Police Department Supervisor
- (d) They can also be obtained on line at [www.lorainpolice.com](http://www.lorainpolice.com)

#### 1010.5.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

#### 1010.6 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the log and send an audit report to the Chief of Police or the authorized designee.

#### 1010.7 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

##### 1010.7.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the Office of Professional Standards. The Office of Professional Standards Division Commander may assign the investigation to the member's Watch Commander or supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
  1. The original complaint form will be directed to the Office of Professional Standards Commander, who will take appropriate action and/or determine who will have responsibility for the investigation.

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2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Division Commander or the Chief of Police, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
  - (c) Resolving those personnel complaints that can be resolved immediately.
    1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
  - (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Division Commander and Chief of Police are notified via the chain of command as soon as practicable.
  - (e) Promptly contacting the Office of Professional Standards Commander or Chief of Police for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
  - (f) Forwarding unresolved personnel complaints to the Office of Professional Standards Commander, who will determine whether to contact the complainant or assign the complaint for investigation.
  - (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
  - (h) Investigating a complaint as follows:
    1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
    2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
  - (i) Ensuring that the procedural rights of the accused member are followed.
  - (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

#### 1010.7.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Office of Professional Standards, the following applies to employees:

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Lorain Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee should be informed of the nature of the investigation.

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- (e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  - 1. An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
  - 2. No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview.
- (i) All employees subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) No employee may be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation.
- (l) Employees who withhold information from, or fail to cooperate fully with internal investigations, or who fail to report misconduct of employees are subject to disciplinary action up to and including termination in addition to any other disciplinary action that may result from the investigations.

#### 1010.7.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

**Introduction** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

**Synopsis** - Provide a brief summary of the facts giving rise to the investigation.

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**Summary** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Evidence** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

#### 1010.7.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve department members, or there is no credible evidence to support the complaint. Complaints that are determined to be frivolous will fall within the classification of unfounded.

**Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct. If the incident has two or more allegations and at least one of the allegations is sustained it may be classified as "partially sustained."

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

When a complainant withdraws a complaint prior to the completion of the investigation, the complaint shall be reviewed by the Office of Professional Standards Commander. A determination will then be made as to whether the complaint merits a continued investigation.

#### 1010.7.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation. The investigation of Formal Complaints will be completed within thirty (30) calendar days once assigned. An extension of time may be granted by the Chief of Police or Division Commander upon request. Criminal complaints involving felony investigations shall be investigated and completed in accordance with the statute of limitations as set by law. Informal Complaints will be investigated within fifteen (15) days.

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##### 1010.7.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

##### **1010.8 ADMINISTRATIVE SEARCHES**

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

##### **1010.9 ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave in accordance with Civil Service law. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

##### **1010.10 CRIMINAL INVESTIGATION**

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Lorain Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

##### **1010.11 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review and include their

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comments in writing before forwarding the report. The Chief of Police may accept or modify any classification, refer back to the member's Division Commander, or for any disciplinary action of a Written Reprimand or higher forward to the Employee Review Board.

##### 1010.11.1 DIVISION COMMANDER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Division Commander of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Division Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief of Police, the Division Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief of Police, the Division Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

##### 1010.11.2 CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief of Police shall review the recommendation and all accompanying materials. The Chief of Police may modify any recommendation and/or may return the file to the Division Commander for further investigation or action.

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall determine the amount of discipline, if any that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the member with a written notice and the following:

- (a) Access to all of the materials considered by the Chief of Police in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief of Police within five days of receiving the notice.
  - 1. Upon a showing of good cause by the member, the Chief of Police may grant a reasonable extension of time for the member to respond.
  - 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief of Police shall consider all information received in regard to the recommended discipline. The Chief of Police shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief of Police has issued a written decision, the discipline shall become effective.

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##### 1010.11.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Office of Professional Standards should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

##### **1010.12 PRE-DISCIPLINE EMPLOYEE RESPONSE**

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police or designee after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police or his/her designee to consider.
- (d) In the event that the Chief of Police elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.

##### **1010.13 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

##### **1010.14 POST-DISCIPLINE APPEAL RIGHTS**

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement and/or personnel rules.

##### **1010.15 PROBATIONARY EMPLOYEES AND OTHER MEMBERS**

At-will and probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy. However, any of these individuals released for misconduct should be afforded an opportunity solely to clear their names through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

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Any probationary period may be extended at the discretion of the Chief of Police in cases where the individual has been absent for more than a week or when additional time to review the individual is considered to be appropriate (see also the Temporary Modified-Duty Assignments Policy).

#### **1010.16 RETENTION OF PERSONNEL INVESTIGATION FILES**

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

#### **1010.17 SUSPENDED PERSONNEL**

No Department personnel shall wear the Lorain Police Department uniform, carry a Lorain Police badge or ID, carry Departmental firearms, operate Department vehicles, or enter any Department facility without a supervisor's escort while under suspension.

#### **1010.18 STATE REPORTING REQUIREMENT FOR SUSPENSIONS**

The Chief of Police or the authorized designee shall notify the Director of Public Safety in writing of an officer's suspension and the cause of the suspension (ORC § 737.12).

## Seat Belts

### 1011.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in Department vehicles.

#### 1011.1.1 DEFINITIONS

Definitions related to this policy include:

**Child Restraint System** - An infant or child passenger restraint system that meets federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

### 1011.2 POLICY

It is the policy of the Lorain Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

### 1011.3 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including those who are not members of the Department, are properly restrained (ORC § 4513.263B3).

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the department member or the public. Members must be prepared to justify any deviation from this requirement.

### 1011.4 TRANSPORTING CHILDREN

A child restraint system should be used for all children of an age, height or weight for which such restraints are required by law (ORC § 4511.81).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible.

### 1011.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

When practical, suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

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##### **1011.6 INOPERABLE SEAT BELTS**

Department vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Department vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

##### **1011.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS**

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operating requirements for safe use.

##### **1011.8 VEHICLE AIRBAGS**

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

## Body Armor

### 1012.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

### 1012.2 POLICY

It is the policy of the Lorain Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

### 1012.3 ISSUANCE OF BODY ARMOR

The Office of Professional Standards shall ensure that body armor is issued to all officers when the officer begins service at the Lorain Police Department and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The department shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

#### 1012.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required, subject to the following:

- (a) Officers shall only wear agency-approved body armor.
- (b) Officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.
- (d) Body armor is required to be worn when an officer is working in uniform and or taking part in Department firearms training.
- (e) An officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

#### 1012.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness and signs of damage, abuse and wear.

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##### 1012.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

##### **1012.4 EXTERNAL VEST CARRIERS**

Authorized external bulletproof vest carriers, designed to hold bulletproof vest panels over the uniform shirt of the Field Uniform, optionally may be worn by road patrol officers as follows: (no rifle magazines or rifle magazine holders will be worn on the external vest carrier)

- (a) External vest carriers designed to look like a uniform shirt manufactured by JG Uniforms, in dark navy, set up with metal or embroidered badge and name tag.
- (b) GH Armor Systems APB external carrier in black, set up with metal or embroidered badge and name tag featuring MOLLE attachments.
- (c) Safariland Oregon City vest carrier in black, set up with metal or embroidered badge and name tag featuring MOLLS attachments.

Tactical external vest carriers are authorized for use by Criminal Investigations Division personnel, and other non patrol division officers. The types will be as follows:

- (a) The tactical-type issued black vest with "POLICE" on front and back. (Point Blank or Second Chance)
- (b) Tactical-type external vest carriers may be worn by officers assigned to plain clothes or staff positions as specified by this policy, or by officers assigned to the K9 Unit, or other specialized unit, as approved by the Chief of Police.

Officers are prohibited from wearing an unsecured/unfastened vest while in view of the general public. When worn, any external vest carrier will be completely secured by all straps provided by the manufacturer when assigned to a uniform function and engaged in field activities.

##### **1012.5 FIREARMS TRAINING SUPERVISOR RESPONSIBILITIES**

The Firearms Training Supervisor should:

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- (a) Monitor technological advances in the body armor industry for any appropriate changes to Department-approved body armor.
- (b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
- (c) Provide training that educates officers about the safety benefits of wearing body armor.

## Personnel Records

### 1013.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

### 1013.2 POLICY

It is the policy of this department that the City of Lorain Human Resources Department maintains official personnel records and preserves the confidentiality of personnel records pursuant to the Constitution and the laws of Ohio.

### 1013.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational and employment history or similar information. A photograph of the member should be permanently retained.
- (b) Personnel action reports reflecting assignments, promotions and other changes in employment/appointment status. These should be permanently retained.
- (c) Copies of discipline records, including copies of sustained personnel complaints.
- (d) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment.
  - 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment.
  - 2. Any member response shall be attached to and retained with the original adverse comment.
  - 3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file.
- (e) Commendations and awards.
- (f) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

### 1013.4 DIVISION FILE

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

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##### **1013.5 TRAINING FILE**

An individual training file shall be maintained by the Training Coordinator for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved member is responsible for providing the Training Coordinator or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training Coordinator or supervisor shall ensure that copies of such training records are placed in the member's training file.

##### **1013.6 INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the Office of Professional Standards in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Office of Professional Standards supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition. Investigations of complaints that result in the following findings shall not be placed in the member's department file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

##### **1013.7 SECURITY**

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the Safety Director, Law Director or other attorneys or representatives of the City in connection with official business.

###### **1013.7.1 REQUESTS FOR DISCLOSURE**

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made.

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

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All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

#### 1013.7.2 RELEASE OF PERSONNEL INFORMATION

Residential and familial information including the home address and telephone number of an officer and any photograph of an officer who holds a position that may include undercover or plain clothes assignment that is in the possession of the Department is not a matter of public record and shall not be disclosed without a court order (ORC § 149.43(A)).

#### **1013.8 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS**

Any member may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from his/her personnel records shall file a written request to the Director of Human Resources. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Department shall be retained with the contested item in the member's corresponding personnel record.

Members may be restricted from accessing files containing any of the following information:

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Ongoing criminal investigations involving the member.
- (d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (f) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for department planning purposes.
- (g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (h) Records relevant to any other pending claim between the Department and the member that may be discovered in a judicial proceeding.

#### **1013.9 RETENTION AND PURGING**

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

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- (a) During the preparation of each member's performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline, or non-disciplinary counseling, should be retained beyond the required period, approval for such retention should be obtained through the Human Resources Department.
- (c) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

## Request for Change of Assignment

### 1014.1 PURPOSE AND SCOPE

It is the intent of the Department that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

### 1014.2 REQUEST FOR CHANGE OF ASSIGNMENT

Personnel wishing a change of assignment are to make the request in writing on a standardized departmental memorandum form. The form should then be forwarded through the chain of command to the Division Commander. If no immediate vacancy or movement takes place, forms should be routed to the Executive Officer.

#### 1014.2.1 PURPOSE OF FORM

The request should include their qualifications for specific assignments. All relevant experience, education and training should be included when completing this form.

All assignments an employee is interested in should be listed on the form.

The form will remain in effect until the end of the calendar year in which it was submitted. Effective January 1 of each year, employees still interested in new positions will need to submit a new request.

### 1014.3 SUPERVISOR'S COMMENTARY

The officer's immediate supervisor may make appropriate comments to the Division Commander of the employee involved. Completed requests for changes in assignment should then be reviewed by the Division Commander or Employee Review Board as needed, to determine if such a change is warranted. The Chief of Police may make final determination as to the movement of personnel.

## Commendations and Awards

### 1015.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Lorain Police Department and individuals from the community.

### 1015.2 POLICY

It is the policy of the Lorain Police Department to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

### 1015.3 COMMENDATIONS

Commendations for members of the Department or for individuals from the community may be initiated by any department member or by any person from the community.

### 1015.4 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- A highly credible accomplishment.

#### 1015.4.1 DEPARTMENT MEMBER DOCUMENTATION

Members of the Department should document meritorious or commendable acts. The documentation should contain:

- (a) Identifying information:
  1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act
  2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the member submitting the documentation.

#### 1015.4.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted through the department's community relations program, social media, or forms maintained in a clearly visible location in the public area of the police facility. Written documentation is preferred. Department members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

- (a) Identifying information:

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1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act
  2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the person submitting the documentation.

#### 1015.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the Department should be forwarded to the appropriate Division Commander for his/her review. The Division Commander should sign and forward the documentation to the Chief of Police for his/her review.

The Chief of Police will determine whether the act merits a commendation. This process may include referral to the Awards Committee if the Chief believes the act merit's a higher award. Procedures and specifications for current department awards are listed and updated in the Lorain Police Department's Awards Recognition Procedures directive.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Chief of Police. An appropriate venue or ceremony to acknowledge the individual's actions may arranged through the Community Outreach Unit or the Chief of Police's office. Documentation of the commendation shall be maintained in a file designated for such records in the Department's Power DMS.

#### **1015.5 AWARDS**

Awards may be bestowed upon members of the Department for outstanding performance in the line of duty.

Criteria for each award and the selection, presentation and display of any award are determined by the Chief of Police, and listed in the current Lorain Police Department's Awards Recognition Procedures directive.

#### 1015.5.1 AWARDS COMMITTEE

An awards committee will be established annually by the Chief of Police. Recommendations for awards should be routed to the awards committee on a standardized Awards Nomination Form. The awards committee may meet as needed based on nominations received.

#### 1015.5.2 REVIEW

Upon appointment by the Chief of Police, the designated Chairman for the Awards Committee should review current policy and awards recognition procedures to determine if modifications are needed. Any recommendations for modifications should be made in writing to the Chief of Police.

## **Fitness for Duty**

### **1016.1 PURPOSE AND SCOPE**

All officers are required to be free from any physical, emotional or mental condition that might adversely affect the exercise of peace officer duties. The purpose of this policy is to ensure that all officers of this department remain fit for duty and able to perform their job functions.

### **1016.2 EMPLOYEE RESPONSIBILITIES**

- (a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of the position.
- (b) Each member of this department shall perform his/her respective duties without physical, emotional and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive and capable of performing assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

### **1016.3 SUPERVISOR RESPONSIBILITIES**

- (a) A supervisor observing an employee, or receiving a report of an employee, who is perceived to be unable to safely perform his/her duties due to a physical, medical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Watch Commander or the employee's Division Commander, a determination should be made whether the employee should be temporarily relieved from his/her duties.
- (e) The Chief of Police shall be promptly notified in the event that any employee is relieved from duty.

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##### **1016.4 NON-WORK RELATED CONDITIONS**

Any employee suffering from a non-work related condition that warrants a temporary relief from duty may be required to use sick leave or other paid time off in order to obtain medical treatment or other reasonable rest period.

##### **1016.5 WORK-RELATED CONDITIONS**

Any employee suffering from a work-related condition that warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Division Commander or unit supervisor and concurrence of the Chief of Police, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the well-being of the employee and until such time as the following may be completed:

- (a) A preliminary determination that the employee's conduct appears to be in compliance with policy and law.
- (b) If appropriate, the employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

##### **1016.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS**

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief of Police may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with the Human Resources to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, list any functional limitations that limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action or grievance, the examining physician or therapist may be required to disclose any and all information that is relevant to such proceeding.
- (c) To facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the examination, evaluation and/or treatment.
- (d) All reports and examinations or evaluations submitted by the treating physician or therapist shall be part of the employee's private medical file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the

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examining physician or therapist may be deemed insubordination and may subject the employee to discipline up to and including termination.

- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.
- (g) If an employee is deemed unfit for duty by the Department, the employee may submit a report from his/her personal physician, psychiatrist, psychologist or other health care provider that will be taken into consideration.

#### **1016.7 LIMITATION ON HOURS WORKED**

Absent emergency operations, members should not work more than:

- 16 hours in one day (24-hour period)
- 30 hours in any two day (48-hour period)
- 84 hours in any seven day (168-hour period)

Except in very limited circumstances members should have a minimum of eight hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, special events, contract work, general overtime and any other work assignments.

#### **1016.8 APPEALS**

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness-for-duty examination shall be entitled to an appeal as outlined in the Collective Bargaining Agreement.

## Meal Periods and Breaks

### 1017.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as reasonably possible, shall conform to the policy governing all City employees.

#### 1017.1.1 MEAL PERIODS

Sworn employees and dispatchers shall remain on-duty subject to call during meal breaks. All other employees are not on-call during meal breaks unless directed otherwise by a supervisor.

Uniformed officers shall request clearance from the Communications Center prior to taking a meal period. Uniformed officers shall take their breaks within their respective districts unless on assignment outside of the City.

The time spent for the meal period shall not exceed the authorized time allowed.

The Uniform Patrol Division is responsible for providing direct police services to the public. The Uniform Patrol Division has the primary responsibility for providing continuous patrol coverage and traffic control. With necessary patrol coverage in mind, some restrictions must be applied.

- (a) Only one on-duty shift unit will be permitted to take a lunch break at any given time. Additional units requesting to take a lunch break at the same time will have to receive approval from the on-duty patrol supervisor.
- (b)
- (c) Lunch break will be no longer than 30 minutes and may be canceled at any time due to Lorain Police response requirements. Officers shall monitor their radios while on break.
- (d) Units will request permission for lunch breaks from the dispatcher via radio, who will coordinate all of the shift's and unit's lunch breaks with guidance from the supervisor.
- (e) Once permission is received, units will advise dispatch via radio, when they go out of service, their location and when they return to service.
- (f) Unless approved by the on-duty patrol supervisor, no more than one on-duty shift unit will be parked at the same location. This excludes other marked units who may not be on-duty or may be at training.

## Lactation Breaks

### 1018.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to members desiring to express breast milk for the member's infant child.

### 1018.2 POLICY

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act (FLSA), reasonable break time and appropriate facilities to accommodate any member desiring to express breast milk for the member's nursing child for up to one year after the child's birth (29 USC § 207).

### 1018.3 LACTATION BREAK TIME

A rest period should be permitted each time the member has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period are per se reasonable. However, individual circumstances may require more or less time.

Lactation breaks, if feasible, should be taken at the same time as the member's regularly scheduled rest or meal periods. While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled break time will be unpaid.

Members desiring to take a lactation break shall notify the telecommunicator or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations.

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

#### 1018.3.1 ADDITIONAL TIME CONSIDERATIONS

Nursing mothers who have a need to express breast milk throughout the work day shall provide the Support Services supervisor, or his/her designee with the date of the child's birth, the approximate times during the workday when the nursing mother anticipates needing to express breast milk, and the method by which the nursing mother prefers to account for the time used.

Nursing mothers who wish to use time other than their paid break times to express breast milk, shall notify their immediate supervisor prior to, and at the conclusion of each session.

- (a) The nursing mother will advise from which time bank they elect to be charged for time used.

Employees will not leave their work station until properly relieved, or approved from the officer in charge.

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##### **1018.4 PRIVATE LOCATION**

The Department will make reasonable efforts to accommodate members with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the member's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207).

Members occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other members should avoid interrupting a member during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

##### **1018.5 STORAGE OF EXPRESSED MILK**

Any member storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the member's shift ends.

## Payroll Record Procedures

### 1019.1 PURPOSE AND SCOPE

Payroll records are submitted to Administration on a biweekly basis for the payment of wages.

#### 1019.1.1 RESPONSIBILITY FOR COMPLETION OF PAYROLL RECORDS

Employees are responsible for the accurate and timely submission of payroll records for the payment of wages.

#### 1019.1.2 TIME REQUIREMENTS

All employees are paid on a biweekly basis usually on Friday with certain exceptions, such as holidays. Payroll records shall be completed and submitted to Administration no later than 8:00 a.m. on the Wednesday morning before the end of the pay period, unless specified otherwise.

## Overtime Compensation Requests

### 1020.1 PURPOSE AND SCOPE

It is the policy of the Department to compensate nonexempt employees who work authorized overtime either by payment of wages as agreed and in effect through the collective bargaining agreement, or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment as soon as practicable after overtime is worked.

#### 1020.1.1 DEPARTMENT POLICY

All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, approval shall be sought as soon as practicable during the overtime shift and in no case later than the end of shift in which the overtime is worked.

The individual employee may request compensatory time in lieu of receiving overtime payment. The employee may not exceed the number of hours identified in the collective bargaining agreement.

### 1020.2 REQUEST FOR OVERTIME COMPENSATION

Employees shall submit all overtime compensation requests in the Department's Schedule Tracking System as practicable for verification and approval by their OIC. Failure to submit a request for overtime compensation in a timely manner may result in discipline.

#### 1020.2.1 EMPLOYEE RESPONSIBILITY

Employees shall complete the requests immediately after working the overtime. All overtime compensation requests will be required to include information in the note section of the request, as to the reason the compensation is owed.

#### 1020.2.2 SUPERVISOR RESPONSIBILITIES

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

### 1020.3 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the collective bargaining agreement provides that a minimum number of hours will be paid, (e.g., 2.66 hours for court, four hours for outside overtime).

#### 1020.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour.

#### 1020.3.2 VARIATION IN TIME REPORTED

Where two or more employees are assigned to the same activity, case or court trial, and the amount of time for which payment is requested varies between the two, the Watch Commander

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or other approving supervisor may require each employee to include the reason for the variation on the back of the overtime payment request.

## Outside Employment

### 1021.1 PURPOSE AND SCOPE

Full-time employees are required to treat this Department as their primary employer. To avoid actual or perceived conflicts of interest for Department employees engaging in outside employment, all employees shall initially obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy. Service in the United States Military is exempt from this requirement.

Additional guidance, provisions, changes or additions may be contained in the employee Collective Bargaining Agreement.

#### 1021.1.1 DEFINITIONS

Definitions related to this policy include:

**Outside Employment** - The employment of any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, products or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, products or benefits rendered.

**Outside Overtime** - Overtime involving any member of this department who performs duties or services on behalf of an outside organization, company or individual within this jurisdiction on behalf of the Department. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

**Police-Type Employment** - Any employment that is conditioned on the actual or potential use of law enforcement powers by the police officer employee. Police officers may engage in off duty police-type duty employment, only upon approval from the Operations Bureau Commander and after a completed Off-Duty Employment Form is submitted.

### 1021.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy is grounds for disciplinary action.

To obtain approval for outside employment, the employee must complete an application that shall be submitted to the employee's Division Commander. The application will then be forwarded through to the Chief of Police for consideration.

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Any off-duty outside employment must not interfere with the efficient and effective performance of the member's assigned duties, operations of the Department, create a conflict of interest for the member or the Department, or impugn on the integrity and public image of the Department.

Any employee seeking approval of outside employment whose request has been denied shall be provided with a written reason for the denial of the application at the time of the denial and within 30 days of the application.

##### 1021.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's application is denied or rescinded by the Department, the employee may file a written notice of appeal to the Chief of Police within 10 days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current collective bargaining agreement.

##### 1021.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended after the employee has received written notification of the reasons for revocation or suspension. Additionally, revocation or suspension will only be implemented after the employee has exhausted the appeal process.

The outside employment may be revoked:

- (a) If an employee's performance declines to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of minimum acceptable competency, and the outside employment may be related to the employee's performance. The Chief of Police may, at his/her discretion, notify the employee of the intent to revoke any previously approved outside employment permits. After the appeal process has concluded, the revocation will remain in force until the employee's performance directly related to the outside employment has been reestablished to the minimum level of acceptable competency.
- (b) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of Department policy, or any law.
- (c) The outside employment creates an actual or apparent conflict of interest with the Department or City.

##### 1021.2.3 SUSPENSION OF SPECIAL DETAILS AND OFF DUTY POLICE EMPLOYMENT

Cause for progressive corrective/disciplinary action and/or suspension from all special detail assignments and off duty police employment includes, but is not limited to:

- (a) Violation of any provisions for assignment of details, or failing to comply with policies and procedures for special details or off duty police employment.
- (b) Failure to report for an assigned or volunteered for special detail or off duty police employment.
- (c) Tardiness.
- (d) Lack of proper equipment.

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- (e) Unacceptable appearance, performance, or conduct.

#### **1021.3 OUTSIDE EMPLOYMENT PROHIBITIONS AND REQUIREMENTS**

The following is not an all inclusive list. The Department expressly reserves the right to deny any application submitted by an employee seeking to engage in any activity that:

- (a) Involves the employee's use of Department time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage.
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act that the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department.
- (c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department.
- (d) Involves time demands that would render performance of the employee's duties for this department below minimum standards or would render the employee unavailable for reasonably anticipated overtime assignments and other job-related demands that occur outside regular working hours.
- (e) Members are not permitted to sign up for, or otherwise indicate they are available to work, off-duty employment details if the working hours of the details overlap their regularly assigned duties.
- (f) Members, whether on duty or working a detail, may not handle currency or deposit bags. Members are limited to escorting a responsible business member.
- (g) Employment of sworn or non-sworn personnel by a business to investigate or collect accounts, including repossession of automobiles and collection of debts.
- (h) Pre-employment investigations by sworn and non-sworn personnel for private industry. For purposes here, pre-employment polygraph examinations are not considered pre-employment investigations.
- (i) Any type of work by sworn or non-sworn personnel related to bail bonding.
- (j) Any employment of sworn or non-sworn personnel assisting in any manner, case preparation for the defense in any criminal or civil proceeding, other than a case involving that member or another member of the Department. The Chief of Police must be notified and give approval prior to any such involvement.
- (k) Any type of work by sworn personnel for interest in, or ownership of, a liquor permit premise where the primary business is selling alcoholic beverages by the glass. Exceptions are: large scale public safety details at festivals parking lot details of liquor permit premises, and the like.
- (l) Plainclothes shoplifting details by sworn personnel. Exceptions may be made on a case- by-case basis.

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- (m) Any employment that advertises, promotes, sells, distributes, or publishes pornographic materials.
- (n) Process server, repossession, towing of vehicles, or in any other employment in which police authority might tend to be used to collect money or merchandise for private purposes.
- (o) In uniform in the performance of tasks other than that of a police nature.
- (p) For a business or labor group that is on strike.

#### 1021.3.1 OUTSIDE SECURITY AND POLICE-TYPE EMPLOYMENT

Any private organization, entity or individual seeking special services for security or traffic control, crowd control, security and protection of life and property, and routine law enforcement for public authorities from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such outside employment will be monitored by the patrol supervisor.

- (a) The applicant will be required to enter into a written indemnification agreement prior to approval.
- (b) The applicant will be required to provide for the compensation of all employees requested for such outside security services.
- (c) If such a request is approved, any employee working outside employment shall be subject to the following conditions:
  1. The officer shall wear the Department uniform/identification.
  2. The officer shall be subject to all the rules and regulations of this department, state laws, and is responsible for reporting to the job and performing the required duties.
  3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket or other physical demonstration of a labor dispute.
  4. No officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief of Police.

#### 1021.3.2 OUTSIDE EMPLOYMENT ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official law enforcement action while working in an approved outside employment assignment shall be required to complete all related reports in a timely manner pursuant to Department policy. Time spent on the completion of such reports shall be considered incidental to the assignment.

#### 1021.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Division Commander, undercover officers or officers assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity that might reasonably disclose the officer's law enforcement status. Those officers who have not completed step four of the Field Training

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Program or are in the remedial training program, shall not be eligible to engage in off-duty police-type employment.

One supervisor must be hired for details where five or more officers are working an off duty police-type employment. In the event that the supervisor's position cannot be filled, the on duty patrol division Officer In Charge will be responsible for all matters of police supervision. Supervisors who are working off duty police-type employment are responsible for all matters of police supervision at the off duty police-type employment location.

#### 1021.3.4 LIMITATIONS AND REQUIREMENTS

The following is not all inclusive of the limitations and special requirements of off duty police-type employment. The Chief of Police may at his/her discretion cancel off duty jobs if there is a conflict between the outside employment and the police department's mission statement.

- (a) A police officer engaged in any off duty police-type employment is subject to call-out in case of an emergency, and may be expected to leave his off duty police-type employment in such situations.
- (b) Officers will complete all paperwork normally required when enforcement action has been taken while working off duty police-type employment. In the event an arrest is made by the off duty officer, the Communications Center will be notified immediately and an on-duty unit shall be contacted for transport.
- (c) Officers working off duty police-type employment will notify the Communications Center of their location, hours working and will have their portable or cruiser radio on with the volume adjusted to permit the officer to effectively monitor Lorain Police Department radio traffic.
- (d) Officers will not serve as body guards, private investigators, process servers, bouncers, ID checker.
- (e) Officers shall not physically remove guests from private establishments unless an arrest is made.
- (f) Officers are prohibited from using their law enforcement authority (i.e. wearing uniform, showing badge, or revealing police identity) in civil situations such as evictions, auto repossessions, or collection of rents or damage fees in landlord-tenant situations.
- (g) Officers are prohibited from working off duty police-type employment at any establishment or business that sells alcoholic beverages for consumption on the premises, unless authorized by the Operations Bureau Commander, and in such case will require a minimum of two officers.
- (h) Officers are prohibited from working off duty police-type employment outside the City of Lorain, unless authorized by the Operations Bureau Commander.
- (i) Permission for a police employee to engage in off duty police-type employment may be revoked, where it is determined pursuant to agency procedure that such employment is not in the best interests of the agency.
- (j) Officers injured working off duty police-type employment, while exercising powers they have only as a result of their status as a peace officer, will likely be seen as having been

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in the course and scope of their employment, insofar as Ohio Worker's Compensation benefits are concerned. However, if the officer is not injured exercising powers they hold by virtue of their status as a police officer, there's a great likelihood that the City of Lorain would not be found responsible for providing workers' compensation benefits to that officer. Officers should discuss this matter with their off duty police-type duty employer.

- (k) Department employees must notify their supervisor immediately when they sustain any injury that could affect their duties with the Lorain Police Department.
- (l) Officers are expressly prohibited from playing any role in the operation of the event or game, and shall not engage in betting or playing any scheme of chance while working security.
- (m) Officers may escort an event employee in order to deposit the cash receipts, however must never handle the money itself.
- (n) Officers shall inspect any required permit while working these events. Officers are required to enforce all State and City laws relative to the operation of the game, including gambling laws, and shall only work at those events that have obtained the appropriate permit(s).
- (o) Officers may run records checks for subjects creating suspicious circumstances. If a records check is run the Narcotics/Vice Unit will be contacted and advised.

#### 1021.3.5 DISTRIBUTION OF OFF DUTY POLICE-TYPE EMPLOYMENT

All side jobs will be distributed through telestaff. If there are multiple job vacancies for a specific job, officers may sign up for multiple vacancies, however, they will only be granted one of the choices in the first 48 hours to ensure everyone has an opportunity to sign up. After 48 hours, officers will be assigned the remaining vacancies. Jobs awarded will be determined by telestaff timestamp. Once a job has been awarded it shall be considered an assignment subject to all provisions set forth in Attendance and Attention to Duty related duties. All established side jobs are grandfathered into this policy.

- (a) Officers assigned to work an off duty police-type side job who are unable to do so, shall make such notification to the on duty officer in charge as soon as possible and in any case, no later than 24 hours prior to the scheduled event.
- (b) In the event that the off duty police-type side job cannot be filled, the officer in charge will make notification to the side job employer advising them.

#### 1021.3.6 COMPENSATION FOR OFF DUTY POLICE-TYPE EMPLOYMENT

Compensation for such approved outside security services shall be clearly identified in the indemnification agreement prior to the outside job being posted for officer sign ups. Typically this rate will not be less than 90% of the class A patrolman's overtime rate without consent of the Chief of Police or his/her designee. Special functions and holidays may draw a higher rate of pay.

#### **1021.4 DEPARTMENT RESOURCES**

Employees are prohibited from using any Department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official

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records or databases of this department or other agencies through the use of the employee's position with this department.

#### **1021.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

If an employee terminates his/her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police through the appropriate chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material shall report the change.

#### **1021.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY OR ADMINISTRATIVE LEAVE**

Department members engaged in outside employment who are placed on disability or administrative leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether they intend to continue to engage in outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any work-related doctor's orders and make a recommendation to the Chief of Police whether such outside employment should continue or the permit be suspended or revoked.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding the work permit, a notice of intent to revoke the employee's permit will be forwarded to the involved employee and a copy attached to the original work permit. The revocation process outlined in this policy shall be followed.

Criteria for revoking or suspending the outside employment permit while on disability status or administrative leave include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled employee, as indicated by the City's professional medical advisers.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty employee.
- (c) The employee's failure to make timely notice of his/her intentions to his/her supervisor.
- (d) The outside employment is not compatible with the reason the employee is on administrative leave.

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## Illness and Injury Reporting

### 1022.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding timely reporting of occupational illnesses and work-related injuries.

#### 1022.1.1 DEFINITIONS

Definitions related to this policy include:

**Work-related illness or injury** - Any occupational illness or work-related injury received or contracted in the course of the employee's employment. This may include a psychiatric condition arising from an occupational illness or work-related injury, or from being the victim of sexual abuse/misconduct while at work (ORC § 4123.01).

### 1022.2 POLICY

The Lorain Police Department will address occupational illnesses and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (ORC § 4123.01 et seq.; OAC § 4123-3-01 et seq.).

### 1022.3 RESPONSIBILITIES

#### 1022.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational illness or work-related injury shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate.

#### 1022.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational illness or work-related injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related City-wide illness- or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

#### 1022.3.3 DIVISION COMMANDER RESPONSIBILITIES

The Division Commander who receives a report of an occupational illness or work-related injury should review the reports for accuracy and determine what additional action should be taken. The reports shall then be forwarded to the Chief of Police to ensure any required Public Employer Risk Reduction Program (PERRP) reporting is made as required in the Illness and Injury Prevention Policy (OAC § 4167-6-01).

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##### **1022.3.4 CHIEF OF POLICE RESPONSIBILITIES**

The Chief of Police shall review and forward copies of the report to the Human Resources. The Chief of Police should ensure that incidents involving seven days or more of total disability or death are immediately forwarded to the Human Resources so that timely reporting to the Ohio Bureau of Workers' Compensation may be accomplished (ORC § 4123.28; OAC § 4123-3-03).

Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

##### **1022.4 OTHER ILLNESS OR INJURY**

Illnesses and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the appropriate Division Commander through the chain of command and a copy sent to the Chief of Police.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

##### **1022.5 SETTLEMENT OFFERS**

When a member sustains an occupational illness or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her Division Commander as soon as possible.

##### **1022.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL**

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational illness or work-related injury, the member shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Police. The purpose of such notice is to permit the City to determine whether the offered settlement will affect any claim the City may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the illness or injury, and to protect the City's right of subrogation, while ensuring that the member's right to receive compensation for the illness or injury is not affected.

## Personal Appearance Standards

### 1023.1 PURPOSE AND SCOPE

To project uniformity and neutrality toward the public and other members of the Department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment. Good hygiene includes, but is not limited to, bathing regularly, wearing clean and pressed clothes, and using body deodorant on a regular basis.

### 1023.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards to ensure employees shall be clean and well-groomed when on-duty, shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief of Police has granted exception.

#### 1023.2.1 TEETH AND BREATH

Members are expected to maintain good dental hygiene care. This includes cleaning them on a regular basis, replacing missing or broken teeth, repairing visible cavities, and using mouthwash to control unpleasant breath odors as needed.

#### 1023.2.2 HAIR

Hairstyles of all members shall be neat in appearance. For male sworn members, hair must not extend below the top edge of the uniform collar while assuming a normal stance.

For female sworn members, hair must be no longer than the horizontal level of the bottom of the uniform patch when the employee is standing erect, and worn up or in a tightly wrapped braid or ponytail. Hair holding ornaments, if used, must be plain and inconspicuously placed.

Extreme or fad style haircuts or hairstyles are not authorized. If dyes, tints, or bleaches are used, colors used must be natural to human hair and not present an extreme appearance. No hair style may interfere with the use of headgear or any form of PPE.

#### 1023.2.3 MUSTACHES

A short and neatly trimmed mustache may be worn. Mustaches shall not extend below the corners of the mouth or beyond the natural hairline of the upper lip.

#### 1023.2.4 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

#### 1023.2.5 FACIAL HAIR

The face will be clean-shaven. Facial hair other than sideburns, mustaches and eyebrows shall not be worn, unless authorized by the Chief of Police or a designee.

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##### **1023.2.6 FINGERNAILS**

Fingernails extending beyond the tip of the finger can pose a safety hazard to officers or others. For this reason, fingernails shall be trimmed so that no point of the nail extends more than one half inch (1/2") beyond the tip of the finger and no portion of the member's work responsibilities are interfered with due to nail styles. Any nail polish colors will not excessively contrast with the prescribed uniform colors. Bright fluorescent colors are prohibited unless specifically authorized by the Chief of Police.

##### **1023.2.7 COSMETICS**

Members are authorized to wear cosmetics applied conservatively and in good taste. Exaggerated or faddish cosmetic styles are inappropriate with the uniform and will not be worn. Extreme shades of lipstick and nail polish will not be worn.

##### **1023.2.8 JEWELRY**

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety concern for the department member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

- (a) Necklaces shall not be visible above the shirt collar.
- (b) Earrings shall be small and worn only one in each ear in or on the earlobe.
- (c) One ring or ring set may be worn on each hand of the department member. No rings should be of the type that would cut or pose an unreasonable safety risk to the member or others during a physical altercation, if the member is assigned to a position where that may occur.
- (d) One small bracelet, including a bracelet identifying a medical condition, may be worn on one arm.
- (e) Wristwatches shall be conservative and present a professional image.
- (f) Tie tacks or tie bars worn with civilian attire shall be conservative and present a professional image.

##### **1023.3 TATTOOS**

At no time while the member is on-duty or representing the Department in any official capacity shall any offensive tattoo or body art, or any tattoo or body art that detracts from a member's professional appearance be visible. Examples of offensive tattoos include but are not limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, anti-government organizations, or other obscene material. Tattoos on the face are prohibited.

##### **1023.4 BODY PIERCING OR ALTERATION**

Body piercing or alteration to any area of the body that is visible in any authorized uniform or attire, and is a deviation from normal anatomical features and that is not medically required is prohibited on duty. Such body alteration includes, but is not limited to, the following:

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- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement or breast augmentation.
- (c) Abnormal shaping of the ears, eyes, nose or teeth.
- (d) Branding or scarification.
- (e) No facial piercings.

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## Police Uniform Regulations

### 1024.1 PURPOSE AND SCOPE

The uniform policy of the Lorain Police Department is established to ensure that uniformed officers, special assignment personnel and civilian employees will be readily identifiable to the public through the proper use and wearing of Department uniforms. Employees should also refer to the following associated policies:

- Firearms Policy
- Department-Owned and Personal Property Policy
- Body Armor Policy
- Personal Appearance Standards Policy

The uniform and equipment specifications procedure directive is maintained and periodically updated by the Chief of Police or the authorized designee. The procedure directive should be consulted regarding up to date authorized equipment and uniform specifications.

The Lorain Police Department will provide uniforms for all employees who are required to wear them in the manner, quantity and frequency agreed upon in the respective employee group's collective bargaining agreement.

### 1024.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Police employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose, which is to identify the wearer as a source of assistance in an emergency, crisis or other time of need.

- (a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean and appear professionally pressed.
- (b) All peace officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.
- (c) Personnel shall wear only the uniform specified for their rank and assignment.
- (d) Employees shall not loan any portion of the uniform to others.
- (e) Employees shall not permit the uniform to be reproduced or duplicated.
- (f) The uniform is to be worn in compliance with the specifications set forth in the Department's uniform specifications and procedures, which are maintained separately from this policy.
- (g) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.
- (h) Civilian attire shall not be worn in combination with any distinguishable part of the uniform while on duty.

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- (i) Uniforms are only to be worn while on-duty, while in transit to or from work, for court or at other official Department functions or events.
- (j) If the uniform is worn while in transit an outer garment may be worn over the uniform shirt so as not to bring attention to the employee while off-duty.
- (k) Employees are not to purchase or drink alcoholic beverages while wearing any part of the Department uniform, including the uniform pants.
- (l) Visible jewelry will be in compliance with the Department's Personal Appearance Standards policy.

#### 1024.2.1 DEPARTMENT ISSUED IDENTIFICATION

The Department issues each employee an official Department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their Department-issued identification card at all times while on-duty or when carrying a concealed weapon.

- (a) Whenever on-duty or acting in an official capacity representing the Department, employees shall display their Department-issued identification in a courteous manner to any person upon request and as soon as practicable.
- (b) Officers working specialized assignments may be excused from the requirements regarding the possession and display of identification when directed by their Division Commander.

#### 1024.3 UNIFORM CLASSES

The various uniform specification classes are those identified in this policy.

##### 1024.3.1 FORMAL UNIFORM

The formal uniform is to be worn on special occasions, such as funerals, graduations, promotions, ceremonies or as directed. The formal uniform is required for all sworn personnel.

The 8 point winter uniform hat may be worn for events held outdoors.

##### 1024.3.2 SEMI-FORMAL UNIFORM

All officers will possess and maintain a serviceable semi-formal uniform at all times. The semi-formal uniform will be worn for county and other jurisdictional court appearances when members are not on duty. The semi-formal uniform may also be prescribed as a uniform of the day by the Chief of Police for holidays or other events where a more formal appearance may be desired, but less formal than the formal dress uniform.

##### 1024.3.3 FIELD UNIFORM

The field uniform may be established to allow field personnel cooler clothing during the summer months, and more streamlined individual equipment selections for the officers, to allow for modern or for special duty assignments. The Chief of Police will establish the regulations and conditions for wearing the field uniform and its specifications.

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##### 1024.3.4 SPECIALIZED UNIT UNIFORMS

The Chief of Police may authorize special uniforms to be worn by officers in specialized units such as Canine Team, SWAT, Bicycle Patrol and other specialized assignments.

##### 1024.3.5 FOUL WEATHER GEAR

The uniform and equipment specifications procedure directive lists the authorized uniform jacket and rain gear.

#### **1024.4 INSIGNIA AND PATCHES**

- (a) The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all uniform shirts and jackets, approximately one inch below the shoulder seam of the shirt, and be bisected by the crease in the sleeve.
- (b) The regulation nameplate, or an authorized sewn-on cloth nameplate, shall be worn at all times while in uniform. The nameplate shall be worn and placed above the right pocket located in the middle, bisected by the pressed shirt seam, with equal distance from both sides of the nameplate to the outer edge of the pocket.
- (c) When a jacket is worn, the nameplate or an authorized style embroidered name shall be affixed to the jacket in the same manner as the uniform.
- (d) Assignment insignias, (e.g., SWAT, FTO or similar) may be worn as designated by the Chief of Police or a designee.
- (e) The Department-issued badge, or an authorized sewn-on cloth replica, must be worn and be visible at all times while in uniform. Sworn non-uniform personnel will wear or carry their badge in a manner that the badge is in reasonable proximity to their firearm and able to be displayed whenever appropriate.
- (f) The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief of Police or a designee may authorize exceptions.

##### 1024.4.1 MOURNING BADGE BAND

Uniformed employees may wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

- (a) An officer of this department - From the time of death until midnight on the 14th day after the death.
- (b) A peace officer from this state - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of a fallen peace officer.
- (d) National Peace Officers Memorial Day (May 15) - From midnight through the following midnight.
- (e) As directed by the Chief of Police or a designee.

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##### **1024.5 CIVILIAN ATTIRE**

There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which wearing civilian attire is necessary.

- (a) All employees shall wear clothing that fits properly, is clean and free of stains and not damaged or excessively worn.
- (b) All male administrative, investigative and support personnel who elect to wear civilian clothing to work shall wear button-style shirts with a collar, slacks or suits that are moderate in style.
- (c) All female administrative, investigative and support personnel who elect to wear civilian clothes to work shall wear dresses, slacks, shirts, blouses or suits that are moderate in style.
- (d) The following items shall not be worn on-duty:
  - 1. T-shirt alone.
  - 2. Open-toed sandals or thongs.
  - 3. Swimsuit, tube tops or halter tops.
  - 4. Spandex type pants or leggings, tights or see-through clothing.
  - 5. Distasteful printed slogans, buttons or pins.
  - 6. Shorts.
  - 7. Sweatshirts, sweatpants or similar exercise clothing.
- (e) Variations from this order are allowed at the discretion of the Chief of Police or a designee when the employee's assignment or current task is not conducive to wearing such clothing.
- (f) No item of civilian attire may be worn on-duty that would adversely affect the reputation of the Lorain Police Department or the morale of the employees.
- (g) Sworn employees carrying firearms while wearing civilian attire should wear clothing that effectively conceals the firearm when outside a controlled law enforcement facility or work area.

##### **1024.6 POLITICAL ACTIVITIES, ENDORSEMENTS, ADVERTISEMENTS OR OTHER APPEARANCES IN UNIFORM**

Unless specifically authorized by the Chief of Police, Lorain Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a Department badge, patch or other official insignia, or cause to be posted, published or displayed, the image of another employee, or identify him/herself as an employee of the Lorain Police Department to do any of the following:

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.

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- (c) Endorse, support or oppose, any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication, or any motion picture, film, video, public broadcast, photo, any website or any other visual depiction.

#### **1024.7 OPTIONAL EQUIPMENT - MAINTENANCE AND REPLACEMENT**

- (a) Any of the items listed in the uniform and equipment specifications procedure directive as optional shall be purchased at the expense of the employee.
- (b) Maintenance of optional items shall be the financial responsibility of the purchasing employee (e.g., repairs due to normal wear and tear).
- (c) Replacement of items listed in this order as optional shall be done as follows:
  - 1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.
  - 2. When the item is no longer functional because of damage in the course of the employee's duties, it may be replaced following the procedures for the replacement of damaged personal property outlined in the Department-Owned and Personal Property Policy.

#### **1024.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES**

Lorain Police Department employees may not wear any uniform item, accessory or attachment unless specifically authorized in the uniform and equipment specifications procedure directive or by the Chief of Police or a designee.

Lorain Police Department employees may not use or carry any tool or other piece of equipment unless specifically authorized in the uniform and equipment specifications procedure directive or by the Chief of Police or a designee.

## **Police Cadets and Explorers**

### **1025.1 PURPOSE AND SCOPE**

Cadets and explorers work under direct supervision and perform a variety of routine and progressively advanced tasks in an apprenticeship program in preparation for a career in law enforcement. Cadets will be at least 18 years of age and no older than 21 years of age (ORC § 124.41).

### **1025.2 EDUCATION REQUIREMENTS**

Cadets and explorers are required to maintain a minimum grade point average of 2.0 ("C" grade) for all courses taken. Cadets shall complete six semester units of college course work per semester and senior cadets shall complete 12 units per semester. High school age students shall continue to be enrolled in high school and maintain at least a 2.0 grade point average.

### **1025.3 PROGRAM COORDINATOR**

The Chief of Police shall designate the Program Coordinator. The program coordinator will be responsible for tracking the educational and job performance of cadets and explorers as well as making their individual assignments throughout the Department. The program coordinator will also monitor the training provided for all cadets and explorers and review all decisions affecting job assignments, status for compensation, school attendance and performance evaluations.

#### **1025.3.1 PROGRAM ADVISORS**

The program coordinator may select individual officers to serve as advisors for the Cadet and Explorer Program. These officers will serve as mentors for each cadet and explorer. Cadets and explorers will bring special requests, concerns and suggestions to their program adviser for advice or direction before contacting the program coordinator. One adviser may be designated as the coordinator's assistant to lead scheduled meetings and training sessions involving the cadets and explorers. Multiple cadets and explorers may be assigned to each program adviser. Program advisors are not intended to circumvent the established chain of command. Any issues that may be a concern of the individual's supervisor should be referred back to the program coordinator.

### **1025.4 ORIENTATION AND TRAINING**

Newly appointed cadets and explorers will receive an orientation of the organization and facilities before reporting to their first assignment. On-the-job training will be conducted in compliance with the Cadet and Explorer Training Manual. Training sessions will be scheduled as needed to train cadets and explorers for as many assignments as possible. In addition to job-specific training, information will be offered to prepare cadets and explorers to compete successfully in the police officer selection process, as well as the academy training. All training will focus on improving job performance, as well as preparation to become police officers. These meetings will also offer an opportunity to receive continuous feedback regarding progress of the program.

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##### **1025.5 CADET AND EXPLORER UNIFORMS**

Each cadet and explorer will be provided two uniforms meeting the specifications described by the Chief of Police for civilian employees.

##### **1025.6 ROTATION OF ASSIGNMENTS**

Rotating job assignments should occur on a regular basis to enhance the career development for each cadet and explorer. Department needs and concerns will take precedence over individual cadet or explorer considerations, with the final decision resting with the Training Coordinator.

In general, senior cadets and explorers will be assigned to positions requiring more technical skill or responsibility, including training other cadets and explorers for new assignments.

##### **1025.7 RIDE-ALONG PROCEDURES**

All cadets and explorers are authorized to participate in the Ride-Along Program, provided ride-along standards are met, on their own time and as approved by their immediate supervisor and the appropriate Watch Commander. Applicable waivers must be signed in advance of the ride-along. Cadets and explorers shall wear their uniform while participating in a ride-along.

##### **1025.8 PERFORMANCE EVALUATIONS**

Performance evaluations for all cadets and explorers shall be completed monthly during their first year. After the first year, cadets, senior cadets, explorers and senior explorers will be evaluated annually to assess their current job performance and their potential as police officers.

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## Nepotism and Conflicting Relationships

### 1026.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure effective supervision, safety, security, performance, assignments and discipline while maintaining positive morale by avoiding actual or perceived favoritism, discrimination or other actual or potential conflicts of interest by or between members of this department.

#### 1026.1.1 DEFINITIONS

Definitions related to this policy include:

**Relative** - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

**Personal Relationship** - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

**Business relationship** - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder or investor in an outside business, company, partnership, corporation, venture or other transaction where the Department employee's annual interest, compensation, investment or obligation is greater than \$250.

**Conflict of Interest** - Any actual, perceived or potential conflict of interest in which it reasonably appears that a Department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

**Supervisor** - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

**Subordinate** - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

### 1026.2 RESTRICTED DUTIES AND ASSIGNMENTS

While the Department will not prohibit personal or business relationships between employees, the following restrictions apply:

- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.
  1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters involving the involved employee to an uninvolved supervisor.
  2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department reserves the right to transfer or reassign any employee to another position within the same classification as it may deem necessary in order to avoid conflicts with any provision of this policy.

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- (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
- (c) Whenever reasonably possible Field Training Officers (FTOs) and other trainers will not be assigned to train relatives. FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
- (d) To avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of, or as a direct result of, any official contact.
- (e) Except as required in the performance of official duties or in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, or is a convicted felon, parolee, fugitive, registered offender or who engages in intentional violations of state or federal laws.
- (f) Generally, employees who are involved in a personal relationship will not be assigned to the same shift or unit on a permanent basis.

#### 1026.2.1 EMPLOYEES RESPONSIBILITIES

Prior to entering into any personal or business relationship or other circumstance that the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, employees shall promptly notify his/her uninvolved, immediate supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide other official information or services to any relative or other individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify the Communications Center to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

#### 1026.2.2 SUPERVISOR RESPONSIBILITIES

Upon being notified of or becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to mitigate or avoid such violations whenever reasonably possible. Supervisors shall also promptly notify the Chief of Police or a designee of such actual or potential violations through the chain of command.

## Department Badges

### 1027.1 PURPOSE AND SCOPE

A Lorain Police Department badge and uniform patch as well as the likeness of these items and the name of the Lorain Police Department are property of the Department and their use shall be restricted as set forth in this policy.

### 1027.2 POLICY

The uniform badge shall be issued to Department members as a symbol of authority. The use and display of Department badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by members while on-duty or otherwise acting in an official or authorized capacity. All Department badges will be issued through and controlled by the Chief of Police's office.

#### 1027.2.1 FLAT BADGE/FLEX BADGE

Certified officers, with the written approval of the Chief of Police or a designee, may purchase at their own expense a flat or flex badge that can be carried in a wallet. The use of the flat badge is subject to all the same provisions of Department policy as the uniform badge.

- (a) An officer may sell, exchange or transfer the flat badge he/she purchased to another officer within the Lorain Police Department with the written approval of the Chief of Police or a designee.
- (b) Should the flat badge become lost, damaged or otherwise removed from the officer's control, he/she shall make the proper notifications as outlined in the Department-Owned and Personal Property Policy.
- (c) An honorably retired officer may keep his/her flat badge upon retirement.
- (d) The purchase, carrying or display of a flat badge is not authorized for civilian personnel.

#### 1027.2.2 CIVILIAN PERSONNEL

Badges and Department identification cards issued to civilian personnel shall be clearly marked to reflect the position of the assigned employee (e.g., dispatcher, detention officer).

- (a) Civilian personnel shall not display any Department badge except as a part of his/her uniform and while on-duty or otherwise acting in an official and authorized capacity.
- (b) Civilian personnel shall not display any Department badge or represent him/herself, on- or off-duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn officer.

#### 1027.2.3 RETIREE UNIFORM BADGE

Retirement badges will be provided to members in accordance with current applicable Collective Bargaining Agreement articles.

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#### *Department Badges*

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##### 1027.2.4 BADGE ONE

The issuance of Badge One is a distinction and those who wear it will be looked to for guidance, knowledge and as an example for their fellow officers to follow. The officer receiving Badge One must be in good standing as described below:

- (a) An employee is considered in "good standing" if not under any internal investigation, or investigation by any other law enforcement agency.
- (b) The employee has continuously demonstrated conscientious adherence to department rules, regulations, guidelines, and policies. The officer must have no suspension days and no letters of reprimands within the previous 3 years.

The Chief of Police reserves the right to revoke Badge One from the issued officer, if the Officer's behavior or job performance results in disciplinary action, or reflects negatively upon their fellow officers.

Those patrol officers who attain Badge One, and are assigned Badge One for a period of not less than one year, shall receive a Lorain Police Department Retirement "Badge One" as a symbol of their dedicated service.

- (a) In addition to receiving a Lorain Police Department Retirement Badge One, those officers who are assigned Badge One for a period of not less than one year shall have their name engraved on the Lorain Police Department Badge One Plaque, also as a symbol of their dedicated service to the City of Lorain, The Lorain Police Department and their fellow officers.
- (b) Officers who do not hold the rank of "Badge One" for one year shall not be entitled to receive a "Badge One" retirement badge. In those cases, the Officer will receive the appropriate Department issued retirement badge.

##### **1027.3 UNAUTHORIZED USE**

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all certified employees and civilian uniformed employees for official use only. The Department badge, shoulder patch or the likeness thereof, or the Department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda and electronic communications, such as electronic mail or websites and web pages.

The use of the badge, uniform patch and Department name for all material (e.g., printed matter, products or other items) developed for Department use shall be subject to approval by the Chief of Police or a designee.

Employees shall not loan the badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

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#### *Department Badges*

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#### **1027.4 PERMITTED USE BY EMPLOYEE GROUPS**

The likeness of the Department badge and uniform patch shall not be used without the express authorization of the Chief of Police or a designee and shall be subject to the following:

- (a) The employee associations may use the likeness of the Department badge for merchandise and official association business, provided it is used in a clear representation of the association and not the Lorain Police Department. The following modifications shall be included:
  - 1. The text on the upper and lower ribbons is replaced with the name of the employee association.
  - 2. The badge number portion displays the acronym of the employee association.
- (b) The likeness of the Department badge for endorsement of political candidates shall not be used without the express approval of the Chief of Police or a designee.

## Temporary Modified-Duty Assignments

### 1028.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules or current collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

### 1028.2 POLICY

Subject to operational considerations, the Lorain Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

### 1028.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the Ohio Civil Rights Act shall be treated equally, without regard to any preference for a work-related injury (ORC § 4112.01 et. seq.).

No position in the Lorain Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

### 1028.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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#### *Temporary Modified-Duty Assignments*

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Employees seeking a temporary modified-duty assignment should submit a written request to their Division Commanders or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Division Commander will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Human Resources or the Law Director as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Watch Commander or Division Commander, with notice to the Chief of Police.

#### **1028.5 ACCOUNTABILITY**

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Division Commander.

##### **1028.5.1 EMPLOYEE RESPONSIBILITIES**

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Division Commander that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

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#### *Temporary Modified-Duty Assignments*

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##### **1028.5.2 SUPERVISOR RESPONSIBILITIES**

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

- (a) Periodically apprising the Division Commander of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Division Commander and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

##### **1028.6 MEDICAL EXAMINATIONS**

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations, however the employer reserves the right to send the employee to Occupational Health for a second opinion should it be deemed appropriate.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

##### **1028.7 PREGNANCY**

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth, or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment.

###### **1028.7.1 NOTIFICATION**

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

##### **1028.8 PROBATIONARY EMPLOYEES**

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

##### **1028.9 MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees

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who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

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# Employee Speech, Expression and Social Networking

## 1029.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balance of employee speech and expression with the needs of the Department. By virtue of your position as an employee, you are held to a higher standard than the general public, and your online activities should reflect such professional expectations and standards. Any online actions taken that detract from the mission of the department, or reflect negatively on your position as an employee or the department, will be viewed as a direct violation of this policy.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

### 1029.1.1 APPLICABILITY

This policy applies to all forms of communication including, but not limited to film, video, print media or public speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, wikis, video and other file sharing sites.

## 1029.2 POLICY

Because public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and negatively impact the performance of this department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public the Lorain Police Department will carefully balance the individual employee's rights against the organization's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

## 1029.3 SAFETY

Employees should carefully consider the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of Lorain Police Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should

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therefore not disseminate or post any information on any forum or medium that could reasonably be expected to compromise the safety of any employee, employee's family or associates or persons that this department has had professional contact with, such as crime victims or the staff of other organizations. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

#### **1029.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the department's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Lorain Police Department or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Lorain Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Lorain Police Department or its employees. Examples may include:
  1. Statements that indicate disregard for the law of the state or U.S. Constitution.
  2. Expression that demonstrates support for criminal activity.
  3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Lorain Police Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, data classified as confidential by state or federal law

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or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.

- (g) Employees are prohibited from using their title/position in private correspondence, whether electronic or hard copied. This includes, but is not limited to, signature lines in a personal e-mail account.
- (h) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment, or videos of official agency training activities or work-related assignments, or other material that specifically identifies the Lorain Police Department on any personal or social networking or other website or web page without the express authorization of the Chief of Police.
  - 1. The exceptions to this Policy are portraits, photographs, or any video recordings taken during Agency-sanctioned, official ceremonies such as OPOTA graduation, promotional ceremonies, Honor Guard ceremonies, etc. These photographs and/or recordings shall not disgrace or disparage employees or the Agency in any manner, nor shall said items be placed on any webpage or other electronic media or in hard copy media material that in any way brings discredit to the Agency or the profession.
- (i) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:
  - 1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
  - 2. During authorized breaks; such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

#### 1029.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Lorain Police Department or identify themselves in any way that could be reasonably perceived as representing the Lorain Police Department in order to do any of the following, unless specifically authorized by the Chief of Police:

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support, or oppose any product, service, company or other commercial entity.

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- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or any website.

Additionally, when it can reasonably be construed that an employee acting in his/her individual capacity or through an outside group or organization (e.g. bargaining group), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Lorain Police Department. Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty. However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

#### **1029.5 PARTISAN POLITICAL ACTIVITY**

Employees are restricted in partisan political activity based on the following (ORC § 124.57):

- (a) Classified employees are prohibited from engaging in political activity, directly or indirectly, orally or by letter, soliciting or receiving any assessment, subscription or contribution for any political party or for any candidate for public office. In addition, they may not solicit or receive any assessment, subscription, or contribution for any political party or for any candidate for public office.
- (b) Unclassified service employees are prohibited from participating in any political activity during duty time and from soliciting political contributions from any state employee.

#### **1029.6 PRIVACY EXPECTATION**

Members forfeit any expectation of privacy with regard to emails, texts or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

#### **1029.7 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.

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- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

#### **1029.8 TRAINING**

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

## Illness and Injury Prevention

### 1030.1 PURPOSE AND SCOPE

The purpose of this policy is to establish an ongoing and effective plan to reduce the incidence of illness and injury for members of the Lorain Police Department, in accordance with the requirements of the Ohio Public Employment Risk Reduction Program (PERRP) (ORC § 4167.01 et seq.).

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces illness and injury, it may be supplemented by procedures outside the Policy Manual.

This policy does not supersede, but supplements any related Citywide safety efforts.

### 1030.2 POLICY

The Lorain Police Department is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injuries. The Department will establish and maintain an illness and injury prevention plan and will provide tools, training and safeguards designed to reduce the potential for accidents, illness and injuries. It is the intent of the Department to comply with all laws and regulations related to occupational safety.

### 1030.3 ILLNESS AND INJURY PREVENTION PLAN

The Chief of Police will designate an Injury Prevention Plan Coordinator who will be responsible for developing an illness and injury prevention plan that shall include:

- (a) Workplace safety and health training programs.
- (b) Regularly scheduled safety meetings.
- (c) Posted or distributed safety information.
- (d) A system for members to anonymously inform management about workplace hazards.
- (e) Establishment of a safety and health committee that will be comprised of the Employee Review Board and a member of each bargaining unit:
  1. Meet periodically.
  2. Prepare a written record of safety and health committee meetings.
  3. Review the results of periodic scheduled inspections.
  4. Review investigations of accidents and exposures.
  5. Make suggestions to command staff for the prevention of future incidents.
  6. Review investigations of alleged hazardous conditions.
  7. Submit recommendations to assist in the evaluation of member safety suggestions.
  8. Assess the effectiveness of efforts made by the Department to meet applicable standards.

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#### *Illness and Injury Prevention*

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- (f) Establishing a process to ensure illnesses and injuries are reported as required under PERRP (OAC § 4167-6-01).

#### **1030.4 INJURY PREVENTION PLAN COORDINATOR RESPONSIBILITIES**

The responsibilities of the Injury Plan Prevention Coordinator include but are not limited to:

- (a) Managing and implementing a plan to reduce the incidence of member illness and injury.
- (b) Ensuring that a system of communication is in place that facilitates a continuous flow of safety and health information between supervisors and members. This system shall include:
  - 1. New member orientation that includes a discussion of safety and health policies and procedures.
  - 2. Regular member review of the illness and injury prevention plan.
- (c) Ensuring that all safety and health policies and procedures are clearly communicated and understood by all members.
- (d) Taking reasonable steps to ensure that all members comply with safety rules in order to maintain a safe work environment. This includes but is not limited to:
  - 1. Informing members of the illness and injury prevention guidelines.
  - 2. Recognizing members who perform safe work practices.
  - 3. Ensuring that the member evaluation process includes member safety performance.
  - 4. Ensuring department compliance to meet standards regarding the following:
    - (a) Communicable diseases (OAC § 4167-3-05; 29 CFR 1910.1030)
    - (b) Heat and cold stress
    - (c) Personal Protective Equipment (PPE) (See the Personal Protective Equipment Policy)
    - (d) Emergency Action Plan (OAC § 4167-3-05; 29 CFR 1910.38)
    - (e) Employment risk reduction standards (ORC § 4167.07)
- (e) Making available the hazards and correction record to document inspections, any unsafe condition or work practice, and actions taken to correct unsafe conditions and work practices.
- (f) Making available the investigation/corrective action report to document individual incidents or accidents.
- (g) Making available a form to document the safety and health training of each member. This form will include the member's name or other identifier, training dates, type of training, and training providers.
- (h) Preparing the annual summary of work-related illnesses and injuries by January 15 of each year and forwarding the report to the Chief of Police for approval. Once approved,

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the report shall be sent to PERRP no later than February 1 for the previous year (OAC § 4167-6-01).

- (i) Conducting and documenting a regular review of the illness and injury prevention plan.

#### **1030.5 SUPERVISOR RESPONSIBILITIES**

Supervisor responsibilities include but are not limited to:

- (a) Ensuring member compliance with illness and injury prevention guidelines and answering questions from members about this policy.
- (b) Training, counseling, instructing, or making informal verbal admonishments any time safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Standards of Conduct Policy.
- (c) Establishing and maintaining communication with members on health and safety issues. This is essential for an injury-free, productive workplace.
- (d) Completing required forms and reports relating to illness and injury prevention, including injury and illness reports (OAC § 4167-6-01); such forms and reports shall be submitted to the Injury Plan Prevention Coordinator.
- (e) Notifying the Injury Plan Prevention Coordinator when:
  - 1. New substances, processes, procedures, or equipment that present potential new hazards are introduced into the work environment.
  - 2. New, previously unidentified hazards are recognized.
  - 3. Occupational illnesses and injuries occur.
  - 4. New and/or permanent or intermittent members are hired or reassigned to processes, operations, or tasks for which a hazard evaluation has not been previously conducted.
  - 5. Workplace conditions warrant an inspection.
- (f) Reporting incidents to the Ohio Bureau of Workers' Compensation - Division of Safety and Hygiene that involve the death of a member, the hospitalization of one or more employees, an employee's amputation, or an employee's loss of an eye (OAC § 4167-6-10).

#### **1030.6 HAZARDS**

All members should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Members should make their reports to a supervisor (as a general rule, their own supervisors).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner, based on the severity of the hazard. These hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering members or property, supervisors should protect or

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remove all exposed members from the area or item, except those necessary to correct the existing condition.

Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

All significant actions taken and dates they are completed shall be documented on a hazards and correction record form. This form should be forwarded to the Injury Plan Prevention Coordinator via the chain of command.

The Injury Plan Prevention Coordinator will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

#### **1030.7 INSPECTIONS**

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards and permit mitigation of those hazards.

The Injury Plan Prevention Coordinator shall ensure that the appropriate documentation is completed for each inspection.

##### **1030.7.1 EQUIPMENT**

Members are charged with daily vehicle inspections of their assigned vehicles and of their PPE prior to working in the field. Members shall complete a hazards and correction record form if an unsafe condition cannot be immediately corrected. Members should forward this form to their supervisors.

#### **1030.8 INVESTIGATIONS**

Any member sustaining any work-related illness or injury, as well as any member who is involved in any accident or hazardous substance exposure while on-duty shall report such event as soon as practicable to a supervisor. Members observing or learning of a potentially hazardous condition are to promptly report the condition to their immediate supervisors.

A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

- (a) A visit to the accident scene as soon as possible.
- (b) An interview of the injured member and witnesses.
- (c) An examination of the workplace for factors associated with the accident/exposure.
- (d) Determination of the cause of the accident/exposure.
- (e) Corrective action to prevent the accident/exposure from reoccurring.
- (f) Documentation of the findings and corrective actions taken.
- (g) Completion of an investigation/corrective action report.
- (h) Completion of a hazards and correction record form.

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Additionally, the supervisor should proceed with the steps to report an on-duty injury, as required under the Injury and Illness Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting.

#### **1030.9 TRAINING**

The Injury Plan Prevention Coordinator should work with the Training Coordinator to provide all members, including supervisors, with training on general and job-specific workplace safety and health practices. Training shall be provided:

- (a) To supervisors to familiarize them with the safety and health hazards to which members under their immediate direction and control may be exposed.
- (b) To all members with respect to hazards specific to each member's job assignment.
- (c) To all members given new job assignments for which training has not previously been provided.
- (d) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.
- (e) Whenever the Department is made aware of a new or previously unrecognized hazard.

#### **1030.9.1 TRAINING TOPICS**

The Training Coordinator shall ensure that training includes:

- (a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.
- (b) Use of appropriate clothing, including gloves and footwear.
- (c) Use of respiratory equipment.
- (d) Availability of toilet, hand-washing and drinking-water facilities.
- (e) Provisions for medical services and first aid.
- (f) Handling of bloodborne pathogens and other biological hazards.
- (g) Prevention of heat and cold stress.
- (h) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).
- (i) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.
- (j) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.
- (k) Back exercises/stretchers and proper lifting techniques.
- (l) Avoidance of slips and falls.
- (m) Good housekeeping and fire prevention.
- (n) Other job-specific safety concerns.

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#### *Illness and Injury Prevention*

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##### **1030.10 RECORDS**

Records and training documentation relating to illness and injury prevention will be maintained in accordance with this policy and state law (OAC § 4167-6-01; OAC § 4167-6-09).

###### 1030.10.1 MONITORING AND MEASURING

The Department shall maintain accurate records of employee exposure to potentially toxic materials, carcinogenic materials and harmful physical agents that are required to be monitored or measured under any Ohio PERRP standard (OAC § 4167-6-09).

Each affected employee or employee representative shall have the opportunity to observe and/or participate in any monitoring or measuring of such regulated exposures and may undertake his/her own monitoring or measuring of such regulated exposures (OAC § 4167-6-09).

###### 1030.10.2 RETENTION OF RECORDS

All records and reports required to be maintained in accordance with the Ohio PERRP shall be retained per records retention schedule.

###### 1030.10.3 ACCESS TO RECORDS

The Department shall provide, upon request, records for inspection and copying by any state or county representative as allowed by law. In addition, the Department shall post a copy of the annual summary report as required by OAC § 4167-6-01.

Current or former employees may review records regarding the individual employee's exposure as well as the required log and summary of all recordable occupational injuries and illnesses (OAC § 4167-6-01; OAC § 4167-6-09).

## Line-of-Duty Deaths

### 1031.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Lorain Police Department in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's survivors.

The Chief of Police may also apply some or all of this policy in situations where members are injured in the line of duty and the injuries are life-threatening.

#### 1031.1.1 DEFINITIONS

Definitions related to this policy include:

**Line-of-duty death** - The death of a sworn member during the course of performing law enforcement-related functions while on- or off-duty, or a civilian member during the course of performing their assigned duties.

**Survivors** - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

### 1031.2 POLICY

It is the policy of the Lorain Police Department to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this department to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

### 1031.3 INITIAL ACTIONS BY COMMAND STAFF

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the member's Division Commander.
  1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).
- (b) The shift supervisor should ensure that immediate notification to the Chief of Police is made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.
- (c) If the member has been transported to the hospital, the Division Commander of Officer in Charge should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.
- (d) The Chief of Police or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve

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#### *Line-of-Duty Deaths*

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the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

#### **1031.4 NOTIFYING SURVIVORS**

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Chief of Police or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief of Police, or the authorized designee should select at least two members to conduct notification of survivors, one of which may be the Department Chaplain.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.
- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in department vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital and should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.
- (g) Offer to call other survivors, friends or clergy to support the survivors and to avoid leaving survivors alone after notification.
- (h) Assist the survivors with meeting childcare or other immediate needs.
- (i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.

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- (j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Department Liaison.
- (k) Provide their contact information to the survivors before departing.
- (l) Document the survivor's names and contact information, as well as the time and location of notification. This information should be forwarded to the Department Liaison.
- (m) Inform the Chief of Police or the authorized designee once survivor notifications have been made so that other Lorain Police Department members may be apprised that survivor notifications are complete.

#### 1031.4.1 OUT-OF-AREA NOTIFICATIONS

The Department Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- (a) The Department Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the department member that the survivors can call for more information following the notification by the assisting agency.
- (b) The Department Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Department to pay travel expenses without the authorization of the Chief of Police.

#### 1031.5 NOTIFYING DEPARTMENT MEMBERS

Supervisors or members designated by the Chief of Police are responsible for notifying department members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shift. Members reporting for duty from their residence should be instructed to contact their supervisor as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support group, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

#### 1031.6 LIAISONS AND COORDINATORS

The Chief of Police or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including, but not limited to:

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- (a) Department Liaison.
- (b) Hospital Liaison.
- (c) Survivor Support Liaison.
- (d) Critical Incident Stress Management (CISM) coordinator.
- (e) Funeral Liaison.
- (f) Mutual aid coordinator.
- (g) Benefits Liaison.
- (h) Finance coordinator.

Liaisons and coordinators will be directed by the Department Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

#### 1031.6.1 DEPARTMENT LIAISON

The Department Liaison should be a Division Commander or of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the deceased member's survivors and the Department. The Department Liaison reports directly to the Chief of Police. The Department Liaison's responsibilities include, but are not limited to:

- (a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System (NIMS).
- (b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.
- (c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.
- (d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.
- (e) Coordinating all official law enforcement notifications and arrangements.
- (f) Making necessary contacts for authorization to display flags at half-mast.
- (g) Ensuring that department members are reminded of appropriate information—sharing restrictions regarding the release of information that could undermine future legal proceedings.
- (h) Coordinating security checks of the member's residence as necessary and reasonable.
- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

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##### 1031.6.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

- (a) Arrange for appropriate and separate waiting areas for:
  1. The survivors and others whose presence is requested by the survivors.
  2. Department members and friends of the deceased member.
  3. Media personnel.
- (b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member's survivors or Lorain Police Department members (except for members who may be guarding the suspect).
- (c) Ensure that survivors receive timely updates regarding the member before information is released to others.
- (d) Arrange for survivors to have private time with the member, if requested.
  1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
  2. The Hospital Liaison should accompany the survivors into the room, if requested.
- (e) Stay with survivors and ensure that they are provided with other assistance as needed at the hospital.
- (f) If applicable, explain to the survivors why an autopsy may be needed.
- (g) Ensure hospital bills are directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment and that the member's residence address, insurance information and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include, but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting his/her actions at the conclusion of his/her duties.

##### 1031.6.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Department Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term department contact for survivors.

The Survivor Support Liaison should be selected by the deceased member's Division Commander. The following should be considered when selecting the Survivor Support Liaison:

- The liaison should be an individual the survivors know and with whom they are comfortable working.
- If the survivors have no preference, the selection may be made from names recommended by the deceased member's supervisor and/or coworkers. The

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deceased member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.

- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include, but are not limited to:

- (a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes and other locations, as appropriate.
- (b) Communicating with the Department Liaison regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (d) Providing assistance with travel and lodging arrangements for out-of-town survivors.
- (e) Returning the deceased member's personal effects from the Department and the hospital to the survivors. The following should be considered when returning the personal effects:
  1. Items should not be delivered to the survivors until they are ready to receive the items.
  2. Items not retained as evidence should be delivered in a clean, unmarked box.
  3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
  4. The return of some personal effects may be delayed due to ongoing investigations.
- (f) Assisting with the return of department-issued equipment that may be at the deceased member's residence.
  1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.
- (g) Working with the CISM coordinator to ensure that survivors have access to available counseling services.
- (h) Coordinating with the department's Public Information Officer (PIO) to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the Public Information Officer section of this policy).
- (i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal and administrative investigations.
- (j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.
- (k) Introducing survivors to prosecutors, victim's assistance personnel and other involved personnel as appropriate.

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- (l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).
- (m) Inviting survivors to department activities, memorial services or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the Department to facilitate communications necessary to the assignment. The department-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

#### 1031.6.4 CRITICAL INCIDENT STRESS MANAGEMENT COORDINATOR

The CISM coordinator should work with the Chief of Police or the authorized designee, liaisons, coordinators and other resources to make CISM and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the CISM coordinator include, but are not limited to:

- (a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for CISM and counseling services, including:
  - 1. Members involved in the incident.
  - 2. Members who witnessed the incident.
  - 3. Members who worked closely with the deceased member but were not involved in the incident.
- (b) Ensuring that members who were involved in or witnessed the incident are relieved of department responsibilities until they can receive CISM support as appropriate and possible.
- (c) Ensuring that CISM and counseling resources (e.g., peer support, debriefing, grief counselors) are available to members as soon as reasonably practicable following the line-of-duty death.
- (d) Coordinating with the Survivor Support Liaison to ensure survivors are aware of available CISM and counseling services and assisting with arrangements as needed.
- (e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional CISM or counseling services are needed.

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##### 1031.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the Department Liaison, Survivor Support Liaison and survivors to coordinate funeral arrangements to the extent the survivors wish. The Funeral Liaison's responsibilities include, but are not limited to:

- (a) Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.
- (b) Completing funeral notification to other law enforcement agencies.
- (c) Coordinating the funeral activities of the Department, including, but not limited to the following:
  1. Honor Guard
    - (a) Casket watch
    - (b) Color guard
    - (c) Pallbearers
    - (d) Bell/rifle salute
  2. Bagpipers/bugler
  3. Uniform for burial
  4. Flag presentation
  5. Last radio call
- (d) Briefing the Chief of Police and command staff concerning funeral arrangements.
- (e) Assigning an officer to remain at the family home during the viewing and funeral.
- (f) Arranging for transportation of the survivors to and from the funeral home and interment site using department vehicles and drivers.

##### 1031.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Department Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for, but not limited to:

- (a) Traffic control during the deceased member's funeral.
- (b) Area coverage so that as many Lorain Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform his/her duties in accordance with the Mutual Aid and Outside Agency Assistance Policy.

##### 1031.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and assist them in applying for benefits. Responsibilities of the Benefits Liaison include, but are not limited to:

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- (a) Confirming the filing of workers' compensation claims and related paperwork (see the Illness and Injury Reporting Policy).
- (b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the:
  - 1. Public Safety Officers' Benefits (PSOB) Programs.
  - 2. Public Safety Officers' Educational Assistance (PSOEA) Program.
  - 3. Social Security Administration.
  - 4. Department of Veterans Affairs.
- (c) Researching and assisting survivors with application for state and local government survivor benefits.
  - 1. Survivor's benefit (ORC § 145.45)
  - 2. Death benefit (ORC § 742.63; ORC § 742.446)
  - 3. Education benefit (ORC § 3333.26)
  - 4. Volunteer Peace Officers' Dependents Fund (ORC § 143.09)
- (d) Researching and assisting survivors with application for other survivor benefits such as:
  - 1. Private foundation survivor benefits programs.
  - 2. Survivor scholarship programs.
- (e) Researching and informing survivors of support programs sponsored by police associations and other organizations.
- (f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.
  - 1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.
- (g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.
- (h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

#### 1031.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief of Police and the Department Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

- (a) Establishing methods for purchasing and monitoring costs related to the incident.
- (b) Providing information on finance-related issues, such as:

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1. Paying survivors' travel costs if authorized.
  2. Transportation costs for the deceased.
  3. Funeral and memorial costs.
  4. Related funding or accounting questions and issues.
- (c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.
- (d) Providing accounting and cost information as needed.

#### **1031.7 HONOR GUARD**

With the permission of the fallen member's family, it will be the policy of the Lorain Police Department to provide funeral services designed to honor the fallen member, for their service to the City of Lorain and the Lorain Police Department.

Although the Department is sensitive to the emotions of friends and coworkers of a deceased officer, it is necessary to maintain appropriate staffing levels to provide service to the citizens of Lorain and backup for remaining officers. Commanders will make the final decisions regarding the attendance of on-duty personnel and the temporary reassignment of personnel to maintain appropriate staffing throughout their Division. Attendance at funerals outside of Lorain in an on-duty status will require the prior approval of the Chief of Police.

#### PROCEDURES

The Honor Guard may represent the Lorain Police Department at funerals of law enforcement officers from within the State of Ohio, who are killed in the line of duty. Other department personnel are encouraged to attend on a personal basis. When unique circumstances occur which are not covered by this Directive, the Chief of the Police will determine the appropriate response of the Honor Guard at a funeral service.

The department will provide one marked police vehicle for each group of two honor guard members attending the funeral services. The department will also provide one marked police vehicle for each additional group of other authorized uniformed personnel, to participate in the funeral procession. The Honor Guard Supervisor or his designee will be responsible for the coordination of all police vehicles participating in the funeral procession as well as the formation of uniformed officers at the funeral home and cemetery.

#### NOTIFICATION

- (a) Due to time constraints involved, it is important for department Command Personnel to receive timely notification upon the death of an active or retired officer. The following guidelines are established to assure Honor Guard participation at the funeral services.

#### DEPARTMENT PERSONNEL

- (a) Upon becoming aware of the death of an active or retired officer, the on-duty Patrol Supervisor will be notified. It will be the responsibility of the on-duty Patrol Supervisor

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to ensure that the appropriate departmental personnel are notified as soon as possible. Once notified, the OPERATIONS BUREAU COMMANDER WILL;

1. Make notification to the Honor Guard Supervisor.
2. Honor Guard Supervisor will make arrangements for Honor Guard involvement according to the below established guidelines.

#### OFFICERS KILLED IN LINE OF DUTY ARE ENTITLED TO:

- (a) Escort for the family to vigil, visitation, and funeral.
- (b) 24 Hour Guard at deceased officer's home.
- (c) A full complement of the Honor Guard to participate.
- (d) A minimum of two members of the Honor Guard will participate as casket guards during any viewing hours of the deceased and during funeral services. Additional department personnel may be required and solicited, to assist in the casket guarding detail.
- (e) Department will enter the funeral service as 1, led by Chief of Police.
- (f) Flag detail -- presentation of U.S. flag to next of kin.
- (g) Firing squad.
- (h) Taps.
- (i) The black band displayed over badges.

#### OFFICERS WHO DIE WHILE IN THE PERFORMANCE OF POLICE DUTY ARE ENTITLED TO:

- (a) A full complement of the Honor Guard to participate.
- (b) Honor Guard will participate as casket guards during the actual funeral services.
- (c) Flag detail -- presentation of U.S. flag to next of kin.
- (d) Firing squad.
- (e) Taps.
- (f) The black band displayed over badges.

#### ACTIVE OFFICER'S DEATH AS A RESULT OF NATURAL OR ACCIDENTAL CAUSES ARE ENTITLED TO:

- (a) A full complement of the Honor Guard to participate.
- (b) Casket guard during actual funeral services.
- (c) Flag detail -- presentation of U.S. flag to next of kin.

#### RETIRED OFFICERS ARE ENTITLED TO:

- (a) A full complement of the Honor Guard to participate. B. Flag detail -- presentation of U.S. flag to next of kin. DEATH UNDER DISHONORABLE CONDITIONS.
- (b) The Honor Guard will not participate in the funeral service of any Department personnel if death occurred under dishonorable conditions to be determined by the Chief of Police.

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#### FUNERAL POSSESSIONS

- (a) When the Honor Guard participates, Honor Guard members will go directly to the interment site after the service to prepare for the procession's arrival.
  - 1. At funeral services for retired officers, the Honor Guard will lead the procession behind the traffic escort.

#### GUIDELINES FOR OTHER OHIO LAW ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY

- (a) Officers from another law enforcement agency in Lorain or adjoining counties
  - 1. Two Honor Guard members to attend the funeral services.
- (b) Officers from all other law enforcement agencies in Ohio will be at the discretion of the Chief of Police.

#### **1031.8 PUBLIC INFORMATION OFFICER**

In the event of a line-of-duty death, the department's PIO should be the department's contact point for the media. As such, the PIO should coordinate with the Department Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Ensure that department members are instructed to direct any media inquiries to the PIO.
- (c) Prepare necessary press releases.
  - 1. Ensure coordination with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
  - 2. Ensure that important public information is disseminated, such as information on how the public can show support for the Department and deceased member's survivors.
- (d) Arrange for community and media briefings by the Chief of Police or the authorized designee as appropriate.
- (e) Respond, or coordinate the response, to media inquiries.
- (f) If requested, assist the member's survivors with media inquiries.
  - 1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.
- (g) Release information regarding memorial services and funeral arrangements to department members, other agencies and the media as appropriate.
- (h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member's survivors have been notified. If the media has obtained identifying information for the deceased member prior to survivor notification, the PIO should request that the media withhold the information from release

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until proper notification can be made to survivors. The PIO should ensure that media are notified when survivor notifications have been made.

#### **1031.9 DEPARTMENT CHAPLAIN**

The Department chaplain may serve a significant role in line-of-duty deaths. His/her duties may include, but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting department members with counseling or emotional support, as requested and appropriate.

Further information on the potential roles and responsibilities of the chaplain is in the Chaplains Policy.

#### **1031.10 INVESTIGATION OF THE INCIDENT**

The Chief of Police shall ensure that line-of-duty deaths are investigated thoroughly and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

#### **1031.11 LINE-OF-DUTY DEATH OF A LAW ENFORCEMENT ANIMAL**

The Chief of Police may authorize appropriate memorial and funeral services for law enforcement animals killed in the line of duty.

#### **1031.12 NON-LINE-OF-DUTY DEATH**

The Chief of Police may authorize certain support services for the death of a member not occurring in the line of duty.

## Department Review Board

### 1032.1 PURPOSE AND SCOPE

An employee Review Board has been adopted by the Lorain Police Department to provide the Department with review and advice on issues concerning police officers.

### 1032.2 APPOINTMENT OF REVIEW PANEL

The Employee Review Board will be appointed by the Chief of Police. One of the members shall be assigned as the chairperson. Another supervisor may serve on the Employee Review Board at the discretion of the Chief of Police should the situation dictate.

### 1032.3 EMPLOYEE REVIEW BOARD DUTIES

Review panels are provided specific duties and responsibilities, including that the panel:

- (a) May review an internal investigation of an officer and make recommendations regarding any disciplinary action against the officer.
- (b) Shall be provided any personnel file or other material necessary for the panel to conduct a review.
- (c) Shall provide an officer who is the subject of a review with reasonable notice and an opportunity to be heard.
- (d) Shall provide a report from the chairperson of the findings and recommendation of the panel regarding disciplinary action to the Chief of Police.

#### 1032.3.1 SPECIFIC FUNCTION REVIEW BOARD

Annually, the Chief of Police will assign board members to review boards that serve a specific function. Among these are the Use of Force Review Board, Civilian Use of Force Advisory, Pursuit Review Board, and the Accident Review Board.

### 1032.4 PROCEEDINGS

Proceedings of the review panel are closed to the public, as allowed by law.

Should any incident related to Use of Force Policies, Pursuit Policy, or duty related accidents be found to possibly violate department policy by the officer's chain of command prior to the convening of the related Review Board, the officer may appear during that board's next meeting when the incident is scheduled for review, to be available to answer questions about the matter.

Any officer whose incident is going before a review board can exercise the option to appear before the board to clarify any questions about the details in the report. This appearance is strictly voluntary and occurs on the officer's own time. This voluntary appearance should be used to clarify questions about details in the report and the incident.

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## *Department Review Board*

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### **1032.5 REVIEW PANEL RECORDS**

The findings and recommendations of a review panel are public records, unless otherwise declared confidential by state or federal law, and shall be retained in compliance with the organization's records retention schedule.

## Wellness Program

### 1033.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance on establishing and maintaining a proactive wellness program for department members.

The wellness program is intended to be a holistic approach to a member's well-being and encompasses aspects such as physical fitness, mental health, and overall wellness.

Additional information on member wellness is provided in the:

- Chaplains Policy.
- Line-of-Duty Deaths Policy.
- Drug- and Alcohol-Free Workplace Policy.

#### 1033.1.1 DEFINITIONS

Definitions related to this policy include:

**Critical incident** – An event or situation that may cause a strong emotional, cognitive, or physical reaction that has the potential to interfere with daily life.

**Critical Incident Stress Debriefing (CISD)** – A standardized approach using a discussion format to provide education, support, and emotional release opportunities for members involved in work-related critical incidents.

**Peer support member** – An active or retired officer, telecommunicator, or civilian employee of the Department who has received the required basic peer support training and who provides support to individuals with similar life experiences (ORC § 2317.023).

**Peer support services** – Consultation, risk assessment, referral, or on-site intervention services provided by a peer support member to an individual experiencing psychological or physical symptoms caused by exposure to acute or chronic high stress incidents in the course of the individual's employment (ORC § 2317.023).

### 1033.2 POLICY

It is the policy of the Lorain Police Department to prioritize member wellness to foster fitness for duty and support a healthy quality of life for department members. The Department will maintain a wellness program that supports its members with proactive wellness resources, critical incident response, and follow-up support.

### 1033.3 WELLNESS COORDINATOR

The Chief of Police should appoint a trained wellness coordinator. The coordinator should report directly to the Chief of Police or the authorized designee and should collaborate with advisers (e.g., Human Resources, legal counsel, licensed psychotherapist, qualified health professionals), as appropriate, to fulfill the responsibilities of the position, including but not limited to:

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- (a) Identifying wellness support providers (e.g., licensed psychotherapists, external peer support providers, physical therapists, dietitians, physical fitness trainers holding accredited certifications).
  - 1. As appropriate, selected providers should be trained and experienced in providing mental wellness support and counseling to public safety personnel.
  - 2. When practicable, the Department should not use the same licensed psychotherapist for both member wellness support and fitness for duty evaluations.
- (b) Developing management and operational procedures for department peer support members, such as:
  - 1. Peer support member selection and retention.
  - 2. Training and applicable certification requirements.
  - 3. Deployment.
  - 4. Managing potential conflicts between peer support members and those seeking service.
  - 5. Monitoring and mitigating peer support member emotional fatigue (i.e., compassion fatigue) associated with providing peer support.
  - 6. Using qualified peer support personnel from other public safety agencies or outside organizations for department peer support, as appropriate.
- (c) Verifying members have reasonable access to peer support or licensed psychotherapist support.
- (d) Establishing procedures for CISDs, including:
  - 1. Defining the types of incidents that may initiate debriefings.
  - 2. Steps for organizing debriefings.
- (e) Facilitating the delivery of wellness information, training, and support through various methods appropriate for the situation (e.g., phone hotlines, electronic applications).
- (f) Verifying a confidential, appropriate, and timely Employee Assistance Program (EAP) is available for members. This also includes:
  - 1. Obtaining a written description of the program services.
  - 2. Providing for the methods to obtain program services.
  - 3. Providing referrals to the EAP for appropriate diagnosis, treatment, and follow-up resources.
  - 4. Obtaining written procedures and guidelines for referrals to, or mandatory participation in, the program.
  - 5. Obtaining training for supervisors in their role and responsibilities, and identification of member behaviors that would indicate the existence of member concerns, problems, or issues that could impact member job performance.

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- (g) Maintaining a roster of the names and training status of each peer support member consistent with the requirements of ORC § 4113.42.
- (h) Assisting members who have become disabled with application for federal government benefits such as those offered through the Public Safety Officers' Benefits Program (34 USC § 10281 et seq.).
  - 1. The coordinator should work with appropriate department liaisons to assist qualified members and survivors with benefits, wellness support, and counseling services, as applicable, when there has been a member death (see the Line-of-Duty Deaths Policy for additional guidance).

#### **1033.4 DEPARTMENT PEER SUPPORT**

##### 1033.4.1 PEER SUPPORT MEMBER SELECTION CRITERIA

The selection of a department peer support member will be at the discretion of the coordinator.

Selection should be based on the member's:

- Desire to be a peer support member.
- Experience or tenure.
- Demonstrated ability as a positive role model.
- Ability to communicate and interact effectively.
- Evaluation by supervisors and any current peer support members.

##### 1033.4.2 PEER SUPPORT MEMBER RESPONSIBILITIES

The responsibilities of department peer support members include (ORC § 2317.023):

- (a) Providing pre- and post-critical incident support.
- (b) Presenting department members with periodic training on wellness topics, including but not limited to:
  - 1. Stress management.
  - 2. Suicide prevention.
  - 3. How to access support resources.
- (c) Providing referrals to licensed psychotherapists and other resources, where appropriate.
  - 1. Referrals should be made to department-designated resources in situations that are beyond the scope of the peer support member's training.
- (d) Providing access to multiple resources for mental and physical support for officers and their families.

##### 1033.4.3 PEER SUPPORT MEMBER TRAINING

A department peer support member shall complete department-approved initial and refresher training as required by ORC § 2317.023.

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#### **1033.5 CRITICAL INCIDENT STRESS DEBRIEFINGS**

A Critical Incident Stress Debriefing should occur as soon as practicable following a critical incident. The coordinator is responsible for organizing the debriefing. Notes and recorded statements shall not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a critical incident.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law, or a valid court order.

Attendance at the debriefing should only include peer support members and/or critical incident stress management team members and those directly involved in the incident (ORC § 2317.02).

##### **1033.5.1 CRITICAL INCIDENT STRESS MANAGEMENT TEAM MEMBER COMMUNICATIONS**

Communications with a critical incident stress management team member made from a member receiving crisis response services or during a debriefing session are confidential and may not be disclosed except as allowed by ORC § 2317.02.

A critical incident stress management team member is an individual specially trained to provide crisis response services as a member of an organized community or local crisis response team that holds membership in the Ohio critical incident stress management network. Crisis response services are consultation, risk assessment, referral, and on-site crisis intervention services to members affected by a crisis or disaster (ORC § 2317.02).

#### **1033.6 PEER SUPPORT COMMUNICATIONS**

Communications between a peer support team member and a person receiving peer support services are confidential and may not be disclosed except as provided in ORC § 2317.023.

#### **1033.7 PHYSICAL WELLNESS PROGRAM**

The coordinator is responsible for establishing guidelines for any on-duty physical wellness program, including the following:

- (a) Voluntary participation by members
- (b) Allowable physical fitness activities
- (c) Permitted times and locations for physical fitness activities
- (d) Acceptable use of department-provided physical fitness facilities and equipment
- (e) Individual health screening and fitness assessment
- (f) Individual education (e.g., nutrition, sleep habits, proper exercise, injury prevention) and goal-setting
- (g) Standards for physical fitness incentive programs. The coordinator should collaborate with the appropriate entities (e.g., human resources, legal counsel) to verify that any standards are nondiscriminatory.
- (h) Maintenance of physical wellness logs (e.g., attendance, goals, standards, progress)

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- (i) Ongoing support and evaluation

#### **1033.8 WELLNESS PROGRAM REVIEW**

At least annually, the coordinator or the authorized designee shall conduct an administrative review of the effectiveness of the department's wellness program and prepare a report summarizing the findings. The report shall not contain the names of members participating in the wellness program, and should include the following information:

- Data on the types of support services provided
- Wait times for support services
- Participant feedback, if available
- Program improvement recommendations
- Policy revision recommendations

The coordinator should present the completed administrative review to the Chief of Police for review and consideration of updates to improve program effectiveness.

#### **1033.9 MEMBER FAMILY SUPPORT**

Subject to available resources, the Department shall provide mental and physical support to members' families.

#### **1033.10 TRAINING**

The coordinator or the authorized designee should collaborate with the Training Coordinator to provide all members with regular education and training on topics related to member physical and mental health and wellness, including but not limited to:

- The availability and range of department wellness support systems.
- Suicide prevention.
- Recognizing and managing mental distress, emotional fatigue, post-traumatic stress, and other possible reactions to trauma.
- Alcohol and substance disorder awareness.
- Countering sleep deprivation and physical fatigue.
- Anger management.
- Marriage and family wellness.
- Benefits of physical exercise and proper nutrition.
- Effective time and personal financial management skills.

Training materials, curriculum, and attendance records should be forwarded to the Training Coordinator as appropriate for inclusion in training records.