

INTRODUCTION

The intent of the Cumberland Police Department employees' handbook is to be a reference manual designed to aid and assist all employees in the performance of their official duties. This handbook is not prepared with the traditional policy and procedures format; however, it has a primary goal to structure and legitimize the discretion that has been successfully used in departments for many years.

This handbook is not intended to override or replace common sense, sound judgment, or discretion, but to supplement these traits that are vital in the effective operation of a successful public service agency. Everything in this manual is created with the intent to assist in the achievement of the department's goals and objectives and to the accomplishment of the department's mission.

This employees' handbook is designed to be as brief as possible but still address all-important issues. The physical volume of this manual is intentionally restricted in an attempt to lend itself to usability. However, thoroughness of important matters will not be sacrificed for brevity.

This handbook is designed to be updated when needed. Subjects can be located using corresponding tabs and section numbers.

It is the general overall responsibility of every employee to take interest in the effectiveness of this handbook. Therefore, all employees are encouraged to comment and suggest review and revisions.

Use has been made of masculine pronouns in this manual solely for the sake of brevity. Unless specifically stated to the contrary, words in this manual referring to the masculine gender shall also be construed to apply to the feminine gender as a matter of parallel construction.

Law enforcement officers, in the most basic terms, have two primary responsibilities. The first is to use their statutory authority to prevent, detect, and apprehend those persons who violate the law. The other basic responsibility is to act as the "community caretaker." This means that an officer has the duty to watch over and provide safety to the public while not interfering with an individual's rights to be free from governmental intrusion.

Along with the tremendous authority that a law enforcement officer has, comes great responsibility. If this authority is exercised with professional discretion, and if the officer has a genuine interest in the public's well-being by assuming the role of community caretaker, the public will respond in a favorable way. It is this level of mutual respect that makes a law enforcement agency successful.

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100 ADMINISTRATION

The Chief is the head administrative Officer in the hierarchy of the Cumberland Police Department. The Chief shall prescribe the rules and regulations for the direction, control, and management of the department. The Chief shall be responsible for their enforcement. The Chief shall establish operational guidelines, programs, and policies to ensure the attainment of specified goals. The Chief shall exercise complete supervisory control over personnel for duties and tasks necessary to accomplish departmental goals. It is the responsibility of the Chief to maintain public peace and order.

All members are expected to use good judgment in the performance of their duties. Where such judgment is in conflict with the materials contained within this manual, the deviation may be accepted by the Chief. The

burden of justifying the deviation lies with the employee and the acceptance of that justification is entirely within the discretion of the Chief.

This employee handbook is intended for the use and guidance of the personnel of the department and not as statements superseding the law of the State of Wisconsin or its constituent agencies.

100-1-0 DEPARTMENT PHILOSOPHY, MISSION, AND GOALS

The mission of the Cumberland Police Department is created under the direction of the Chief. However, all department employees are encouraged to have input in the mission statement that provides a public statement regarding the purpose of the department. The mission statement of the Cumberland Police Department provides a standard of conduct for all employees and, by it, all actions are judged.

Mission Statement

Members of the Cumberland Police Department are committed to excellence in service through teamwork and community involvement in order to promote a safe and secure environment.

We will treat all people with courtesy and respect reflecting the highest ideals of professionalism while providing effective and efficient law enforcement services.

We will provide fair and impartial treatment to all people demonstrating care, concern and understanding of each person's situation.

As a united team, we are committed to innovation and excellence in order to meet the needs of the community.

100-2-0 USE AND DEVELOPMENT OF POLICIES AND PROCEDURES

It is important that all members of the Cumberland Police Department have an opportunity for input into the employee handbook. The Chief may assign committees or sub-committees to create, revise, or review the contents of the employee handbook at any time.

Any proposed changes are subject to approval by the Chief.

Employees with individual suggestions for changes of the employee handbook are to provide their ideas to the Chief, in writing, dated, and signed.

Each full-time employee will be provided a copy of the employee handbook. Each full-time employee shall maintain an up-to-date copy.

Deletions, additions, and revisions to the employee handbook shall be provided to each employee with a cover memo. The cover memo will instruct the employee on how to implement the change. The cover memo will act as a receipt document. Employee shall comply with the memo in a timely fashion.

The employee handbook is the property of the Cumberland Police Department. Upon termination of employment, possession of the employee handbook is to remain with the department.

No employee is to share, copy, dispense, or otherwise distribute all or any portion of the employee handbook without approval from the Chief. Many portions of this manual are open for public scrutiny and inspection. Requests for inspection of this manual shall be directed to the Chief.

NOTES:

100-3-0 COMPLIANCE WITH POLICIES AND PROCEDURES

It is the intent of the administrative staff to promote voluntary compliance of the employee handbook. However, discipline has its immediate purpose. Discipline can be positive or negative. It may involve encouragement, inspiration, training, or the imposition of negative sanctions. The exercise of effective discipline requires foresight and planning rather than mere reaction. Discipline involves an evaluation of the human factor. When combined with proper training, motivation, evaluation, and recognition, the desired effect is self-discipline. Self-discipline is the channeling of individual and group efforts into effective and productive action.

The administration of discipline is the primary responsibility of supervisory personnel. A supervisor should consider all circumstances around the events of the action. Any action decided upon should lend itself to the attainment of the Police Department goals.

100-3-1 Definitions

For the purpose of uniformity and clarity, the following terms and descriptions are used throughout this manual. Although each term can be specific, at times they are used interchangeably.

Policy - A general statement. Usually referred to as a broad statement of principle. Unless a policy is further defined or restricted, it allows a degree of flexibility within the limits of the policy maker.

Procedure - More specific than a policy, but less restrictive than a rule or regulation. A procedure describes a method of operation while still allowing some flexibility within limits.

Memorandum - These shall be considered primarily as a device to inform or inquire and secondarily, to direct. Memorandum is also more personal in nature and may be directed to a specific person or group of people.

Rule and Regulation - Most specific guideline governing behavior.

Practice - A customary code of behavior, whether written or unwritten. Conduct which is a widely accepted standard.

4. DEPARTMENT ORGANIZATION

This policy sets forth the organizational structure of the Cumberland Police Department. The Department currently consists of the Department Head- Chief of Police, Patrol Division, and Administrative Assistant.

NOTES:

100-5-0 HIRING PRACTICE

Although subject to review and modification, the following procedure will be used in selecting the best-suited prospective employees.

- 1) Identify needs of the department and establish minimum qualifications.
- 2) Complete a position justification form and submit to Department of Administration.
- 3) Post and advertise job opening; establish application procedure and deadlines.
- 4) Preliminary screening of applicants for minimum qualification.
- 5) Conduct written examination (as needed).
- 6) Based on validated testing results, establish number of candidates to proceed.
- 7) Formal oral interview according to policy.
- 8) Skills testing if relevant.
- 9) Consensus of interview panel to establish those potential hires.
- 10) Background investigation.
- 11) Interview with Chief and/or future supervisors.
- 12) If needed, additional follow-up.
- 13) Make conditional job offer through Chief.
- 14) Medical, and psychological exam if relevant to the position.
- 15) New hire begins probationary employment.

100-5-1 Promotional Process

The department encourages filling supervisory positions through a promotional process rather than an "outside" selection process whenever possible. Although subject to modification, the Chief may use the following guidelines to promote to supervisory positions.

For position of patrol sergeant: five years of full-time law enforcement experience, and at least three years of employment with the Cumberland Police Department or at the Chief's discretion. Must have LESB certification, minimum post high school education or be grand-fathered with non-lapsing LESB certification prior to Feb 1st. 1993 consistent with the job description. Must possess and portray effective leadership skills.

The Chief or designee may:

- 1) Announce an open position and request a letter of interest from qualified candidates
- 2) Open a time window for such letter and establish deadline for submission
- 3) Review letters of interest and review work history and performance records
- 4) Conduct competitive test, exercise, or other process (optional)
- 5) Schedule interviews with qualified candidates
- 6) Announce promotion

100-5-2 Equal Opportunity Statement

The Cumberland Police Department is committed to an affirmative action program designed to identify possible discriminatory practices and eliminate them from its organization. It is the policy of the City of Cumberland to provide equal opportunity in all facets of government services, purchases, and employment to all citizens regardless of race, color, creed, sex, national origin, age or handicap. This policy reflects the intent and purpose not only of law, but also a firm belief that the principles of equal opportunity represent that which is just and ought to be.

NOTES:

100-6-0 GENERAL DUTIES

Work groups within the Cumberland Police Department are divided into the following basic areas:

- 1) Administrative Services: Chief
- 2) Field Services Division: Patrol Officers (Full and Part-Time)
- 3) Administrative Assistant

Rank, pay code, seniority, experience, duties, and assignments notwithstanding, the Chief may at his discretion change, appoint, or reassign job duties or assignments at any time within a work group.

100-6-1 Position Descriptions - Current job descriptions maintained by City of Cumberland Human Resources

NOTES:

100-7-0 PURCHASE POLICY

All purchases charged to and/or ordered through the Cumberland Police Department will require approval by the Chief prior to placement of an order, except at approved local vendors or emergency purchases not to exceed \$50.00. All other emergency purchases will require verbal approval of the Chief or his designee, and a purchase request completed and approved as soon as possible thereafter.

The purchase request shall contain the following information:

- 1) Vendor name and address
- 2) Description of item(s) to be purchased
- 3) Actual (or estimated) cost, including freight
- 4) Account to be charged (including account number)
- 5) Requester's signature
- 6) Approval signature by Chief or his designee
- 7) Date of approval

Purchase requests may be approved by: 1) Chief; or a designee approved by the Chief.

100-7-1 Uniform Expenditures- Uniform Clothing Account

Existing agreements between the City of Cumberland and the labor unions which represent uniformed personnel of the Cumberland Police Department spell out current provision financial amounts and carryover of uniform accounts.

Sworn personnel of the Department receive annual funding for approved uniform and/or equipment purchases. This money is added to the individual employee's uniform account effective January 1st of each year and cannot be used prior to that date.

Items must be deducted from the year in which the city paid for the item, per existing federal accounting guidelines. As a result, uniform account items must be received and paid for by December 31 of each year to ensure that the item(s) will be deducted from the current year balance. Officers must order uniform items in compliance with the timelines set up for the fiscal year.

Individual uniform balance sheets are maintained for all personnel on uniform account which detail purchases and have a running current balance once items ordered are received and deducted. Personnel should check with the Chief of Police prior to ordering uniform items, to ensure that there are adequate funds in the employee account. The appropriate purchase order form will be prepared and forwarded by the requesting employee and shall include the dealer's name, purchase description, item identification number, and cost.

Only Department authorized dealers with have purchase accounts with the department may be used. This form should be "in hand" before making a purchase. The Administrative Assistance shall review each Officer request and provide written authorization, when appropriate, to the Chief of Police. The actual ordering of uniform parts shall be submitted to the Administrative Assistance or Chief of Police who will place the order.

Under no circumstances are employees permitted to exceed the amount available in their account. If an employee orders items which exceed the current account balance, he/she will be required to pay the difference out of pocket either directly to the vendor or to the City of Cumberland.

The clothing allowance is meant to offset or pay for authorized uniform and equipment items related to the duties of the police officers.

Uniform Account funds may be used for authorized articles which need replacement due to normal wear in addition to those items needed to maintain an adequate inventory of clothing and equipment.

Body armor is eligible for replacement after five years and shall be paid for as agreed upon in the collective bargaining agreement.

The Chief of Police is authorized to purchase a dress uniform. -

Officers authorized to use bicycles during their tours of duty are permitted to purchase approved uniform attire for this purpose from their individual clothing account.

NOTES:

100-8-0 WAGES AND OTHER COMPENSATION

Generally, wages and other compensation procedures are defined in the labor agreement for represented employees. This section is not intended to restate those provisions but to compliment them in procedural issues.

100-8-1 Overtime

Overtime costs are a legitimate budgetary concern. It is the policy of this department to limit overtime expenses to a level of fiscal responsibility. All employees who are asked to, or find it necessary to work overtime as a part of their duties, are to receive approval by the Chief if applicable.

In situations requiring "callout" of department personnel, general approval is assumed because the "call out" has been approved by a supervisor or most senior Officer on duty. In situations of the routine nature, more specific approval is required on an event-by-event basis. In every case, the department employee claiming overtime must indicate the date, reason, hours, and the person approving the overtime, on the pay slip document.

100-8-2 Paid Leave Accrual Balances

Sick time, holiday leave and vacation leave balances are expressed in hours and are shown on an employee's paycheck stub.

Hours of paid leave expressed on a paycheck stub are considered accurate and are updated on a pay period basis. Employees are to monitor their own vacation/holiday/ sick leave hours used, hours accrued, and usable balances to prevent either over-using or under-using paid leave balance accounts.

100-8-3 Subpoena Fees

If employees are required to give testimony in any case, be it criminal or civil in nature, regardless of the type of hearing or the hearing location, when the action is a result of the employee's work-related action. It is considered an extension of their duties. Therefore, acceptance of fees beyond the regulated court time compensation procedure in any work-related case is forbidden ethically and by this department policy.

Employees who are required to testify in matters unrelated to Cumberland Police Department duties (court cases stemming from previous employment), will not be paid by the Cumberland Police Department. Witness fees shall be obtained for these matters.

Subpoena fees received must be delivered to the Chief's administrative support staff for deposit with the city's finance department.

Depositions or meetings with private council must take place either "on duty," if possible, or "off duty" wherein the private council will be billed by the Police Department for the actual costs of the employee's wages, expenses and travel expense. Employees may not directly accept fees from any person or firm when the action is a result of the Officer's work product or is otherwise work related.

Fees may be accepted for professional or expert services requested and rendered for cases not involving the Cumberland Police Department, with prior approval of the Chief for each individual case.

100-8-4 Travel Expenses

Travel expense procedures are intended to be consistent with the Fair Labor Standards Act and the policy of Cumberland.

- 1) Mileage. Department employees are expected to arrange for a city-owned vehicle when required to leave the city on department business. If a city vehicle cannot be arranged, the employee is entitled to a mileage rate established by city policy. If a city-owned vehicle is available and the employee elects not to use it, the employee is not entitled to mileage reimbursement. If requesting mileage reimbursement, the employee must complete the reimbursement form and submit through the office/fiscal manager for payment. Mileage will be reimbursed from the police department to the destination or from the employees' residence to the destination; whichever is less mileage.

Unless specific approval is granted to the contrary, the department will pay only one vehicle's mileage, when more than one employee attends the same function in the same location during the same time period.

- 2) Meal costs. Receipts are required for actual meal expenses and may not include alcoholic beverages or tips. Meals purchased within the city are not reimbursable. Employees must submit detailed receipts itemizing meals purchased for the actual expenses. If the employee elects to pay for the meals with personal funds and request reimbursement, the employee must complete a statement of expense form. In the event the employee is not allowed to leave the location of the event and must provide their own meals, a statement of expense form may be completed requesting reimbursement for items purchased to prepare the meals. Documentation of the travel restriction must be provided for the reimbursement request to be approved for payment. Requests for reimbursement must be submitted to the office/fiscal manager for payment. This responsibility is explicitly the traveling employee's responsibility and failure to do so is subject to discipline.

Snacks, refreshments, or any other similar expense between meals are not permissible and will not be considered an allowable expense.

All meal expense reimbursements with no overnight stay are subject to federal, state, and social security taxes.

- 3) Miscellaneous expenses. Commercial travel, car rental, lodging, phone calls, taxi, and parking expenses are governed by city policy. Employees expecting to incur such expenses are directed to consult with their supervisor prior to travel.
- 4) Reimbursement payments will be processed through the payroll process once per month to correspond to the health insurance deduction payroll.

NOTES:

100-9-0 ACCESS TO BUILDING BY NON-MEMBERS

Two basic principles are considered when determining who has access to the Police Department building. First, the fact that the physical building is provided by the efforts and funds provided by the citizens of Cumberland, therefore the citizens are encouraged to take ownership and pride in the way the building is managed. Second, by the very nature of the law enforcement function, security, confidentiality, and uncompromised safeguards are necessary to protect the integrity of the department's role in the community.

Generally, law enforcement personnel, city employees, and professional service providers are allowed access to the building unescorted. All other personnel are to be escorted at a level consistent with the area and function.

NOTES:

100-10-0 INSPECTION OF PUBLIC RECORDS AND DOCUMENTS

The public has an abiding interest in law enforcement and in the activities of the department. The news media and members of the public frequently direct inquiries to the department to fulfill police records requests. All public records and documents in the department shall be available for public scrutiny unless special consideration is warranted. The decision to release police records will be determined according to the facts of each case in accordance with the guidance contained herein.

100-10-1 Persons who may Consider Requests for Public Inspection

The following Officers of this department will consider requests for the inspection of public records and documents in the custody of the department: Chief, Records Custodian/Legal Secretary.

All information concerning policy and procedure will originate from the Chief. Budget requests and logistical information will be released only by the Chief. All comments referring to inter-departmental memos, orders, and communications will originate from the Chief.

Plans, personnel matters, and prepared releases concerning specific news items will be released only by permission of the Chief.

Personnel photographs (and photographs of arrested persons) will be released only by permission of the Chief. Investigative photographs will be released by the Chief.

The Chief may decide that information relating to cases which may involve potential civil liability to the city should be held until a review and approval has been obtained from the City's Attorney's Office.

100-10-2 Access to Police Records

Members of the department, only when authorized for a specific purpose, shall have access to the official records maintained by the department. This regulation prohibits all unofficial use of police records. Tampering with records by members of the department is prohibited.

Members of the department shall not divulge the contents of police records to anyone outside the department without permission from the Chief. No member of the department shall divulge any matters relating to official police business without first receiving authorization.

100-10-3 Inspection VS. Non-Inspection of Record

Whenever inspection of any public records or documents containing information of the kind listed below is requested by a member of the public, the Chief or his/her designee shall give special consideration to the competing public interests favoring inspection or non-inspection before permitting the release of the requested public records or documents.

The term "special consideration" as used herein shall include answering the following question ... "would inspection of the desired public record or document result in harm to the public interest that would outweigh any benefit to the public that would result from inspection?"

If, in considering the above question and the public policies involved, the releasing Officer finds the answer to be "no," inspection shall be immediately granted.

However, if initial consideration of the request reveals a cogent public policy reason favoring non-disclosure, the person requesting inspection of the public record or document should be orally advised of the reason why it initially appears that inspection cannot be allowed, and if after being so advised, the person requesting the document still desires to view the same, s/he shall be requested to present a formal written request to the Chief, identifying the specific record or document requested and any additional public policy reasons or considerations that favor inspection of the desired public record or document.

If, after consideration of the written request and after further consideration of all public policies involved, the answer to the special consideration question is "no," inspection shall be granted. However, if after special consideration the answer to the special consideration question is "yes," and inspection is thus denied, the person requesting inspection shall be advised in writing of precisely how the public will be potentially harmed by the disclosure of the contents of some or all of the said public records or documents. In any event, all remaining portions of any such record or document, the release of which will not be harmful to the public good, shall be released.

100-10-4 Public Policies Relating to Requests for Inspection of Public Records and Documents Warranting Special Consideration

Requests for inspection of public records or documents containing any of the following categories of information shall warrant special consideration of the competing public policies involved before disclosure by the authorized Officer. Some public policies favoring non-disclosure of certain information are:

- 1) Avoid Releasing Pretrial Publicity that may tend to diminish the Accused's Right to a Fair Trial.

The compelling public policy favoring right of an accused to a fair trial free of prejudicial pretrial publicity make "special consideration" of certain types of information contained in otherwise public police records mandatory before any of such information may be released to the public.

The types of information listed in paragraphs (a) through (g) below, if disclosed prior to trial, may tend to prejudice and thereby diminish the accused individual's right to a fair trial. The types of information withheld prior to trial to accommodate the accused's right to a fair trial may be available for release after final disposition of the case, unless other cogent reasons outweigh the public right of disclosure. However, certain information may be released prior to trial, including: the arrested person's name, age, residence, employment, marital status, and similar background as well as the charge; information summarizing the offense or charge, such as listed on the court complaint, will be released, the circumstances immediately surrounding the arrest, including time and place of arrest, resistance, pursuit,

and possession or use of weapons. Release of police techniques, use of alarms, surveillances, informants, etc. will receive "special consideration" as provided in Section 2.

Consider the foregoing public policy reasons relating to pretrial publicity when weighing the consequence of releasing the following types of information prior to final disposition of the case. (Included in parentheses are additional possible public policy reasons for retaining particular subject matter or types of information which are not related to the public policy associated with "pretrial publicity" which may be separately considered.)

- A) Statements as to character or reputation or criminal or arrest records of an accused person or prospective witness which, if made public, may tend to prejudice, and thereby diminish the accused individual's right to a fair trial. (Possible additional reason not related to the "pretrial publicity" area of public concern: public disclosure may unduly damage reputations.)
- B) Admissions, confessions, or contents of a statement of alibi attributable to an accused person which, if made public, may tend to prejudice and thereby diminish the accused individual's right to a fair trial.
- C) The performance or results of any examination or laboratory tests or the accused's refusal or failure to submit to an examination or laboratory test which, if made public, may tend to prejudice, and thereby diminish the accused individual's right to a fair trial.
- D) Statements concerning the credibility or anticipated testimony of prospective witnesses which, if made public, may tend to prejudice and thereby diminish the accused individual's right to a fair trial. (Possible Additional Reasons Not Related to the "Pretrial Publicity" Area of Public Concern are: possible witness harm or harassment and/or possible interference with ongoing criminal investigation)
- E) The possibility of a plea of guilty to the offense charged or a lesser offense, or other possible dispositions of the case which, if made public, may tend to prejudice, and thereby diminish the accused individual's right to a fair trial.
- F) Opinions concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at the trial which, if made public, may tend to prejudice, and thereby diminish the accused individual's right to a fair trial. (Possible additional reasons not related to the "pretrial publicity" area of public concern are: possible interference with ongoing criminal investigation and/or public disclosure may unduly damage reputation.)
- G) Opinions expressed by investigating Officers which, if made public, may tend to prejudice, and thereby diminish the accused individual's right to a fair trial. (Possible Additional Reasons Not Related to the "Pretrial Publicity" Area of Public Concern are: Possible interference with ongoing criminal investigation and/or Public disclosure may unduly damage reputation).

2) Retain Information Relating to Police Investigation and Crime Prevention Techniques.

The public interest is best protected if the criminal element included within the general public is not forewarned of police investigative procedures and crime prevention methods. Thus, "special consideration" should be given before public disclosure of any record or document relating to police investigative procedures or crime prevention methods, including, but not limited to, the following:

- A) Reference to investigative procedures relating to fingerprints, polygraph, blood-alcohol tests, ballistics or other laboratory procedures and conclusion and methods.
- B) Police techniques such as surveillances and the use of informants, alarms, time tables for transactions or transportation of valuables.

3) Consider Adverse Effect Once Litigation has been Commenced.

Consider the possible harm to the public good that may result from the release of police information that may diminish the chance of a successful prosecution. Discuss such possible harm with the office of the prosecuting attorney. The public is entitled to be protected against violations of law and to have the law vigorously enforced. Special consideration to the possible harmful effect to the public's right to be protected against crime shall be given to all requests for information, the release of which may be harmful to the public welfare. Only limited discovery of police information and witnesses is permitted by law prior to trial. Information contained in police public records and documents concerning pending proceedings of which the County or State is a party shall only be released upon court order or in compliance with the law

of criminal and civil discovery, after consultation with the attorney representing the County or the State in the proceeding.

- 4) Consider the Possible Harm to the Public Good that may result from the Release of Information that may hamper Continuing Police Investigations.

Any information concerning or able to be used in a continuing investigation of a police matter shall receive "special consideration." Not only is there a possibility of prejudice to the potential defendant's right to a fair trial but also a possibility that premature release of this type of information may hamper police in the swift conclusion of their investigation or other disposition of the case. Descriptions of wanted and missing persons and other current police incidents will be released when the release of such information to the public may aid in the solution of the problem, alert the public to possible danger, or aid in the prevention of crime; however, descriptions of missing persons will receive "special consideration" unless the consent of the family for public disclosure has been obtained.

- 5) Identity of Informants, Complainants, Witnesses and Victims.

Only with the cooperation and support of the public are police able to perform their function in modern society. Police must continually rely upon the reports and subsequent testimony of concerned citizens to identify and abate criminal activity. Most persons who provide information relating to real or suspected unlawful activity to the police do so with an expectation of confidentiality, unless their testimony is necessary at trial. Individual citizens are often reluctant to assist police if the notoriety and embarrassment of public disclosure is a certainty. A chilling effect on citizen assistance, though hard to measure, would surely result from general and indiscriminate public disclosure of the identity of persons who assist the police in this manner. So too, an informant, once revealed, ceases to perform as an adjunct to the task of law enforcement. Additionally, those persons would be unnecessarily subjected to the increased possibility of harassment and retaliation. "Special consideration" shall be given any information concerning the identify of informers, complainants and witnesses to protect those citizens who assist the police from embarrassment, to protect their safety, and to encourage citizen participation in law enforcement. The names of victims of criminal acts may be released, except where the identification of the person will endanger the individual's safety, hamper further investigation, or is contrary to law.

- 6) Avoid Releasing the Identity of Persons under Suspicion.

Any revelation of the identity of a person suspected of unlawful activity before arrest or other commencement of lawful proceedings may subject a completely innocent person to public scorn and embarrassment. Additional harm to the public good may result if a suspect or accomplices flee to avoid apprehension. Disclosure may also endanger the suspect's safety. "Special consideration" shall be given to the release of any suspect's identity before arrest or other commencement of lawful proceedings.

- 7) Confidentiality of Personnel Records.

"Special consideration" shall be given before the release of any information contained in records concerning departmental personnel. Said records often contain materials concerning financial, medical, social, personal history data, past work evaluation or current job evaluations that are secured upon a pledge of confidence. Any breach of this expectation of confidence would hamper efforts of the department to collect all the information necessary to properly evaluate its personnel. Disclosure of such information may also unduly damage reputations of persons named in such records. Any request for disclosure of information in these records should also be evaluated to identify the existence of financial, medical, social, or personal history or disciplinary data which may also be unduly damaging to reputations.

In addition to the city policy that governs employee personnel files, the department establishes the following guidelines in regard to the use of employee personnel records.

- A) The department shall, upon the request of a current employee, permit the employee to inspect any document contained in the official personnel file. The employee shall give reasonable notice and the department will respond in a timely fashion.
 - B) Based upon WI Stats. 103.13, an employee involved in a grievance against the department may designate in writing a representative of the employee to inspect the employee's personnel records which may have a bearing on the resolution of the grievance.
 - C) Under the provisions of WI Stats. 103.13(6), the right of the employee or the employee's representative to inspect the official personnel file does not extend to:
 - 1. records relating to the investigation of possible criminal offense(s) alleged to have been committed by that employee
 - 2. letters of reference, including background investigations
 - 3. any portion of a test document except a cumulative or entire test score
 - 4. materials used by the department for staff management planning, including recommendations concerning promotions, job assignments, or other comments or ratings used for the department's planning purposes
 - 5. information of a personal nature about a person other than the employee if disclosure would constitute an unwarranted invasion of privacy
 - 6. records relating to ongoing administrative investigation
 - D) Under WI Stats. 103.13(4), if the employee disagrees with any information contained in the personnel file, the employee may submit a written statement explaining the opposing position. The department will attach the employee's statement to the disputed portion of the record and remain attached as long as the disputed record is part of the file.
 - E) Contents of an employee's personnel file will not be released to others without the written consent of the employee, except in the following cases:
 - 1. verification of employment or past employment dates and positions held
 - 2. when requested as part of an appropriate governmental inquiry into the department's employment practices as provided by law
 - 3. to the Chief, members of the law enforcement committee, personnel committee, legal representatives, or other designated authorities actually engaged in disciplinary action
 - 4. to authorized department personnel engaged in performance evaluations
 - F) In the event that a request is made to view any employee's personnel file and the requester is someone other than indicated above, and if there is no other legal basis for denying access, the department will give notice to the employee that a request has been made and of the intent to release the file. The department will allow a reasonable amount of time for the employee to appeal the decision to the circuit court based on reputation or privacy interests. This process will be consistent with *Woznicki v. Erickson*, 202 WI 2d 178.
- 8) Consider Other Appropriate Non-Listed Reasons for "Special Consideration."

The above enumeration of information categories which should receive "special consideration" is not intended to be exhaustive. Because of the unique nature of each fact situation, the releasing Officer must in each case make an individualized judgment concerning the information requested. In weighing the competing public policy interests the releasing Officer may find that, in view of a particular fact situation, certain information not herein enumerated may warrant "special consideration." In that event, the releasing Officer shall follow the procedure set forth herein for that information specifically enumerated as warranting "special consideration."

100-10-5 Public Records or Documents which may not be Released

Certain records and documents are made confidential and precluded from public inspection by statute or common law. In the following instances inspection may not be granted to the public:

1) Juvenile Records

Requests for inspection of children's police records may not be granted except to representatives of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news

without revealing the identity of the child involved. (Wis. Stats. Sec. 48.26), however, this section will not be invoked if the offense is a traffic violation of Chapters 340 to 349, Wis. Stats., or a County or municipal ordinance enacted under Sec. 349.06, Wis. Stats.

2) Attorney-Client

Certain information contained in public records and documents in the department is protected by the attorney-client privilege or by the Attorney's work product rule, and may be protected from release. Each request for information which may be protected by the attorney-client privilege shall be discussed with the attorney responsible for the particular case involved.

6. Offense Incident Control

- 1) All original Patrol Offense/Incident Reports submitted must pass through the approval process.
- 2) All original copies of Patrol Offense/Incident Reports will be submitted to the approving authority in their entirety.
- 3) Patrol Offense/Incident Reports and addendums must be submitted by the end of the officer's shift if a subject was taken into custody and will have court the following day. If an incident is being documented that did not result in a subject being taken into custody, the incident report shall be completed by the end of the officer's work rotation, unless otherwise authorized by a supervisor.
- 4) An incident report must be completed on all mutual aid requests.
- 5) After patrol reports have been reviewed, the Records Custodian or designee will:
 - A) File original copies in the appropriate file storage area.
 - B) Forward a copy to the responsible follow-up area.
- 5) Reports and copies will be open for public inspection upon request but only after review by the Records Custodian or designee to ensure items of non-release are not contained in the report and copies.

7. Dissemination of Records

- 1) Records Custodian or designee will copy and disseminate records as required by law and file a copy of the request with the original report indicating copies were sent, to whom, and by whom authorized. Release to agencies or persons not required by law may be authorized only by the appropriate authority and shall be noted with the original report.
- 2) Requests by citizens for a copy or inspection of public records/documents in the custody of the department will be processed according to State Statutes and department policy. There will be a fee of \$5.00 for records which include CADs, Law Incidents, and other documentation. There will be a fee of \$5.00 for each CD/DVD.
- 3) The News Media will receive general information (e.g., arrested person's name, age, residence, charge, and circumstances immediately surrounding arrest) from the Chief or designee.
- 4) Officers are not to release any records without approval from the Chief of Police.

NOTES:

200 OFFICER CONDUCT

The very nature of the law enforcement profession dictates that its members conduct their professional and personal behavior at a high standard. It is the goal of the department, through the actions of the members, to gain and maintain the respect of the public. This being the case, all members of the department must be at all times, on or off duty, respectful to the public. Officers must conduct themselves in a manner that is likely to encourage a state of mutual respect, therefore building public confidence in the department.

200-1-0 GENERAL REGULATIONS

- 1) Employees of the Cumberland Police Department shall maintain a loyalty to the Department and to their associates, as is consistent with professional ethics.
- 2) All members are required to take appropriate action toward aiding any Officer exposed to danger or in any situation where danger might be impending.
- 3) Officers shall at all times take appropriate action to protect life and property, preserve peace, prevent crime, detect and prevent violations of the law and, with justified discretion, enforce all laws within departmental jurisdiction.
- 4) Employees shall not act in any manner as to deprive any person equal protection of the law.
- 5) Officers shall not ignore flagrant violations of the law. Although it is recognized that justified discretion can call for less than total enforcement, there is no excuse for unreasonable failure to enforce the laws the Officer is sworn to uphold.
- 6) Officers shall properly respond to calls or suspicious circumstances without unjustified delay.
- 7) Members of the department shall not engage in activity that does not pertain to departmental business while on duty unless prior approval is given.
- 8) Employees shall avoid association with persons that the Officer knows or should know is involved in criminal activity or has a reputation of being involved in criminal behavior, except as necessary in the performance of their official duties.
- 9) Employees are expected to respond to emergencies when called on.
- 10) While on duty, employees must be alert, neat, and businesslike in their dealings with the public.
- 11) No member of the department shall sleep while on the job without first being relieved of their job duties.
- 12) No member of the department will show disrespect to, lie to, intentionally mislead or willfully mistreat any other member of the department or any citizen without sound justification.
- 13) No member of the department shall publicly criticize the official actions of this department, another department, or any of their members nor take part in any public discussion that is derogatory to the department.
- 14) No member of the department shall fail to fully cooperate with, or give evidence in, any court of record or other legal proceeding, or before any governmental administrative body when properly called upon to do so.

200-1-1 Conduct unbecoming an Officer

Officers shall regulate their conduct while on duty or off, in uniform or not, in such a manner as not to bring disrespect, ridicule, or justified criticism to the department itself, any member, or the law enforcement profession.

Members of this department shall not be overbearing, oppressive, or tyrannical in their relations with the public. This regulation includes within its prohibition all clearly recognizable actions that serve to breed disrespect or are likely to create a gross breach of public support, whether or not the actions are observed or heard by the public.

Officers shall be as courteous as reasonably possible to the public. Officers shall be tactful in the performance of their duties, shall control their tempers and exercise the utmost patience and discretion. Officers shall not engage in argumentative discussions even in the face of extreme provocation.

200-1-2 Misuse or abuse of authority or position

In recognition of the authority, power, and trust granted by the public to the Cumberland Police Department, the following rules and regulations are established to prevent the misuse of that authority, power, and trust.

- 1) No member of the department may use their official position or authority for any purpose outside their official duties.
- 2) Although the Cumberland Police Department is a resource for information and services to the public, no Officer or other employee may recommend to the public one service over any other. Officers shall not unfairly suggest the use of any particular attorney, wrecker service, locksmith, surveyor, automobile-related service provider, medical facility, energy service provider, physician, security service, insurance provider, or any other business or activity in which the competition for business is likely to occur. Members shall not directly or indirectly interfere or otherwise interest themselves in any competitive business wherein the member's official position may influence or create a perception of influences the relative success of that business, providing an unfair advantage.
- 3) No Officers shall take part, directly or indirectly, in any activity, negotiation, or compromises between any criminal and victim with the object of enabling the criminal or suspect to circumvent prosecution or penalty for their actions without permission and sound justification.
- 4) No member of the department may themselves take, or give to any person confidential information or documents except through official or regular channels. Employees are prohibited from relaying verbal or written information to any other non-department member, whether or not the information is classified confidential, except through official or regular channels.
- 5) Officers shall not investigate or arrest in cases where they, themselves, or members of their family, have interest or are a party involved in the incident.
- 6) No member of the department may issue or send out letters relative to department business without approval from the Chief except in accordance with routine practice.
- 7) No member of the department may use department letterhead or related forms except where directly related to department business.
- 8) Officers shall not use their official capacity to assist in civil cases except where involvement is likely to prevent a future breach of peace. Officers shall not advocate for one side or the other of a civil dispute.
- 9) Officers shall not take part in civil cases or take part in civil actions unless legally requested or subpoenaed to do so except in pursuit of their own personal matters.
- 10) Members of the department shall not use the department's address or phone numbers for personal business or unauthorized correspondence. Department members may, however, give out department phone numbers identified as work numbers and department addresses identified as work address. Employees may be contacted by these means for convenience purposes but these occasions are to be treated as an exception, not a rule. **Members of the department shall not give their personal phone number to members of the public that they have contact with while on duty, unless unforeseen circumstances arise that require you to do so.**
- 11) No department member shall neglect to properly treat evidence or property that has come into their possession, or misappropriate or convert such property to personal use.
- 12) No employee shall void or cause to be dismissed any arrest warrant, summons, traffic citation, or record of related activity, without consent of the Chief.

- 13) No employee of the Cumberland Police Department shall use his position or influence for any other purpose other than to carry out department business and to further the department's goals and objectives.
- 14) No employee may use department equipment, time, material, or resources for any other purpose than to carry out department business and to further the department's goals and objectives without permission from the Chief.

200-1-3 Insubordination

Self-discipline, conscientiousness, and diligent performance of duties and the department's reputation should always be foremost in all employees' minds. In order for a successful public service agency to be effective, it is of vital importance for its internal structure to be established and maintained. The maintenance of the department's command structure is every employee's responsibility regardless of rank and position.

Personal disagreements and arguments between supervisor and subordinates, especially in public, can only lead to a breakdown in the department's structure and success.

Outward signs of contempt, whether internal to, or outside the department, threaten the command structure of the department, reduce efficiency and jeopardize the department's effectiveness. Failure to follow orders and show proper respect for the authority and rank of commanding Officers constitutes insubordination and will not be tolerated.

- 1) Disrespect by actions or words, whether displayed privately, in the presence of co-workers, or in the presence of the public is insubordination and is subject to discipline.
- 2) Criticism of a superior Officer, the superior Officer's orders, and actions shall not be made publicly.
- 3) Disobedience of a lawful order or directive, whether written or oral, constitutes insubordination.
- 4) Employees in doubt as to the nature or details of their assignment shall seek to resolve the doubt by communicating with their supervisor by proper use of the chain of command.
- 5) Complaints regarding a supervisor shall be addressed to the supervisor's immediate supervisor. A complainant may skip a link in the chain of command and complain to a higher authority only after exhausting other efforts to obtain a resolution. This section is subject to exception only in cases of extreme importance and when an immediate supervisor is unavailable.
- 6) Internal criticism that meets the "disruptive test" of the public criticism regulation is prohibited. Internal dissension and criticism is more disruptive than public scrutiny and criticism due to the fact that the police department law enforcement function requires a high level of internal discipline to guarantee efficient and effective public service.
- 7) Officers and member employees of the department must cooperate in any official internal investigation of suspected misconduct, violations of policy, and impropriety. Failure to answer questions or submit to investigative procedures constitutes insubordination.
- 8) The department recognizes that its members retain rights to freedom of speech and expression granted by the U.S. Constitution whether on or off duty. However, these rights do not allow for conduct that is disruptive to the safe and effective operation of the department and the proper function of the public's business. Generally, conduct within the prohibition of this regulation, includes open, public statements or overt actions as opposed to private forms of expression and conversation. Further, more general statements of criticism fall outside the scope of this regulation while specific criticism of specific Officers' orders or operations fall within the scope of this policy. In any case, abusive, frivolous, malicious, or deliberately constructed false criticism is prohibited.

200-1-4 Sexual Harassment

Sexual harassment in any form is unacceptable conduct and will not be condoned or tolerated by the Cumberland Police Department. Acts of sexual harassment at the workplace by employees towards other employees, clients, or other members of the public will not be tolerated and are strictly prohibited. Accordingly, the city adopts and establishes the following standard:

- It is unlawful and against city policy for any employee, male or female, to harass another by making unwelcome sexual advances or making favors or other verbal or physical conduct of a sexual nature a condition of any employee's work; using an employee's submission to or rejection of such conduct as the basis for or as a factor in any employment decision affecting the individual; or otherwise creating an intimidating, hostile, or offensive working environment by such conduct.

- The creation of any intimidating, hostile, or offensive working environment may include such actions as persistent comments on an employee's sexual preference or the display of obscene or sexually oriented photographs or drawings. Conduct or actions that arise out of a personal or social relationship and that are not intended to have a discriminatory employment affect may or may not be viewed as harassment. The city will determine whether such conduct constitutes sexual harassment, based on a review of the facts and circumstances of each situation.
- The city will not condone any form of sexual harassment toward others, including clients and the general public. All employees will be subject to disciplinary action, up to and including discharge from employment, for any act of sexual harassment against others.
- Employees who believe they are being sexually harassed should report the harassment to their immediate supervisor at once. If the employee's supervisor is the source of the alleged harassment, the employee should report the harassment to the mayor. All sexual harassment complaints should be made in writing and will be investigated.
- Supervisors receiving a sexual harassment complaint should notify the Chief or Mayor immediately to begin careful investigation of the matter. Privacy considerations should be applied in handling this type of complaint. The investigation should include questioning employees who may have knowledge of the incident in question or similar problems. The complaint, investigative steps and findings will be documented thoroughly.
- Employees who are dissatisfied with the investigation's resolution of a sexual harassment complaint may file a complaint through the city's grievance procedure. No employee will be subject to any form of retaliation or discipline for pursuing a sexual harassment complaint. Modifications to the city's grievance procedure may be necessary so as not to duplicate the complaint procedure for sexual harassment.

200-1-5 Prejudices and Discrimination

Employees shall not speak against or ridicule the race, sex, color, creed, religion, sexual orientation, age, ancestry, or nationality of any person or group of people.

Officers and all other department members shall provide equal, fair, uniform, and similar treatment of all individuals.

200-1-6 Conflict of Interest

No employee of this department shall own, operate, or otherwise be connected with a for-profit business during off-duty hours that creates or has the potential for creating a conflict of interest with department duties.

Employees are to conduct themselves so as to avoid an actual conflict or the appearance of a conflict of interest as either circumstance would compromise their integrity and that of the department.

200-1-7 Cooperation with Co-Workers

Cooperation among and between department members is essential in the uniform attempt to attain department goals, reach department objectives, conserve time, and prevent duplication of effort. Therefore, a violation of any of the following may lead to disciplinary action:

- 1) Any employee of this department who comes into possession of information regarding any offense that comes under the jurisdiction of this department and fails to act or transmit such information to the proper authority is in violation of this section.
- 2) No member of this department shall fail to cooperate with any or all members of this department by withholding information regarding any law enforcement matter for personal benefit gained or because of spite or selfishness.
- 3) No member of this department shall alter or cause to be altered any information, document, or report for the purpose of misleading, discrediting, or impeding the investigative efforts of any other law enforcement Officer.
- 4) No member of the department shall fail to prepare reports, forward messages, appear in court, or perform any other law enforcement function relating to activities of the department.

200-1-8 Truthfulness and Credibility

Without question, the single most valuable characteristic an Officer can possess is credibility. This is true both in the investigative stage of a case as well as the judicial stage. Untruthfulness is a sure way to destroy credibility. One case of questionable truthfulness can quickly destroy years of established credibility not only for one Officer but also for the entire department and law enforcement community.

Officers of this department are to establish, maintain, and protect to the highest degree their credibility as an individual and as a member of the department.

Any Officer who intentionally misleads or lies in the performance of his duties is in violation of this section and is subject to discipline. The only exception to this section is the intentional misleading or mistruth in accordance with accepted investigative techniques.

NOTES:

200-2-0 OFF-DUTY EMPLOYMENT

Officers of the Cumberland Police Department may hold off-duty or secondary employment as long as such employment does not interfere with the Officer's employment with the department.

- 1) Officers desiring to hold off-duty or secondary employment shall:
 - A) submit a written request for off-duty employment to the Chief whose approval must be granted prior to engaging in such employment.
 - B) not request or accept employment in any business involving the sale or distribution of alcoholic beverages, or investigative work of insurance agencies, private security services, collection agencies, or law firms.
- 2) The Chief may deny approval for outside employment when it appears that such off-duty employment might:
 - A) render the Officer unavailable during an emergency
 - B) physically or mentally exhaust the Officer to the point that the Officers' performance is likely to be affected.
 - C) require that any special consideration be given to scheduling of the Officer's regular duty hours.
 - D) bring the department into disrepute or impair the operation or efficiency of the department or Officers.
- 3) Written denial or approval shall be made to the requesting employee by the Chief within ten working days of receipt of the request except when an investigation is warranted.
- 4) Officers must keep on file an accurate telephone number of the off-duty employment where the Officer may be reached during an emergency.
- 5) If off-duty or secondary employment is approved and there is a clear showing that the employment does interfere with the employee's primary work, the secondary employment authorization may be revoked.

NOTES:

200-3-0 DEPARTMENT PROPERTY

All members of the Cumberland Police Department shall properly maintain, use, and take every reasonable precaution to protect from loss, theft, damage, tampering, or unauthorized use any supplies, equipment, or property entrusted to them.

200-3-1 General

Employees shall be responsible for the care of fixed or mobile department property assigned to their use or keeping. Employees will promptly report the loss of, damage to, or unserviceable condition of such property in writing to the Chief.

Any employee who willfully or negligently destroys or damages department property or other property belonging to the City of Cumberland shall be in violation of this section and shall be subject to discipline.

No member of the Cumberland Police Department shall convert to personal use any property owned by the City of Cumberland or legally in custody of the Cumberland Police Department.

200-3-2 Equipment and Grounds

Every member of the department is charged with the responsibility of the maintenance of department equipment and grounds. Employees are to report to the proper authority damage, malfunctions, and repairs needed to department equipment and grounds.

200-3-3 Vehicles

Reference 200-10-0 and 200-10-1.

Recognizing that city-owned vehicles constitute a considerable investment, all reasonable efforts shall be made to properly care for all vehicles. City-owned vehicles must be accessible at all times in the event the vehicle is needed by another city employee.

Any damage that occurs to department vehicles shall be documented in writing, including all relevant facts, and submitted to the Chief as soon as practical after the incident. This includes damage that may be the result of an accident, intentional act, or at the hands of another person.

Employees shall not modify, install, or permit modification or installation of any equipment, graphics, or accessories on any vehicle owned by the city without prior approval of the Chief.

Department vehicles shall not be used for personal use without the knowledge and permission of the Chief.

200-3-4 Vehicle Maintenance

An Officer who is assigned a vehicle for official use shall keep the vehicle in sound mechanical condition at all times. Officers are also to keep the vehicle clean and neat at all times.

All Officers who are assigned a city vehicle shall maintain the vehicle. One or more Officers may be assigned to maintain a log of maintenance and schedule maintenance appointments. The maintenance log shall identify a history of repairs, maintenance, recalls, replaced parts, tires, etc. The log shall also reflect an accurate routine service record. When instructed to do so, Officers shall submit the maintenance log to their supervisor for inspection.

200-3-5 Department Keys and Proximity Cards

Keys to the Cumberland Police Department buildings shall be provided to those employees who in the judgment of the Chief have a need for such a key. Any key to any Cumberland Police Department equipment, door, vehicle, etc. is the property of the department subject to the control of the Chief.

Employees of the department shall not loan or duplicate department keys without authorization from the Chief or their designee.

An employee of the department shall not possess a department key that he or she is not authorized to possess.

Any employee who possesses any department-owned key shall take all reasonable precautions to prevent the loss or unauthorized use of the key. Employees that do experience the loss of, or unauthorized use of a department key, shall report the same in writing to the Chief as soon as possible. Employees who are assigned a vehicle for official use may duplicate keys for that vehicle as is necessary or convenient. However, any and all duplicate keys shall be the property of the department, subject to the control of the Chief. One key, or set of keys, for every department vehicle, shall be kept in the designated location within the Cumberland Police Department.

200-3-6 Tourniquets

Officers shall be issued a tourniquet designed to treat severe wounds to arms and legs with severe bleeding caused by gunshot wounds, auto accidents, and injuries from explosives. The application of a tourniquet may be the best initial option to control severe extremity bleeding especially when a person has signs of hypovolemic shock (caused by blood loss), extremity injuries from explosive devices that result in the complete or nearly complete severing of limbs, in mass casualty situations, or when bleeding is profuse. In most incidents, the availability of immediate medical care and/or immediate transportation to a trauma center should be considered prior to the use of a tourniquet.

The use of a tourniquet will be consistent with the manner outlined in training that each Officer will receive upon issuance of a tourniquet. Tourniquets will be used in a manner consistent with the established training and as part of the overall sequence of treatment for hemorrhage control (Direct Pressure, Pressure Bandages, ect).

Officers assigned to the Patrol Division shall wear their tourniquets at all times while on duty and be readily available. The tourniquet will be maintained in good working condition and kept clean and presentable at all times. Officers shall follow universal precautions for blood-borne pathogens and following training guidelines and manufacturer's instructions.

Use of a tourniquet shall be documented in an incident report with the Officer's name, badge number, date/ time of incident, location of incident, and a brief description of the incident. Requests for replacement shall be directed to the Chief.

NOTES:

200-4-0 REPORTING FOR DUTY/ASSIGNMENT

Officers shall report for duty at the time and place required by assignment or orders and shall be physically and mentally fit to perform their assigned duties. They shall be properly equipped and cognizant of information required for the proper performance of duty so that they may immediately assume their duties. A summons, judicial subpoena, court notice, training detail or special assignment shall constitute an order to report for duty under this section, however, when court or other special assignments are conducted during off schedule time, this does not constitute regular tour of duty. Officers shall check on duty via radio at, or prior to, their assigned shift so that record may be kept of their times worked.

200-4-1 Address and Phone Numbers

All members of the department shall keep on file a current and accurate listing of their telephone number, address, off-duty employment, and marital status.

Procedures:

- 1) Notification of a change in status, as defined under this policy, shall be made within 24 hours of occurrence.
- 2) Notification shall be provided to the Chief and the dispatch center.

Home addresses and personal telephone numbers of department members will not be released to any nonmember of this department unless authorized by a supervisor.

Individuals wishing to contact an off-duty department member shall be informed that a message will be left for the employee to contact the individual.

If immediate contact is necessary, telephone contact will be made with the employee requesting that he contact the individual, or a telephone conference option may be used if appropriate.

200-4-2 Residency Requirements

All sworn, full-time Officers assigned to the Cumberland Police Department are required to reside within a reasonable distance of the City of Cumberland. "Reasonable" shall be determined by the Chief of Police.

200-4-3 Leaves of Absence

- 1) Requests for a leave of absence may be granted at the discretion of the city, consistent with city policy, subject to the following provisions:
 - A) Leave requests granted for family medical reasons shall be in accordance with state and federal law.
 - B) Leaves of absence for personal reasons shall not exceed 30 days.
 - C) Leaves of absence of more than 30 days must be approved by Chief and appropriate committee(s).
- 2) Compensation/benefits during leave - All leaves of absence shall be without pay. Unused, available paid leave may be substituted for unpaid leave by the employee or employer according to state and federal law during the leave period. No fringe benefits shall be earned during a leave of absence except those entitled under the Family Medical Leave Act. No leave shall be granted to seek other employment. In addition to medical leave provided for by state and federal law, employees may be granted leave for a total period of up to one year for serious illness or injury after exhausting all accrued sick leave and vacation benefits.
- 3) Military leave of no more than 15 days based on actual military orders will be granted with a differential in pay of the employee's regular pay and military pay. Satisfactory evidence of length of leave and military pay shall be furnished to the Chief. Seniority shall accrue throughout the military leave.
- 4) Employees shall make their own arrangements in advance and in accordance with the Family and Medical Leave Act for payment of health insurance.

200-4-4 Funeral Leave

Funeral leave will be awarded as described by contractual language.

200-4-5 Alcohol and Drugs

No member of the Cumberland Police Department shall be on duty while intoxicated, nor shall alcohol be consumed while on duty without prior approval or sound justification.

While off duty, Officers shall refrain from consuming intoxicating beverages to the extent that it results in obnoxious or offensive behavior that discredits them and reflects poorly on the department.

No Officer shall report for duty or respond to emergency situations with the odor of intoxicants on his or her breath. No Officer shall be on duty with any recordable amount of alcohol in their system. Employees may be compelled to submit to an intoxilyzer or PBT test at the request of the Chief.

Employees shall not consume narcotics or dangerous drugs except under the direction of a physician. Employees shall not perform their duties while under the influence of drugs or medication when the effects of the drugs or medication are likely to impair the employee's ability to reason, concentrate, or otherwise perform their duties.

200-4-6 Restricted Duty Assignments

Employee requests for temporary assignment to restricted duty will be evaluated on the basis of departmental need. The Cumberland Police Department and the City of Cumberland are under no obligation to provide employees with an opportunity to work on restricted duty.

Restricted duty status refers to assignments of an employee, who is in some way incapable of performing all of his/her normal duties, to a duty assignment commensurate with the employee's medical or administrative restrictions.

- 1) An employee who wishes to request assignment to restricted duty should direct a letter of request to the Chief. That letter should include:
 - A) The nature and circumstances of the injury or restriction.
 - B) Work limitations and doctor approval for the employee to work in a restricted duty status.
- 2) The employee must provide the Chief with a letter from the treating physician clearly stating what the employee cannot do as a result of his/her injury or illness. This letter should include anticipated dates the employee will be available for restricted duty assignment.
- 3) The Chief consideration of the restricted duty request will be based on, but not limited to, the following:
 - A) The type of injury or restriction the employee is reported to have.
 - B) The availability of suitable restricted duty assignments.
 - C) The safety of the restricted duty employee.
 - D) The safety of other employees.
 - E) The security and safety of department clients such as jail inmates.
- 4) The restricted duty request will be reviewed by the Chief Officer. Areas in which the injured or restricted duty employee is able to work will be identified.
- 5) Employee records and the employee requesting restricted duty will be notified by the Chief Officer or his designee whether the request is approved or denied.
- 6) The restricted duty status of an employee will be reviewed at least once every thirty (30) days by the Chief Officer or his designee.
- 7) Departmental uniforms and duty status will be subject to the following:
 - A) Since Officer's who are working restricted duty are not capable of performing all of the duties of an Officer, they are not permitted to wear any departmental uniform. Wearing a uniform would identify

them as law enforcement Officers and elicit an expectation that the restricted duty Officer is able to perform all the duties of a law enforcement Officer, when in reality the Officer would be unable to do so. Any exception to this specific provision would require approval from the Chief.

200-5-0 DISCIPLINE PROCEDURES

The Cumberland Police Department recognizes the importance of discipline in the effective operation of a law enforcement agency. Overall, the most effective discipline is self-discipline as an individual and as a department. When self-discipline is ineffective, the application of discipline shall be administered in a fair, just, and proportional manner.

Counseling of an employee is not discipline. Counsel is provided to direct the work of an employee consistent with department standards.

200-5-1 Verbal Warning

A verbal warning is the least severe method of formal discipline. The verbal warning is intended to correct unsatisfactory conduct without compromising an employee's status. All verbal warnings shall be documented and labeled as such.

200-5-2 Written Reprimand

A written reprimand is more formal and serious than a verbal warning but still does not affect an employee's property interest in his or her employment. Written reprimands can be for a single act or series of acts. Written reprimands shall be labeled as such.

200-5-3 Suspension with Pay

Suspension with pay is used as an administrative tool to change the status of an employee while an investigation is ongoing. In some cases, reassignment of duties or a limitation of duties can be imposed in lieu of suspension with pay. This status does not affect the property interest of an employee's job.

200-5-4 Suspension without Pay

Suspension without pay does affect an employee's property interest in his or her job and can be administered only after a complete unbiased investigation of the alleged wrongdoing, and the steps of just cause and due process are satisfied.

200-5-5 Termination

Although the administration of this department subscribes to the use of progressive discipline and promotes its use, the administration also recognizes that, depending on the seriousness of the violation, discipline need not include all steps of the progressive discipline process. Termination of employment can occur for just cause after due process has been satisfied. Termination of employment is intended to remove unsalvageable employees.

200-5-6 Procedure to Investigate Allegation of Wrongdoing

- 1) All complaints and allegations of employee misconduct or wrongdoing shall be forwarded to the employee's supervisor, the Chief of Police, respectively, as soon as possible.
- 2) A written record of the complaint shall be created and documented with all relevant details and information.
- 3) The Chief shall assign a person to complete a thorough unbiased investigation of the incident.
- 4) The Chief shall consider the accused employee's status (i.e., suspension with pay, restricted duties) during the investigation.

- 5) The investigation may order the accused person or any potential employee witnesses to attend an interrogation and to answer questions truthfully.
- 6) The investigating Officer shall comply with the requirements of the police officer's bill of rights as defined in Chapter 164 of the Wis. Stats. if applicable.
- 7) If an employee refuses to answer questions or fully cooperate in an administrative investigation, the investigating Officer shall issue Garrity warning to the employee. The Garrity warning: "You are under a direct order to answer these questions. Failure or refusal to answer all these questions completely and truthfully shall be considered grounds for serious discipline up to and including discharge. Nothing you say or the fruits thereof may be used against you in future criminal proceedings but may be used in future administrative proceedings".
- 8) The investigating Officer shall provide a complete investigation to the Chief for use in any disciplinary process.

200-5-7 Procedure to Administer Discipline

Prior to taking disciplinary action, the Chief shall give consideration to the following:

- 1) Did the employee know that the prohibited conduct was wrong? And, are the violated rules reasonable and fair?
- 2) Was the investigation fair and objective? Did the investigating Officer conduct a thorough investigation, affording the accused an opportunity to be heard and defend himself?
- 3) Is there adequate proof of a violation? Does it meet the level of "preponderance of the evidence" or "clear and convincing" in cases of moral turpitude?
- 4) Does the administration apply rules, orders, and penalties to all employees uniformly and without favoritism?
- 5) Has the Chief considered the employee's work history, level of performance, and prior discipline or lack thereof.
- 6) Does the employee wish to be heard on the subject of discipline and have an opportunity to petition for a lesser penalty?
- 7) Is the degree of discipline consistent with the offense? Does the punishment fit the crime?

200-5-8 Recourse and Appeal

Following the administration of discipline, employees have the option to appeal disciplinary sanctions to the appropriate committee (public safety committee, city council). An appeal must be filed within 10 calendar days from the receipt of written confirmation of the imposed discipline. In the case of such appeal, the committee shall conduct a hearing to review the facts in each case and shall by majority vote either uphold, overturn, or modify the disciplinary action under appeal.

NOTES:

200-6-0 CITIZEN COMPLAINTS AGAINST DEPARTMENT PERSONNEL

Public trust and confidence are essential in an effective law enforcement agency. In order to promote public trust, confidence, and a spirit of mutual respect, this Department is committed to providing citizens with a fair and effective avenue for redress of their legitimate grievances against law enforcement employees.

The complaint process is a key element in the effort to hold the department and its members accountable for their actions. It aids in identifying specific problems with Officers or perhaps with a procedure. This complaint process is also intended to protect Officers from false charges of misconduct or wrongdoing and provide accused employees due process safeguards.

Law enforcement employees are held to the highest standards of official conduct and are expected to respect the rights of all citizens. Officers' voluntary adherence to these standards, motivated by a moral obligation to perform their job to the best of their abilities, is eminently desirable and an ultimate objective of this department. If an Officer does not adhere to the standards of official conduct, either through deliberate action or negligence, disciplinary actions shall be applied in a prompt and certain manner.

This section is created in accordance with WI Stats. 66.312(3) and 946.66(2).

200-6-1 Informal Process

Many times, a member of the public wishes to make a statement or lodge a complaint regarding an Officer's conduct without going through a formal process. This informal process is created to accept those complaints with an ultimate goal of improving the quality of service this department provides. A complaint filed informally does not lessen the seriousness of the allegations or preclude possible discipline procedures. The informal process is, however, intended to resolve relatively minor allegations and issues of misunderstanding.

The Chief or his designee may proceed with the investigation of an informal complaint, anonymous complaint, or cross complaint from an arrested person to its logical conclusion entirely at the Chief's discretion.

200-6-2 Formal Complaint Process

The formal complaint process shall be used whenever a complainant alleges criminal activity, excessive force, violation of constitutional rights, or when the informal process has failed. Formal complaints should be forwarded to the Chief as soon as reasonably practical. The Chief will be responsible for accepting the complaint and primary responsibility for investigating the complaint regardless of who the complaint is filed with.

- 1) Written records of formal complaints shall be made on the appropriate department form) and include the following:
 - A) Name, address, date of birth, phone number, etc., of the complainant.
 - B) Date, time, location, etc. of the incident.
 - C) Date and time of the formal complaint.
 - D) Names and identity of any possible witnesses.
 - E) Name and/or identity of all Officers involved (if possible).
 - F) A statement, in detail, of the events surrounding the complaint.
- 2) If at all possible, this complaint should be made in person and, if possible, the complaint information should contain the signature of the person filing the complaint pledging the truthfulness of the information.
- 3) When a complaint is received, or as soon thereafter as practical, the complainant shall be advised that:
 - A) It is the policy of this department to accept and investigate all complaints of Officer misconduct or wrongdoing from any citizens or department employee. Following a thorough and impartial examination of the factual information and evidence, the outcome will be that the Officer will be found responsible or not responsible, or that there is insufficient evidence to support the allegations. Officers found to be responsible shall be disciplined according to the degree of misconduct.

- B) If it is determined that a complaint is false, intentionally misleading, or malicious in nature without sound basis, appropriate legal proceedings could be instituted by the department or the individual Officer(s) in accordance with WI Stats. 946.66.
- 4) The Chief shall assign the responsibility to investigate the incident to any member of the department or to an outside agency.

200-6-3 Investigation of Complaint

- 1) It is the duty of the investigating Officer to maintain the integrity of the department. Therefore, the investigating Officer(s) must:
- A) Diligently attempt to determine the truth.
 - B) Objectively analyze any physical evidence.
 - C) Thoroughly question all witnesses and suspects.
 - D) Inform the Chief of the progress of the investigation.
 - E) Deliver a final written report to the Chief at the conclusion of the investigation.
- 2) The investigating Officer(s) shall have the authority to interview any member of the department and to review any record or report relative to their assigned investigation. The assigned Officer shall be cognizant of the difference between an administrative investigation and a criminal investigation, especially as it relates to employees' rights and responsibilities.

200-6-4 Disposition of Complaint

- 1) If the investigation concludes that the Officer is not responsible or that there is insufficient evidence to support the allegation, the Officer shall be officially cleared and supporting documents shall reflect the same.
- 2) If the investigation concludes that the conduct of any Officer was improper, the Officer shall cite in the final report the department policy, procedure, rule, or order that was violated. He shall also note any mitigating circumstances surrounding the situation, such as unclear or poorly drafted policy, inadequate training, or lack of proper supervision.
- 3) Following the determination of a sustained complaint of Officer misconduct, the final determination of disciplinary action shall be the prerogative of the Chief. The disciplinary action to be taken shall be determined by the seriousness of the misconduct and the extent of wrongdoing or injury or damages to the victim. It shall be commensurate with the circumstances surrounding the total incident and with the Officer's service record and prior sustained complaints. External factors may be considered for possible referral to appropriate counseling programs. To make such a referral, the Officer's physical, emotional, and psychological health shall be determined by competent professionals. Participation in a counseling program may be required in lieu of a more serious punishment, if in the view of the Chief, the Officer would benefit. Such a disposition may be revoked in favor of a more severe penalty, however, if the Officer fails to participate or fails to successfully complete the program.
- 4) Conclusions of fact and the imposed penalty will be noted in the Officer's personnel file.

200-7-0 UNIFORM AND APPEARANCE

All department personnel are to present themselves at all times while on duty in a clean, neat, and well-groomed manner. This policy is to be interpreted with a flexibility that reflects the personality of the department, as well as standards of appearance that are likely to be acceptable to the community and promote a professional image to the public. Items which bear the "Cumberland Police Department" logo may not be sold to the general public.

200-7-1 Personal Appearance Standards

All personnel of the Cumberland Police Department, as visible representatives of the department, must conform to standards of appearance that are acceptable to the department and to the community. Employees shall, while on duty, present themselves in a manner that is clean and neat. They shall also demonstrate personal hygiene habits that are unremarkable.

The wearing of facial hair is permissible as long as the facial hair is kept trimmed and neat.

The Chief may, at his discretion, lift or modify the previous policy for any length of time.

Officers may be authorized to deviate from these standards when required by the nature of their assignment.

200-7-2 Uniforms and Apparel

All Officers shall wear their uniforms only while on duty as an employee of the city or when going to and from work. The uniform shall be worn by all Officers, whose assignments are such that it is necessary to be recognized as a law enforcement Officer on sight, including court appearances. Official department uniforms and accessories shall be prescribed by the Chief.

The School Resource Officer shall wear a department uniform unless the school district formally requests, to the Chief, that the School Resource Officer wear different attire, such as dress clothing.

Faded, torn, or damaged uniforms shall not be worn. Officers who wear an external vest carrier need to wash their vest carrier for sanitary purposes as well as appearance purposes. If an Officer fails to maintain cleanliness of their external vest carrier, they will be required to wear their ballistic vest under their uniform shirt. No Officer shall wear on the uniform any marking or insignia which is not authorized. Headgear must be issued by the department or approved by the Chief for use. Winter and summer seasons shall be recognized when wearing the uniform. Seasonal attire is left to the Officer's discretion as long as it conforms to department standards or unless otherwise directed.

No Officer shall reveal or expose undergarments beyond the sleeve length of the uniform. Undershirts worn under the uniform shirt are to be white, black or navy if visible. Turtlenecks or dickeys worn under the long-sleeve uniform shirt are to be black. A department approved black or navy tie may also be worn with the long-sleeved uniform shirt. The department uniform shall not be mismatched with any other unapproved apparel. Deviations outside the boundaries of this provision are acceptable to protect the Officer from exposure or for safety reasons.

When making court appearances Officers shall wear a neat long sleeve-uniform shirt. In lieu of a uniform, Officers may wear dress attire to court appearances.

200-7-3 Plain Clothes Uniform

Any member of the department who is authorized to wear, or is normally required to wear plain clothes in the normal course of their duties shall comply with the following dress code whether or not a uniform allowance is provided.

Business apparel or business casual apparel is the acceptable standard to which non-uniformed employees may dress. Shorts shall not be worn. Any other pants that are not in good condition shall not be worn.

T-shirts that do not meet the standard of business casual dress are prohibited by this policy. Clothing that depicts graphics of product advertisements, cartoons, written messages or the like, and do not meet the standard of business casual, are not allowed.

200-7-4 Uniforms

1) Patrol uniforms consist of the following:

- A) Midnight Navy uniform pants
- B) Long or short sleeve Midnight Navy uniform shirt with a Cumberland Police Department patch on each sleeve
- C) Black or Navy tie required when wearing Class A long sleeve shirts when attending court
- D) White, Black or Navy t-shirt

- E) Black footwear
- F) Black duty belt and accessories pouches
- G) Badge and name tag
- H) Ballistic vest (vest issued by the department shall be worn during your tour of duty)
- I) External vest carrier, black or midnight navy in color
- J) Black parka, jacket, sweater or other outerwear as approved by the Chief
- K) Primary Sidearm

200-7-5 Special Assignment Uniforms

- 1) School Resource Officer

A) The School Resource Officer shall wear the assigned patrol uniform unless specifically requested by the school district to wear a dress uniform or approved polo and uniform pants.

200-7-6 Search Warrant Uniforms

The Cumberland Police Department recognizes, because Search Warrants are court-sanctioned invasions of privacy, that all Search Warrants are inherently dangerous. In order to protect Officers and the public in general, any of the following apparel shall be worn by all responding Officers when serving any Search Warrant:

- 1) Cumberland Police Department Patrol Uniform as described in 200-7-4.
- 3) Department approved Raid T-shirt, vest or jacket that clearly displays "POLICE" on the back and has either a badge or "POLICE" on the front.
- 4) Ballistic Vest shall be worn either underneath clothing or over clothing if it meets the ID requirements stated in 200-7-6(3).
- 5) Only department issued or approved headwear shall be worn.

NOTES:

200-8-0 POLITICAL ACTIVITIES

Every citizen has a right to engage in the political process; however, that right may in some cases be limited due to the unusual nature of an individual's position in society. This is the case with all employees of this department. Therefore, employees shall not engage in political campaigns to such an extent that their participation detracts from the performance of their official duties. Likewise, employees shall not engage in such a way that would lead members of the public to conclude that the department is taking a position on a political issue or an election.

No employee will be discriminated against in any fashion due to any political opinions or affiliations held by the employee, unless the political affiliation consists of a recognizable hate group, racial bias group, racial supremacy group, religious sectarian, anti-American, or other prejudicial organization.

No member of this department may engage in political activity while on duty. Included within the prohibition of this provision is the display of any political ad, name, item, or article with political implications.

Members of the department engaged in political activity while off duty shall clearly act as private citizens and not convey the impression that they are acting on behalf of the department. It is the responsibility of each employee to be aware of any potential conflicts of interest and to protect the integrity of the department in regard to any issue or activity with political implications.

NOTES:

200-9-0 ACCEPTABLE USE POLICY

City technology applications, both internal and external, which include (but are not limited to) internet access, e-mail, fax machines, copiers, telephones and cellular telephones, are provided to employees for carrying out the official business of the city. However, in accordance with the city's policy of allowing brief personal use of telephones, and of allowing limited personal copies and occasional fax machine use for a fee, brief and occasional personal use of internet and e-mail will be tolerated. This will be acceptable as long as it does not occur during an employee's paid working hours. The use of any city property for personal gain is *strictly prohibited*.

IF ANY VIOLATION OF CITY OR DEPARTMENTAL GUIDELINES OR OF STATE, FEDERAL, LOCAL OR INTERNATIONAL LAWS OCCURS, VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTIONS, WHICH COULD INCLUDE TERMINATION OF EMPLOYMENT.

The city owns all computer files stored in state and city-owned computers. Employees do not have any expectation of privacy in computer files stored on state and city-owned computers. Further, employees are prohibited from installing any software programs on state and city-owned computers. It is the policy of the city that only state-licensed and city-licensed software programs shall be installed on state and city-owned computers. All state and city-owned computer files stored in them are subject, without notice, to inspection by the city and possible removal.

In the event it is necessary to access sexually explicit material on the internet, every employee is required to notify a supervisor prior to, and upon completion of the assignment.

200-9-1 Use of Social Media

This policy covers all forms of online and wireless communication and conduct, including use of handheld devices.

- 1) Employees are permitted to access social media at work. However, such access must not interfere with, delay, hinder or obstruct the performance of any work-related task or assignment.
- 2) An employee using social media has no expectation of privacy. Everything written on the Web can easily be traced back to its author. Never write anything that you, as an employee, would not say out loud to all parties involved and to the press. Unless authorized to do so, employees must not state or imply, explicitly or implicitly, that they speak for or represent the City.
- 3) Employees are prohibited from revealing confidential or proprietary information. Employees are further prohibited from revealing personal information of the employee or of other employees. Conduct that creates a conflict of interest or otherwise harms the City's interests is prohibited, as is conduct that violates federal, state, or local law, the City's anti-discrimination policy and all other City policies.
- 4) Use of employer logos/uniforms/ brands is prohibited.
- 5) Employees are advised that social media posts may be subject to discovery under the Freedom of Information Act and/or the Wisconsin Open Records Act, §19.35 WI Stats, and all other litigation-related and non-litigation-related discovery devices.
- 6) Employees must bring all questions related to this policy or permissible conduct under this policy to management before posting on a social media website.
- 7) Violation of this policy will subject the employee to discipline, up to and including termination.

NOTES:

200-10-0 EMERGENCY VEHICLE OPERATION

Reference WI Stats. 165.85(4)bn1m EVOC training

Reference WI Stats. 340.01(3) Authorized emergency vehicle

Reference WI Stats. 346.03(1)-(6) Applicability of rules of the road to authorized emergency vehicles

Reference 200-3-3 Vehicles, Department Property
Reference 500-3-1 Officer Liability

This section is intended to regulate the conduct of an Officer in the use of an authorized emergency vehicle. For the purposes of this section, an emergency vehicle is a vehicle owned by City of Cumberland and under the control of the police department. For the purposes of Officer conduct consistent with this section, an emergency vehicle includes marked and unmarked squad cars.

In recognition of the fact that Officer conduct is directly related to the department's public image, Officers will operate any city-owned vehicle in a professional and courteous manner. Officers will operate the assigned vehicles within the law consistent with the rules of the road pursuant to WI Stats. Chapter 346.

200-10-1 Operation in Emergency Mode

Reference WI Stats. 346.03(1)-(6)

- 1) The above stated statutory reference gives authority to an Officer to exercise certain privileges when operating an emergency vehicle in emergency mode.
 - A) The operator of an emergency vehicle may stop or park the vehicle wherever necessary to protect other motorists or to complete the assignment. The Officer must, however, be considerate to others and be able to justify his actions. When stopped, the Officer must display warning lights.
 - B) The operator of an emergency vehicle may proceed past a stoplight, stop sign, or signal, but only after slowing down as may be necessary for safe operation. The Officer must give visual and audible signal.
 - C) The operator of an emergency vehicle may exceed the speed limit while in emergency mode—to a degree reasonable under the circumstances. Unless the Officer is on a silent run, lights and siren must be used consistent with 200-10-02.
 - D) The operator of an emergency vehicle in emergency mode may disregard regulations governing direction of movement or turning in specified directions. The Officer must, however, be considerate to other motorists and be able to justify his actions.
- 2) An Officer must not pass into oncoming traffic on a hill or curve or otherwise put himself, or other motorists, in danger—regardless of the degree of urgency of the emergency call.
- 3) In all cases where an Officer exercises a privilege to disregard standard rules of the road, the Officer must do so with a duty to drive with due regard under the specific circumstances. The safety of other motorists and pedestrians is of paramount importance.

200-10-2 Operation in Silent Emergency Mode

- 1) Generally, authorized emergency vehicles, while in emergency mode, must do so with emergency lights and siren activated. There are, however, times when this is not reasonable. In the following circumstances, Officers may exceed the speed limit without lights and siren:
 - A) To obtain evidence of a speed violation.
 - B) While responding to a call that the Officer reasonably believes involves a felony in progress, and the Officer reasonably believes any of the following:
 - C) knowledge of the Officer's presence may endanger the victim or other person
 - D) knowledge of the Officer's presence may cause the suspect to flee
 - E) knowledge of the Officer's presence may cause the suspect to destroy evidence or otherwise result in the loss of evidence in a suspected felony
 - F) knowledge of the Officer's presence may cause the suspect to cease the commission of a suspected felony before the Officer obtains sufficient evidence to establish probable cause for the arrest.
- 2) This section is intended to address the Officers' lawful authority to exceed the speed limit without a visual or audible signal. It does not grant broad authority to disregard other standard rules of the road.

- 3) Officers must be mindful that the law grants authority to disregard speed limits only with prudent and reasonable care for the safety of others. The law does not protect the Officer from the consequences of actions which meet the level of reckless disregard.
- 4) In this section, as well as section 200-10-1, Officers must constantly assess and re-assess the conditions and factors specific to the call for service. These include the nature of the call itself, the road conditions, the weather conditions, the time of day, the density of population, the vehicle limitations and the Officer's individual abilities.
- 5) The Officer is not restricted in this policy to a specific range of speed over the speed limit in which he may travel. Instead, the Officer is bound by duty to constantly and perpetually evaluate the situation and apply sound and reasonable discretion.

NOTES:

200-11-0 VOICE MAIL AND E-MAIL ACCOUNTS

Gathering, receiving, and disseminating information is a crucial part of our daily jobs. To ensure that employees are utilizing the most effective methods available to manage information, most employees have been issued an e-mail account.

Every member of the department that has been issued an e-mail account will check, receive, and respond appropriately to messages at least once per work shift.

Employees are exempt from this policy only when unusual or extenuating circumstances exist. In this case, the employee will check, receive, and respond to messages as soon as reasonably possible.

Employees who experience access problems or other technical difficulties should advise their supervisor of the nature of the problem.

200-12-0 MEDIA RELATIONS

No member of the Cumberland Police Department will make or release any statements to the media regarding any incident, policy, informant identification, or Officers' personal information without the approval of the Chief or their designee or under extraordinary circumstances, the assigned Incident Commander.

1. Public Information Officer

- 1) During major events, the Chief or assigned Incident Commander may appoint a Public Information Officer. This appointment may be a member of the Cumberland Police Department, a member of an assisting agency, or a civilian with expertise in media relations.
- 2) The PIO will coordinate with responding media outlets and the Incident Commander to provide information in a timely and concise manner.
- 3) The PIO should clear all statements made to the media with the Incident Commander

300 OFFICIAL PROCEDURES

The procedures outlined in this section are not all-inclusive and it is not likely that a single handbook can be. The provisions contained herein are created to assist the Officer in the performance of his duties as it relates to high profile, low frequency-high risk situations.

It is the primary goal of this chapter to provide a means to deliver consistent, fair, and proper services to the citizens of Cumberland.

300-1-0 DOMESTIC ABUSE DEFINED

The following policy is created in accordance with WI Stats. 968.075.

- 1) The official response of the Cumberland Police Department is to recognize that domestic abuse involves serious criminal offenses. The intent of this policy is two-fold: to maximize protection for victims of domestic violence; and to hold the predominant aggressor accountable for his/her abusive behavior. This department recognizes that violent behavior will neither be excused nor tolerated regardless of the relationship of the persons involved. The prosecution of domestic violence offenses does not depend on the willingness of the victim to cooperate or press charges.
- 2) "Domestic Abuse" means any of the following acts engaged in by an adult person against his or her spouse, former spouse or adult relative or against an adult with whom the person resides or formerly resided.
 - A) Intentional infliction of physical pain, injury or illness.
 - B) Intentional impairment of physical condition
 - C) A violation of Sec. 940.225(1), (2) or (3) WI Stats. [sexual assault; first degree, second degree or third degree, respectively].
 - D) A physical act or a threat in conjunction with a physical act, that may cause the other person to reasonably fear imminent engagement in the conduct described in (1), (2) or (3) above.
- 3) "Law Enforcement Officer" has the meaning specified in Sec. 165.83(1) (b), WI Stats.
- 4) "Relative" means a parent, grandparent, step-parent, brother, sister, first cousin, nephew, niece, uncle, aunt, step-brother, step-sister, child, step-child, foster-child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

300-1-1 Mandatory Arrest

- 1) A law enforcement Officer shall arrest and take into custody a person when the Officer has probable cause to believe the person is committing or has committed domestic abuse and that the person's actions constitute the commission of a crime and either or both of the following circumstances are present:
 - A) The Officer has a reasonable basis to believe there is a possibility of continued violence against the alleged victim.
 - B) There is evidence of physical injury to the alleged victim.
- 2) In addition to the above standards, the Officer shall arrest and take a person into custody if the Officer has probable cause to believe that the person violated the seventy-two hour no-contact prohibition. See 300-1-4.
- 3) Probable cause refers to the quantum of evidence that would lead a reasonable Officer to believe that the suspect probably committed a crime (probable cause is further defined in 600-2-0). Factors to be used in determining whether probable cause exists in a domestic situation include but may not be limited to the following:
 - A) Bodily harm or indication of pain to the victim. A decision not to arrest may not be based solely on the lack of visible evidence of injury or impairment.
 1. Statements of the victim, including statements of non-consent.
 2. Statements of family members, friends or neighbors.
 3. Statements of the suspect.
 4. Observations of the scene.
 5. Previous calls at the same location or with the same parties.
 6. History of protection orders or current restraining orders or injunctions.
 - B) There is no legal requirement that the Officer actually witness the act of domestic violence. Probable cause can be established by reliable hearsay information.
 - C) Marital status is not a consideration, nor a bar of prosecution for sexual assault crimes.

2. Predominant Aggressor

Predominant Aggressor is defined as the most significant, but not necessarily the first, aggressor in domestic abuse incident.

When an Officer has established probable cause to believe that spouses, former spouses, or other adult persons who reside together or formerly resided together are committing or have committed acts of domestic abuse against each other, the Officer is not required to arrest both subjects, but must arrest the person who the Officer feels is the predominant aggressor. In determining who the predominant aggressor is, the Officer should consider the intent of state law and this policy to protect victims of domestic violence. Additionally, the Officer should consider the relative degree of threat of fear or injury inflicted, and any history of domestic violence if that history can reasonably be ascertained. Nothing in this section should be construed as to prevent the Officer from making more than one arrest if, in the Officer's judgment both parties are responsible and criminal prosecution is intended on both parties.

300-1-3 Reports of Arrest and No Arrest

- 1) When there is an arrest, or when there would have been an arrest if the suspect could have been located, a domestic abuse report should include the following:
 - A) Completed domestic abuse forms.
 - B) A complete statement from the victim.
 - C) A medical release from the victim if medical attention is sought.
 - D) Photographs of the victim's injuries if apparent.
 - E) Statements from witnesses.
 - F) Excited utterances, admissions against interest and other informal statements.
 - G) Recognizing the high correlation between domestic abuse and child abuse, the Officer should always be alert to evidence of child abuse. He should note names and ages of children and whether or not they were present when the incident occurred.
- 2) If an Officer does not make an arrest and the Officer believes that probable cause exists to charge a person with a crime, the Officer shall include in the report the reason the person was not arrested. The report shall be provided to the District Attorney as soon as the investigation is complete.
- 3) A report must be completed on all domestic violence calls.

300-1-4 Contact Prohibition and Waiver

Unless there is a waiver under Sec. 968.075 (5) (c) WI Stats., during the seventy-two hours immediately following the arrest for a domestic abuse incident, the arrested person shall avoid the residence or any premises temporarily occupied by the victim and avoid contacting or causing any other person to contact the victim.

If a person arrested for a domestic abuse incident is released from custody in a time period less than seventy-two hours after the arrest, the Officer making the release shall inform the person orally and in writing of the consequences of violating the provisions of WI Stats. 939.621. The arrested person shall sign the written notice that he has received, acknowledging notice and understanding of the requirements of Sec 939.621 WI Stats. and that an enhanced penalty exists for a second domestic abuse offense committed within the seventy-two hours immediately following the arrest for the first domestic abuse incident. The Officer shall read the form to the arrested person and require the arrested person to sign the form before the person is released from jail. If the arrested person refuses to sign the notice, that person will not be released from custody.

At any time during the seventy-two hour no-contact period specified in Sec. 968.075 (5) (a) WI Stats., the alleged victim may sign a written waiver of the requirements of Sec 968.075 (5) (a) WI Stats. If a written waiver is signed by the alleged victim the Officer shall notify the arrested person of its existence. The Officer or Corrections Officer shall provide a copy of the waiver to the District Attorney's Office with the arrest report. The original waiver form should remain on file with the Department's case file.

300-1-5 Release

Immediate release of arrested person under mandatory arrest is prohibited. Release of the predominant aggressor is not permitted until the person posts bail or appears before a judge or commissioner for an initial appearance.

The issuance of a citation for a misdemeanor for a domestic abuse crime meeting the requirements of mandatory arrest is prohibited.

300-1-6 Miscellaneous Provisions Involving Domestic Abuse

- 1) Whether or not an arrest is made, Officers shall advise the victim of the availability of shelter and/or other services in the community.
- 2) In domestic-related disturbances, the relationship of the parties, the emotions involved, and their property interests complicate the matter. Each situation requires the Officer to use discretion based on the specific situation. The Officer should respond to each situation with respect for the rights and dignities of all involved parties and should take care and patience to resolve the situation within a reasonable time period.
- 3) Because domestic disturbances are among the most potentially dangerous situations to which an Officer responds, Officers shall institute the highest level of caution and care to protect their own safety and the safety of other people. Whenever possible, two Officers shall be assigned to respond to domestic disturbances. If another member of Cumberland Police Department is not on duty, you shall request assistance from a neighboring law enforcement agency.
- 4) The fundamental responsibility of the dispatcher is to obtain as much information as possible from the caller and keep responding Officers fully informed as to the severity of the conflict and the potential for weapons being involved. Whenever appropriate, the dispatcher shall note information in the CAD entry and request that an audio record be made to protect such relevant evidence.
- 5) Arrests solely for drunkenness are not allowed except for bond or probation violations.
- 6) Arrests affected on the basis of adultery are not allowed as a matter of policy of this department.
- 7) Absent grounds for an arrest or a criminal act, and when one spouse requests the other spouse be removed, Officers shall inform the parties of equal rights to the dwelling. Officers must restrict their action to impartial mediation.
- 8) When one party in a dispute is leaving the residence, voluntarily or otherwise, and property interests are in dispute, the Officer shall not attempt to reconcile the dispute but take the position that personal property in dispute, except necessary essential items, is to be left in its current position until mutual agreement or as directed by a court action.
- 9) In situations that warrant, absent a court directive, and when Officers are requested to accompany one party in removing personal property from a dwelling, the Officer will oversee the removal of personal, essential items only.
- 10) When custody of children becomes an issue and when there is no order addressing child placement, Officers shall recognize both parents' rights to care for the child or children as long as there is no danger to the child or children. When one parent has been granted physical placement or custody of a child and either party has alleged a violation of the existing order, unless there is a showing of clear and present danger to the child, Officers shall refer the matter to the proper authority. Officers do not normally have the authority to enforce family court orders unless there is a separate order directing the department to take specific action as provided in WI Stats. 946.71(3).
- 11) If a weapon is present and constitutes a clear and present threat of violence, Officers are to collect the weapon and properly submit it to safe keeping in the evidence room.
- 12) When Officers are refused entry into a dwelling after being advised of an incident and probable cause exists that a crime has been, is being, or is likely to be committed, forced entry may be used when there

is no other reasonable alternative. The exigent circumstances, the Officer's visual and audio observations, and all other relevant information must be included in the Officer's reports.

300-2-0 CHILD ABUSE OR NEGLECT

The Cumberland Police Department, along with the Barron County Department of Health and Human Services, has shared responsibility in the investigation of child abuse and child neglect cases. Because all abuse and neglect cases must be reported to Health and Human Services within 12 hours, every attempt to coordinate the investigation will be made.

300-2-1 Complaints of Abuse or Neglect

- 1) Barron County Department of Health and Human Services shall refer cases under the following circumstances to the Cumberland Police Department when the nature of the complaint indicates that criminal charges are likely to be considered:
 - A) All sexual abuse cases.
 - B) All cases with evidence of significant physical abuse.
 - C) Neglect cases in which allegations are serious enough to warrant consideration of temporary physical custody of the child.

- 2) Officers shall lend assistance to the Department of Health and Human Services when there is:
 - A) A safety concern on the part of the Department of Health and Human Service's worker.
 - B) Reason to believe that violence may occur.
 - C) Reason to believe there will be retaliation against the child.
 - D) A strong possibility the worker will be denied access to the home or child.
 - E) Reason to believe that any involved person may flee.
 - F) The need to gather and preserve evidence.
 - G) The need to enforce a court order.
 - H) A likelihood of protective custody.

300-2-2 Investigation of Abuse or Neglect

It is the policy of this Department to diligently investigate all reports of child abuse and neglect. Officers will consider the safety and welfare of the child to be of paramount importance. The Department of Health and Human Services is an important part of the investigation.

Under WI Stats. 48.981(3)(b), any person reporting suspected child abuse or neglect may request an immediate investigation by the Cumberland Police Department if the reporter has reason to believe the child's health or safety is in immediate danger. Upon receiving such a request, the Cumberland Police Department shall investigate to determine if there is reason to believe that the child's health or safety is in immediate danger and take any necessary action to protect the child. If the Officer finds reason under WI Stats 48.19(1) (c) or (d) to take the child into protective custody, the Officer shall do so and deliver the child to Health and Human Services as per WI Stats. 48.20.

An investigation conducted without the assistance of Health and Human Services shall be forwarded to Health and Human Services as soon as reasonably practical.

300-2-3 Exchange of Information and Reports

The Cumberland Police Department and the Department of Health and Human Services shall, upon request, exchange any information contained in a case file.

The written report of an investigating Officer shall be prepared in a timely fashion and shall be specific as to the child's appearance, condition, environment, etc.

300-2-4 Videotaping of Child Interviews

The Cumberland Police Department, as a matter of policy, enlists the method of forensic interviewing (cognitive-graphic interviews) and videotaping of such interviews as set forth in 2005 Wisconsin Act 60.

300-3-0 JUVENILE OFFENDERS AND CHILDREN IN NEED OF PROTECTIVE SERVICES

In recognition of this Department's responsibility under the law, the following guidelines are established to assure fair and equitable service to juveniles and their families. To accomplish this goal, Officers should be familiar with Chapter 48 of the Wisconsin Statutes, known as "the children's code," wherein by legislative intent the best interests of the child and the family are of paramount importance.

This Department also recognizes that crimes committed by juveniles are as noteworthy as those committed by adults, and that WI Stats. Chapter 938, known as "the juvenile justice code," is established to deal with juvenile offenders. Officers should be familiar with WI Stats. Chapter 938 wherein by legislative intent is to promote a juvenile justice system capable of dealing with the problem of juvenile delinquency. It is also a system that will protect the community, impose accountability for violation of law and equip juvenile offenders with competencies to live responsibly and productively.

In this chapter, "juvenile" has the meaning as defined in WI Stats. Chapter 938.02(10m) which states generally that for purposes of investigating or prosecuting a violation of any federal, state, or civil law or municipal ordinance, a juvenile is a person who has not yet obtained the age of 17 years.

It is the policy of this Department that all actions taken relative to children in need of protective services shall conform to WI Stats. Chapter 48. Likewise, all actions taken relative to a juvenile offender conforms to WI Stats. Chapter 938 and shall be pursued in a fair, equitable, and thoughtful fashion.

300-3-1 Juvenile Runaway

- 1) Running away is not a crime. It is a demonstration of the need for assistance. Most runaways are not running to someplace, but rather running away from a negative social situation. The Cumberland Police Department recognizes that without positive social intervention, a runaway is highly likely to repeat this behavior.
- 2) Information regarding juvenile runaways that are reported within the City of Cumberland may be forwarded to the Barron County Sheriff's Department-Communication Center and be managed by the communication staff for purposes of consistency. The dispatch center shall act as a repository of information for active runaways.
- 3) A report of a runaway may be reported by a parent, guardian, or agency representative that has legal custody or responsibility of a juvenile.
- 4) Officers receiving a runaway/juvenile missing person's report shall complete the department standard forms. The missing person's report shall be forwarded to the Communication Center to enter the juvenile into NCIC.
- 5) Except in cases of exigent circumstances, no action shall be taken on a reported runaway until a request for pickup has been completed in writing, signed, dated, and delivered to the communication center in person or by other media when received from another police department, government agency or facility that deals with the care of children.
- 6) The assigned Officer shall document in the form of an incident report all reports of juvenile runaways and, if appropriate, any subsequent apprehension. All relevant information collected including: all N.C.I.C. entries, teletypes, correspondence, photos, etc.; shall accompany the incident report.
- 7) The assigned Officer must do a follow-up investigation with the runaway's parents or guardians within 48 hours after the initial report was taken. The purpose of the investigation is to confirm the juvenile is still missing and to find out if any new information exists as to juvenile's whereabouts. All information shall be documented in the case file and appropriate action shall be taken.

300-3-2 Taking Juveniles into Custody

- 1) A child, pursuant to WI Stats. 48.19, or a juvenile, pursuant to WI Stats. 938.19, may be taken into custody under any of the following:
 - A) a warrant
 - B) a capias issued by a judge under WI Stats. 48.28 or 938.28.
 - C) an order from a judge
 - D) a law enforcement Officer believes on reasonable grounds that any of the following conditions exist:
 - E) a capias or warrant has been issued in this state or the juvenile is a fugitive from justice
 - F) a capias or warrant has been issued in another state
 - G) the juvenile is committing or has committed an act which is a violation of state or federal criminal law
 - H) the child or juvenile has run away from his or her parents, guardian, or legal or physical custodian
 - I) the child or juvenile is suffering from illness or injury or is in immediate danger from his or her surroundings and removal is necessary
 - J) the child or juvenile has violated the terms of court ordered supervision or after-care supervision or conditions of an order for temporary physical custody under WI Stats. 48.21(4) or 938.21(4).
 - K) the juvenile is absent from school without an acceptable excuse under WI Stats. 118.15 in accordance with WI Stats. 938.19(1m).
- 2) When a juvenile or child has been taken into custody, as provided in this section, the Officer or other Officer shall attempt to notify the county juvenile intake worker, the child or juvenile's parent, guardian, or legal custodian by the most practical means in accordance with WI Stats. 48.19(2) or 938.19(2).
- 3) When a juvenile is taken into custody, the use of handcuffs shall be consistent with that of adults as defined in 600-3-4.

300-3-3 Holding a Child or Juvenile in Physical Custody

The criteria for holding a child or juvenile in physical custody is established in WI Stats. 48.205 and 938.205. After reviewing these sections, Officers in doubt as to the authority to hold children or juveniles in physical custody should contact Child Intake and/or their supervisor.

300-3-4 Release from Custody

Except as provided in WI Stats. 48.20 and 938.20, a child or juvenile shall be released to a parent, guardian, or legal custodian as soon as reasonably possible. As a general rule, a child or juvenile may be released to a responsible adult when a parent, guardian, or legal custodian is not available—unless there is articulable reason not to release the child or juvenile.

300-3-5 Interview and Interrogation of Juveniles

It is the policy of the Cumberland Police Department that all interviews, interrogations, and questioning of juveniles be conducted with full regard for the principles of fundamental fairness and be so structured as to insure the maximum protection of the juvenile's constitutional rights. At all stages of the investigative process, juveniles shall be afforded all the procedural safeguards applicable to an adult. By the same token, children who have reached the age of 12 and older may waive their right against self-incrimination and may offer a self-incriminating statement or confession as long as the statement meets the test of voluntariness. Officers shall take into account the juveniles age, prior history, mental ability, education, physical and emotional condition, and length of time in custody including the time of day.

The use of Miranda warnings in juvenile cases shall apply equally as those in adult cases.

It is the Officer's responsibility to be certain in his belief that any waiver is freely and voluntarily given and that the juvenile comprehends and understand the warnings and their meanings.

All custodial interrogations must be audio or audio and visually recorded if the juvenile is suspected of committing a crime. Consistent with Act 60 (AB 648).

300-3-6 Juvenile Contact at School

If an Officer finds it necessary to interview a juvenile in a school setting or on school grounds, the Officer shall be as discreet as possible.

If the school has a policy regarding law enforcement interviewing juveniles on school property, the Officer shall honor that policy except in cases of extreme importance.

If an Officer takes a student into custody, the Officer shall inform the principal or a staff member of that fact.

300-3-7 Transport of Juveniles

When transporting a juvenile, the transporting Officer shall notify the communications center of the location destination and vehicle mileage. Upon arrival at the destination, the Officer will again notify the communication center of the location and ending vehicle mileage.

300-3-8 Juvenile Alcohol Violations

It is the general policy of this department to enforce juvenile alcohol laws as defined in WI Stats. 125.07 and adopted by City of Cumberland ordinance.

Although subject to an Officer's discretion, all offenders who have not yet attained the age of 17 shall be issued a citation for an alcohol violation and the original copy submitted to the jurisdiction of the juvenile court.

In each case, the investigating Officer has the obligation to notify the juvenile offender's parent, guardian, or legal custodian of the violation, orally or in writing, within 7 days of the offense.

Offenders who have attained the age of 17 years and are the subject of an underage alcohol violation shall proceed to juvenile court. The investigating Officer has no obligation to notify a parent, guardian, or legal custodian.

Citations issued for a violation of the absolute sobriety laws affecting persons who are under the age of 21 years shall proceed through regular traffic court.

300-3-9 Tobacco Possession Violations

- 1) Cumberland Police Department Officers shall, as a matter of policy within their discretion, enforce Wisconsin State Statute 254.92(1), (2) which regulates purchase or possession of tobacco products.
- 2) Officers shall take action when a person under the age of 21 years:
 - A) buys or attempts to buy tobacco products
 - B) falsely represents his or her age for the purpose of receiving tobacco products
 - C) possesses any tobacco product
- 3) An Officer shall, when requested by a school official, issue a citation for a violation of this section only upon receipt of written information sufficient enough to prove such offense. The citation, once issued, shall be introduced into juvenile court at the dates and times established by practice.

300-3-10 Juvenile Violations of Boating, ATV, and Snowmobile Laws

It is as a matter of policy of this department to issue all violators who have obtained the age of 12 a citation for violations of conservation laws. Such citations will be issued on a standard conservation citation form.

Violators who have not yet reached the age of 16 years shall be introduced into juvenile court. All other violators shall be referred to regular traffic court.

300-3-11 School Searches

- 1) In situations involving searches of school property for evidentiary purposes, two basic principles apply:

- A) the Officer shall comply with the school policy on searches
 - B) the Officer is expected to obtain a search warrant unless an exception to the search warrant rule applies as in any other situation.
- 2) At a school official's request, searching school grounds in a broadcast fashion (i.e., use of canine) is acceptable, providing the school can demonstrate they have a policy allowing such a search.

300-5-0 DEATH INVESTIGATIONS

- 1) The Cumberland Police Department establishes the following policy to create a procedure that will designate responsibility and accountability in all death investigation cases. There is a reasonable expectation on the part of the community that law enforcement will employ the highest professional standard in the investigation of deaths.
- 2) Officers shall respond without delay to report a human death and shall approach a death scene with discreet skepticism. The first Officer to arrive on the scene of a death is to:
- A) Determine if life exists. If a body shows any signs of life, regardless how fragile, the body must be immediately transported to a hospital by trained medical personnel.
 - B) Protect the death scene with diligence and integrity.
 - C) Control the area of the death until relieved or until the collection of all relevant evidence and information is complete.
- 3) In most cases, a primary Officer will be assigned to assume investigation responsibility. Additional Patrol Officers may be assigned duties under the direction of the primary Officer.
- 4) The Officer who is responsible for the investigation of a human death shall diligently pursue the investigation to its logical conclusion and one of the following causes can be determined:
- A) homicide
 - B) suicide
 - C) accidental
 - D) natural causes
- 5) In the case of a homicide, the Officer will proceed with diligence until the perpetrator is known and brought to justice. All Officers shall fully cooperate with the medical examiner or deputy medical examiner in the performance of their duties under WI Stats. 979 and 59.

300-5-1 Notification to Medical Examiner

Pursuant to WI Stats. 979.01, law enforcement officials shall immediately notify the medical examiner or a deputy medical examiner of a death within the county. The Officer in charge of the scene has the responsibility to convey relevant information about the death to the medical examiner.

The Officer in charge may request that a communication Officer relay information to the medical examiner or deputy medical examiner in the interest of efficiency.

300-5-2 Notification Made to Chief

Whenever a human death occurs as an apparent result of homicide, suicide, accident or other extraordinary means, the Chief or designee shall be notified as soon as reasonably possible.

300-5-3 Recording the Death Scene

- 1) It is the general responsibility of the investigating Officer(s) to produce a permanent written and pictorial record of the scene in its original condition by:
 - A) preparing notes of relevant observation at the scene
 - B) preparing reports based on notes
 - C) preparing sketches of scene showing measured relation and location of relevant objects
 - D) photographically record the scene

- 2) A death scene checklist has been created to assist the investigating Officer in the thorough collection of information in all cases involving deaths of unusual or suspicious circumstances. Although the death scene checklist is extensive, an investigating Officer need complete only the portion that applies to the situation. The completed death scene checklist shall accompany the case file.

300-5-4 Collection of Evidence

It is the policy of this Department to preserve and collect evidence which relates to cause, manner, and means which, in the case of suspected homicides, may provide clues regarding the identity of the assailant.

No evidence collection will occur until the evidence has been noted, sketched, and photographed.

The body(ies) are the single most important piece of evidence in a death investigation. Therefore, the chain of custody must be maintained. Any evidence which is to be collected from the body is principally accomplished at the time of the autopsy. In all cases of suspected homicides, security of the scene will be maintained until the autopsy is complete.

NOTES:

300-6-0 INVESTIGATING A MISSING CHILD INCIDENT

The purpose of this policy is to establish guidelines and responsibilities regarding this agency's response to reports of missing children.

It shall be the policy of this agency to thoroughly investigate all reports of missing children. Additionally, this agency holds that every child reported as missing will be considered **at risk** until significant information to the contrary is confirmed.

Jurisdictional conflicts are to be avoided when a child is reported missing. If a missing child either resides in, or was last seen in this jurisdiction, this agency will immediately initiate the required reporting process. If a child resides in this jurisdiction and was last seen in another jurisdiction, but the law enforcement agency covering that jurisdiction chooses not to take a missing child report, this agency will assume reporting and investigative responsibility.

Questions concerning parental custody occasionally arise in relation to missing child reports. It shall be the policy of this agency to accept the report of a missing child even if custody has not been formally established. Reporting parties shall be encouraged to obtain legal custody as soon as possible, however, since the safety of the missing child(ren) is paramount, members of this agency will open a case when it can be shown that the child has been removed, without explanation, from his or her usual place of residence. In matters involving Family Court Orders and child custody Section 600-9-3 of this policy manual shall be followed.

300-6-1 Definitions

- 1) The term missing child refers to a person who is:
 - A) Younger than 18 years of age
 - B) Whose whereabouts are unknown to his or her parents, guardian, or responsible party
- 2) A missing child is considered "at-risk" when one or more of the unusual circumstances noted in paragraph C are present
- 3) The term "unusual circumstances" refers to a missing child who is:
 - A) 13 years of age or younger.
 - B) Believed to be one or more of the items noted below:
 1. Out of the zone of safety for his or her age, developmental stage, and/or physical condition.
 2. Mentally diminished
 3. Drug dependent, including both prescription and illicit substances
 4. A potential victim of foul play or sexual exploitation
 5. In a life-threatening situation.
 6. Absent from home for more than 24 hours before being reported to law enforcement as missing.
 7. Believed to be with others who could endanger his or her welfare.
 8. Is absent under circumstances inconsistent with established patterns of behavior.
 - C) Whose disappearance involves circumstances that would cause a reasonable person to conclude that the child should be considered at risk.
- 4) Actions upon determination of unusual circumstances
 - A) If it is determined that unusual circumstances are involved in the report of a missing child, the child will be considered at risk, and an expanded investigation, including the use of all appropriate resources, will immediately commence.
 - B) If appropriate, existing interagency response protocols – including the AMBER Alert system, should be activated.
 - C) AMBER ALERT Criteria:
 1. The child is 17 years of age or younger

2. The child is in danger of serious bodily harm or death
3. There is enough descriptive information about the child, the suspect(s) and/or the suspect vehicle to believe an immediate broadcast alert will help locate the child.

300-6-2 Procedures

- 1) Communication Officers receiving the report of a missing child should follow the procedures set forth in the AMBER ALERT WISCONSIN LAW ENFORCEMENT STANDARD OPERATING PROCEDURES (Appendix 300-B). In addition, or to complement those procedures, the following actions should be taken:
 - A) Determine if circumstances of the report meet the definition of a missing child as set forth in Section 300-6-1.
 - B) Promptly dispatch an Officer to the scene of the report.
 - C) Notify Chief or their designee.
 - D) Transmit the appropriate radio alerts and other notifications.
 - E) Search agency records for related information, including family history with department, any recent attempted abductions in the area, reports of suspicious people in the area and any information regarding locations of local Sexual Predators.
 - F) Safeguard all pertinent records, including phone conversations, written notes, radio broadcasts, etc.
 - G) Initiate media contact, including activation of the AMBER ALERT SYSTEM or other immediate, community-notification methods when appropriate. The dispatcher, under the direction of the case supervisor, may be best situated to provide information to the media that is designed to elicit public assistance in the search for a missing child.
 - H) Under direction of case supervisor, contact the FBI and/or Wisconsin DCI if appropriate
- 2) Initial Responding Officer responsibilities
 - A) Respond promptly to the scene of the report. Do not conduct random searches of nearby areas, unless there is need for an immediate response to the child's safety, these activities can be handled by other responding units.
 - B) Interview the parents or person who made the initial report and obtain facts about the disappearance including descriptions, photographs, videotapes, etc. of both the victim and possible suspect. Use the AMBER ALERT CHILD ABDUCTION EMERGENCY ALERT FORM as a guide. Disseminate all pertinent information to the dispatch center and other responding units as soon as possible.
 - C) Verify that the child is missing. Always search the child's house and immediate area, even if the parents already said they had. Take special notice of enclosures such as refrigerators, freezers, vehicle interiors and other places a child's breathing could be restricted. Ask if child's friends have been contacted or if the parents may have overlooked or forgotten something the child said that would explain their absence.
 - D) Confirm the child's custody status.
 - E) Identify the circumstances of the disappearance.
 - F) Determine when, where and by whom the missing child was last seen
 - G) Interview the individuals who last had contact with the missing child.
 - H) Identify the child's zone of safety for his age, developmental stage, and physical and mental state. This information is important as it will help to determine the first search radius.
 - I) Identify and interview everyone at the scene.
 - J) Secure the scene as a potential crime scene.
 - K) Determine if the child had access to computer, cell phone or other communication device. Record cell phone number, e-mail addresses and other information. Notify supervisor as soon as possible.
 - L) Prepare necessary reports.
- 3) Field Commander or Supervisor responsibilities:
 - A) Obtain briefing from the first responding Officer and other agency personnel at the scene. This briefing should be conducted away from family, friends, witnesses and other individuals at the scene.

- B) Determine if additional personnel and resources are needed to assist in the investigation. Resources include but are not limited to: local and state law enforcement, fire, EMS, Minnesota State Patrol Air Unit, Emergency Management, FBI, DCI, National Center of Missing and Exploited Children TEAM ADAM.
 - C) Consider activation of the AMBER ALERT SYSTEM or other immediate community notification methods.
 - D) Establish a command post. Using the victim's home as a command post is not recommended.
 - E) Establish a perimeter or search radius, based on time elapsed and mode of transportation since the abduction
 - F) Organize and coordinate the investigation and search efforts
 - G) Establish a liaison with the victim's family. Liaison should be used to communicate information to the family and explain questions about the investigation.
 - H) Manage media relations. Appoint person to serve as a Public Information Officer, this person is a liaison between law enforcement and the media and doesn't necessarily need to be a law enforcement Officer.
- 1) Detective or Primary Investigating Officer Responsibilities:
- A) Obtain a briefing from agency personnel at the scene.
 - B) Verify the accuracy of all descriptive information
 - C) Conduct a neighborhood canvass
 - D) Obtain a brief history of family dynamics
 - E) Evaluate the need for additional resources and communicate to Incident Commander
 - F) Update descriptive information
 - G) Monitor media relations. All media releases should be cleared with the Chief of Police before release.

300-6-3 Unidentified Child

An Officer assigned to the report of an unidentified child, whether living or deceased shall

- 1) Obtain a complete description.
- 2) Enter the unidentified child's description in the NCIC Unidentified Person File.
- 3) Utilize all available resources to aid in the identification of the child.
- 4) Cancel all notifications after identification is confirmed.

NOTES:

300-7-0 ANIMAL BITES

- 1) The Cumberland Police Department personnel shall comply with WI Stats. 95. In general, it states that:
 - A) Owners of dogs must have the dogs vaccinated against rabies, and the vaccination must be current.
 - B) A veterinarian shall issue a certificate of vaccination to the owner and keep a copy on file.
 - C) The veterinarian shall issue a tag documenting the serial number of the certificate and the identity of the veterinarian.
 - D) The dog owner shall display the vaccination tag on the dog (some exceptions apply).
- 2) Any Officer shall order a dog or cat quarantined if the Officer reasonably believes that any of the following apply:
 - A) the animal bit a person
 - B) the animal is infected with rabies
 - C) the animal has been in contact with a rabid animal

- 3) An Officer who orders a dog or cat to be quarantined shall deliver the animal or order the animal delivered to an isolation facility as soon as reasonably possible, except that, if the owner can demonstrate a valid certificate of vaccination, the Officer may order the animal quarantined on the premises of the owner.
- 4) If quarantine cannot be imposed because the animal cannot be captured, the Officer may kill the animal as a last resort or if the owner agrees. The Officer shall kill the animal in a humane manner that avoids damage to the animal's head.
- 5) An Officer who kills an animal shall deliver the carcass to a veterinarian as defined in WI Stats. 95.21(6) and 250.01(4). Any Officer who responds to an animal bite complaint shall thoroughly investigate the incident, report the incident to the Barron County Health Department and file a report.
- 6) The administrative assistance shall cause a copy of the Officer's report to be delivered to the Barron County Health Department as soon as reasonably possible.

NOTES:

300-8-0 ALARMS, GENERAL

- 1) The following procedures will be observed when dealing with alarms. An Officer responding to a report of an alarm shall exercise good judgment, recognizing the following:
 - A) the value of life and safety is greater than that of property
 - B) most activated alarms prove to be false
 - C) an alarm system is an effective way to deter crime and provides a valuable opportunity to apprehend a criminal in the early stages of a crime
- 2) In cases of actual and valid alarms, Officers shall proceed with normal accepted procedures. In either case, an incident number shall be assigned; however, in cases of false alarms, an incident report need not be completed.

300-8-1 Bank/Business Alarms

It is the purpose of this policy to provide law enforcement Officers with guidance for responding to and handling robbery alarms at banks and other financial institutions as well as other businesses.

When responding to alarms at these establishments, Officers shall follow the procedures set forth in this policy in order to enhance arrest possibilities of suspects and observe proper precautions for the safety of Officers, employees and bystanders.

- 1) Communication Officer's responsibilities
 - A) Upon receipt of a financial institution alarm, a minimum of two patrol units shall be dispatched.
 - B) If the notification is received by telephone, a complete description of the perpetrators shall be obtained from the caller along with as much additional information as possible; particularly, whether the perpetrator is at the scene and, if not, his direction and mode of travel and a complete description of any vehicle involved.
 - C) If the notification is made by alarm, the dispatcher shall not attempt to contact the institution in order to determine the validity of the alarm until Officers have given notice that they are in position at the establishment.
 - D) If the communication Officer is subsequently notified that the alarm is false, he shall:
 1. advise the caller that the police units are responding;
 2. obtain the identity of and maintain contact with the caller;
 3. verify the false alarm with a key employee of the establishment (e.g., manager or head teller) and advise him that he will need to exit the facility to meet the responding Officers utilizing the department's prearranged signal; and
 4. obtain a physical description of the key employee and provide responding Officers with the description and the fact that the employee will meet them outside as required.
- 2) Responding Officer Procedures
 - A) Responding Officers shall use appropriate vehicular warning devices when approaching the scene, but the siren will not be used within the hearing range of the reported robbery.
 - B) Responding units to the scene should be observant of any suspicious vehicles leaving the scene as well as other vehicles or persons outside the facility who may be serving as lookouts, cover or drivers for the robbery team.
 - C) The first unit on the scene shall serve as the primary unit until relieved by a supervisor, and shall take a position in front of the facility that provides good observation without being easily visible to those inside. The primary unit shall report on observable conditions at the location to the communication Officer but should not initially approach the building.
 - D) The primary and all subsequent units arriving at the robbery location shall report their arrival and position to the communication Officer. The primary unit or supervisory Officer should direct responding units into positions that will establish a budding perimeter covering all exits and entrances.

- E) Once the building perimeter has been established and no notice of a false alarm has been received, the primary unit on the scene shall determine whether the communication Officer shall telephone the establishment. If the call is made, the communication Officer shall identify himself and inquire whether a robbery is in progress. If the call is not answered or a questionable response is provided to the inquiry, Officers at the scene shall be informed of these facts and told that a possible robbery is in progress.
- F) If a robbery in progress is suspected, the primary unit or supervisory Officer shall determine whether to request additional backup and whether specialized units shall be alerted to include canine and ERT teams. Unless otherwise directed, Officers shall wait until suspects have exited the building before attempting apprehension. This helps to avoid the development of a hostage situation.
- G) Once perpetrators have been apprehended, the crime scene shall be secured by Officers in preparation for processing by crime scene technicians, investigating Officers, and federal agents.
- H) If a robbery has been committed and the perpetrators have left the scene, the primary unit should begin preparation of the initial report by identifying witnesses, caring for any injured parties, protecting the crime scene and obtaining necessary information regarding the perpetrators for supplemental broadcast. Remaining units should initiate the search for suspects on likely escape routes, being alert to unusual activity and circumstances.
- I) If the dispatcher notifies Officers that he has been in contact with an employee of the establishment and there does not appear to be a robbery in progress, Officers shall determine the identity and description of the employee and wait for him to exit the building and approach the Officers using the prearranged signal. Officers shall accompany the employee into the establishment in order to verify the situation and shall notify the communications center once the verification is complete.
- J) If the alarm is received after business hours and the establishment is not occupied, responding Officers shall assume positions in the front and rear of the building and jointly conduct an inspection of the facility for signs of forced entry. If signs of forced entry exist, Officers shall follow procedures for conducting a building search. If the building is secure, the communications center shall be notified to contact the owner or the establishment's designated contact person to meet them at the location.

NOTES:

300-9-0 DISASTER ALERTS

Although the subject of disasters, especially on a large scale, can involve volumes of policy, procedures, and techniques, the following is established to direct the police Officer in their role in an actual or potential disaster normally associated with hazardous materials and chemical spills.

- 1) It is the primary responsibility of the communication staff to alert the appropriate emergency management personnel. The communications staff will obtain and relay as much relevant information as possible to responding units until an on-scene command post can be established.
- 2) Officers must recognize in their response that:
 - A) Police Officers are generally not equipped or expected to enter the contaminated area of a hazardous material release
 - B) The safest location to approach is from uphill and from upwind.
 - C) If vapor release is suspected, an invisible cloud is usually much larger than any visible cloud.
 - D) Officers most likely cannot assist in contaminated areas; therefore, efforts should be concentrated on establishing and protecting a safe perimeter, including warning and assisting in evacuating potential affected areas.
 - E) As law enforcement Officers are usually the first emergency service providers on the scene, and it is well established that the role of the law enforcement Officer does not include actual, in depth rescue or containment responsibilities, the Officer should be alert to original conditions, noting any suspicious activity, possible witnesses, changing circumstances, and other variables which may otherwise be lost in the commotion.

NOTES:

300-10-0 BOMB THREATS

Because bombs have the potential for mass destruction, both in personal safety and property, the following guidelines are established to minimize the risk of danger and to provide uniformity in responding to such threats.

- 1) A communication Officer is likely to be the first person to make contact with a caller. The following must be established:
 - A) Is the caller the person who claims to have planted the hazardous device? Or is the caller someone who is reporting that a threat was made? If the latter is the case, all attempts shall be made to locate and personally interview the person who received the call.
 - B) Is the incident a threat only or has a device been found?
 - C) The identity of the one person who is to be in charge of the building or premises at risk. This person is to be in contact with the Officer in charge--in person, if at all possible.

- 2) The communication Officer shall, when receiving a call from a person who claims to have planted a device:
 - A) prolong the call as long as possible
 - B) note the time and phone line for re-recording
 - C) dispatch Officers and fire department to the scene
 - D) caution emergency services personnel against transmitting on mobile or portable within 500 feet of the scene.

- 3) The Officer first responding shall be in charge of the scene until relieved by a supervisor and shall:
 - A) Locate and interview the person in charge of the building or premises.
 - B) Establish that the Cumberland Police Department does not order evacuation; that is the responsibility of the person in charge of the building or premises.
 - C) Establish a site at least 500 feet away from the scene for a command post. This is the area for all other emergency services providers to stage.
 - D) Organize and direct personnel in a systematic search, if necessary.
 - E) Coordinate the response of any specialized personnel.
 - F) Establish that the Cumberland Police Department does not declare a building or premises to be safe; that is the responsibility of the person in charge of the building or premises.

- 4) The Officer in charge has the overall responsibility to create a written record of the incident.

300-11-0 MUTUAL AID

For this section, mutual aid refers to requests for assistance during emergency situations including but not limited to; natural disasters, hazardous materials spill, active shooter response, capture of criminals and crowd control, and is not intended for assistance requests to other inter-county law enforcement agencies for lesser situations.

Any mutual aid requests for members of this department to respond to another jurisdiction must be approved by the Chief or their designee. If the Chief or their designee cannot be contacted in a timely manner, the most senior Officer on duty may approve the request and send the appropriate number of units.

Any request for mutual aid from this department to other jurisdictions must be approved by the Chief or their designee. If the Chief or their designee cannot be contacted in a timely manner, the most senior Officer on duty may request mutual aid from other jurisdictions.

Any mutual aid agreements signed between this department and any other jurisdiction will become part of this section.

Reference WI Stats. 66.305, 66.315, 175.40, and 175.46.

300-12-0 ACTIVE SHOOTER RESPONSE

This policy provides initial responding Officers to active shooting and similar deadly force incidents, as herein defined, with protocols for assessing the threat and performing rapid intervention tactics to limit serious injury or loss of life.

It is the policy of the Cumberland Police Department that during barricaded and hostage situations initial responders shall contain suspects and secure the perimeter, pending the arrival of the Barron County Emergency Response Team, when such containment and perimeter furthers the lifesaving mission. However, where deadly force has been employed, is reasonably likely to be employed, or continues to be employed by suspects, and when delay could result in additional injury or death, rapid deployment of available Officers at the scene is to be authorized when deemed necessary to prevent further injuries or loss of life.

300-12-1 Definitions

Active Shooter: An incident in which at least one-armed person has used, or is reasonably likely to use, deadly force and where victims are under his or her immediate control or are readily accessible. This term is commonly used to identify situations in which rapid deployment is justified. However, as defined herein, rapid deployment may be justified not only when shots have been fired but also when there is a reasonable likelihood that some form of deadly force will be used if immediate measures are not taken.

Contact Team: Normally, the first three to five Officers at the scene of an active shooting who form a team to locate the perpetrator in order to neutralize his or her aggression.

Rapid Response and Deployment: The swift deployment of patrol personnel and resources to developing or ongoing life-threatening situations where delayed deployment of emergency personnel could otherwise result in death or bodily harm to innocent persons.

Rescue and Recovery Team: An organized team of Officers who make entry after the contact team to provide first aid and evacuate persons from a hostile environment.

300-12-2 Initial Response

- 1) The initial responding Officer shall assume incident commander (IC) responsibility and shall notify communications of Unit ID, Arrival, Scene Description, Conditions, Actions, Safety Concerns, and Assumption of Command. He or she shall initiate the following steps (SEVEN CRITICAL TASKS):
 - A) Establish communications and control (Command Post location)
 - B) Establish "hot" zone
 - C) Establish inner perimeter
 - D) Establish outer perimeter
 - E) Establish Scene Control
 - F) Establish Staging Area
 - G) Identify and request additional resources (BCERT, EMS, Fire)

Incident Commander responsibilities may be passed repeatedly to a supervising Officer or an Officer with specialized expertise upon his or her arrival once the Officer has been briefed.

Communications and all involved personnel shall be informed of any changes in the IC as they occur.

The IC shall designate an initial inner perimeter to contain the perpetrator and control access to and egress from the target location, when such containment is logical and appropriate. Civilians should be directed out of the inner perimeter to a designated secure location for identification and debriefing of witnesses.

The IC shall select a suitable secure staging area for responding Officers and other emergency responders and shall provide its exact location to dispatch for relay to responding units.

- A) The staging Officer shall remain at the staging area at all times to brief arriving personnel and maintain communication with the Command Post and the contact team.
- B) A second secure staging area shall be designated as soon as reasonably possible to accommodate family members of victims who may arrive on site.
- C) A third staging area shall be designated, as time permits, to accommodate media personnel.

3. **Initial Situational Analysis**

- 1) Based on observation and all available information, the IC may verify that an active shooter situation exists through information provided by bystanders, complainants, telephone communication from persons confined in the target location, escaped hostages or witnesses, reports of gunfire or other sources.
- 2) Where available and as time permits, witnesses, escaped hostages, and others should be questioned to determine the number of subjects, their armament, and the place where the subjects were last seen; the number of hostages or persons in hiding; the hostages' locations, injuries, or deaths; known booby traps; and related information.
- 3) Upon completion of the Initial Situational Analysis, the IC shall advise dispatch and request resources as deemed necessary to respond to a designated staging area.

4. **Justification for Rapid Deployment**

- 1) The IC shall determine whether rapid deployment is justified. Serious bodily harm or death need not have taken place in order to justify rapid deployment. However, Officers should reasonably believe the suspect:
 - A) Is armed with a deadly weapon
 - B) Has hostages who are under his or her immediate control or who are readily accessible, and
 - C) Has, by speech conduct, or other means, provided the basis for a reasonable belief that he or she will use or continue to use deadly force.
- 2) The decision to initiate rapid deployment should also include the following:
 - A) BCERT will be available soon enough to take action in lieu of rapid deployment.
 - B) Whether sufficient police manpower and equipment is available to deal effectively with the threat. A minimum of three (3) Officers should be available before a tactical entry is attempted. This number may vary based on information, as available, concerning the number and potential location of perpetrators, their weapons, and other variables.
 - C) Whether the target area can be entered effectively to gain access to the perpetrators. This consideration includes, but is not limited to, such circumstances as booby-trapped explosives known to exist that are beyond the capability of available Officers to bypass or disarm.
 - D) Whether intervention could potentially neutralize the opportunity of perpetrators to gain access to hostages or other potential victims.

5. **Tactical Intervention**

Where the situational analysis and related information supports rapid deployment, available Officers shall form a contact team under the direction of an assigned team leader.

- 1) Normally, only one contact team shall be deployed at any given time. Additional teams may be deployed at the direction of the IC to provide tactical advantage. The IC shall ensure that each team is aware of the other teams' locations and actions.
- 2) The mission of the contact team is to locate and stop the threat.
- 3) The contact team shall locate the perpetrators in the most expeditious manner possible in order to stop the threat. In doing so, Officers should not stop to render aid or assistance to victims but may, where reasonably possible, inform them that rescue teams are forthcoming, direct them to a safe point of egress or both.
- 4) The contact team shall wear body armor and, if available, ballistic helmets and deploy department authorized handguns, patrol rifles and shotguns with slug ammunition. The team should deploy according to departmental training in a tactical team formation. Where time is of the essence, entry should not be delayed in order to gather all items of equipment noted.
- 5) The team should employ tactical advantages such as entering at a location other than the main entrance to provide an element of surprise and to avoid potential booby traps or ambush.
- 6) The contact team shall be provided with a clear channel to provide ongoing communications with the command post and tactical teams regarding the following elements:

- A) The team's progress and location
 - B) The location and number of victims and their medical needs
 - C) The estimated number of perpetrators involved
 - D) The perpetrators' descriptions and armament if known
 - E) The location of any booby traps or explosives. Where a booby trap or explosive device is discovered, the contact team leader shall determine whether to post an Officer near it, report it, or mark it for later removal.
- 7) The contact team should not attempt to conduct a thorough clearing of the location but should follow sounds (gunfire, yelling and screaming), observations of victims and bystanders, and related information to help in locating the perpetrators as soon as possible.
 - 8) Once the perpetrators have been located and the threat terminated, the contact team should proceed to clear all portions of the location in the event that more perpetrators are in hiding. Arriving BCERT or other Officers should be called upon to help clear the location.

6. **Rescue Teams**

- 1) Once the contact team is deployed, and as Officers and resources arrive at the incident scene, the IC shall order the establishment of rescue teams to provide first aid and to evacuate victims. Rescue teams should consist of 4 to 6 Officers and may be expanded to include paramedics, EMT's or other available medical personnel.
- 2) Rescue teams shall be deployed only after the contact team has made entrance, provided a status report, notified the command post of the location of victims, and determined that rescue efforts may begin.
- 3) Rescue teams shall be organized under a team leader, deploy in tactical formations consistent with departmental training, and be prepared to respond to hostile action as rapidly changing circumstances may place them in contact with the perpetrators. In such instances, the team shall be prepared and equipped to serve as the contact team.
- 4) Wounded and injured persons shall be removed to the emergency first aid area designated by the IC with cover and movement of such persons provided by team members. If emergency medical personnel are not yet in place, basic first aid shall be the responsibility of rescue team members until medical personnel relieve them.
- 5) Medical personnel may be permitted to accompany or respond to rescue team members if wounded persons are not deemed capable of being safely evacuated.
- 6) Rescue team members shall search uninjured persons in the hostile environment before moving them to the evacuation site.
- 7) Rescue and recovery operations shall continue until the IC has declared the scene clear and safe.
- 8) Officers assigned to the evacuation center shall maintain custody and control of all victims and document their identity.
- 9) As evacuees arrive at the designated safe location, the IC may direct that they be debriefed for information relating to the identity, location, and armament of the perpetrators and other such information as may be deemed important to ongoing contact and rescue operations.

7. **Command Post**

- 1) The IC shall ensure that the following actions are accomplished as their importance is determined on site:
 - A) Establish a command post
 - B) Establish communications plan
 - C) Identifying staging areas for equipment, personnel and media
 - D) Request additional resources including, but not limited to: inter-county law enforcement agencies, intra-county law enforcement agencies, state patrol, DNR wardens, WIDCI, FBI, fire departments, and EMS services.
 - E) Ensuring unified interagency telecommunications
 - F) Ensuring traffic control and management
 - G) Requesting emergency medical assistance and designating a safe treatment area.
 - H) Initiating intelligence gathering on possible perpetrators
 - I) Selecting a safe and secure area for evacuees.
 - J) Select a safe and secure unification area for families to reunite with victims
 - K) Summoning police chaplains and Officers to provide information to victim's relatives

- L) Assign a recorder to document actions at the command post
- 2) When BCERT becomes available, team may be assigned to:
- A) Contain the location
 - B) Assist rescue teams
 - C) Help locate perpetrators or relieve the contact team
 - D) Help locate and safeguard explosives pending removal
 - E) Provide special weapons and equipment as needed
- 3) Additional Officers shall be deployed to control access to the location and monitor the perimeter. Perimeter personnel shall be aware that suspects may attempt to flee the location by posing as victims. Therefore, all apparent victims shall be directed to a position of cover and searched for weapons prior to being directed to the evacuation area.

8. **Debriefing**

After the incident, the department shall conduct a debriefing of essential personnel involved in the incident. The debriefing shall identify both positive and negative aspects of the deployment with the intent of determining whether changes in operational protocols, policy, or training are warranted as a result.

9. **Training**

This department has the duty to provide appropriate training to all sworn personnel, including simulation exercises conducted in schools and other facilities.

NOTES:

300-14-0 CRIMINAL TRESPASS TO DWELLING

The following policy is created in accordance with WI Stats. 943.14 (2015 Wisconsin Act 176)

It is the policy of this Department to investigate all reports of criminal trespass to a dwelling, which many times impacts landlord - tenant situations. This policy mandates the removal of a subject from the premises if law enforcement has probable cause to arrest for criminal trespass to a dwelling, regardless if the complainant is present when the trespass occurred.

1. **Mandatory Arrest**

- 1) Upon a law enforcement Officer arriving at the scene of a criminal trespass complaint, the Officer is required to arrest a subject if there is probable cause developed that the person intentionally entered the dwelling of another without consent under circumstances tending to create or provoke a breach of the peace.

2. **Removal of Subject and Protocol After Arrest**

- 1) If a law enforcement Officer establishes probable cause to arrest a subject who violated this law, the Officer is required to arrest the subject and remove them from the premises. The law enforcement Officer should take into consideration if there is a lease, month to month, or week to week, tenant relationship with the complainant.
- 2) Once the subject is arrested and removed from the premises, it is the policy of this department to allow the Officer the discretion to take the person to jail, issue an ordinance citation, release, or any other appropriate measures available to the Officer at the time.

1. AUTOMATED LICENSE PLATE READERS (ALPR)

PURPOSE AND SCOPE:

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection and reading of license plates. ALPRs are used by many agencies nationwide to enhance public safety and assist in criminal investigations. ALPRs convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPR uses include, but are not limited to, gathering information related to active warrants, homeland security, electronic surveillance, the interdiction of illegal drugs, human trafficking interdiction, and recovery of stolen property.

2. ADMINISTRATION OF ALPR DATA

1. Flock Safety is responsible for all installation and maintenance of their fixed ALPR equipment, as well as ALPR data retention. Access to the Flock Safety ALPR system shall be administered by the Chief of Police or designee. Particular roles shall be established by the Chief of Police or designee based on assignment and rank. All installation and maintenance of mobile ALPR systems and its access, shall be managed by the Chief of Police or designee. Chief of Police will assign personnel under his/her command to administer the day-to-day operation of the mobile ALPR equipment. Because Flock Safety is part of a nationwide network, the Chief of Police may grant other law enforcement agencies access to the ALPR data obtained by APLR cameras used by the Cumberland Police Department. Data from the mobile ALPR system shall be maintained at a server located at the Cumberland Police Department.

3. ALPR OPERATION

1. Cumberland Police Department personnel shall not use, or allow others to use, ALPR capabilities for any unauthorized purpose. Use of the ALPR system is restricted to the following purposes/reasons:
 - A. The use of the ALPR system shall only be used for official and legitimate law enforcement purposes.
 - B. An active investigation must be initiated.
 - C. Reasonable suspicion or probable cause is not necessary before using an ALPR. While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR equipped cars to canvass areas around homicides, shootings, robberies, burglaries and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
 - D. No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

E. If practicable, the officer should verify an ALPR response through the Transaction Information for the Management of Enforcement (TIME) system, the National Crime Information Center (NCIC), or National Law Enforcement Telecommunications System (NLETS) before taking enforcement action that is based solely upon an ALPR alert. No ALPR operator may access TIME or NLETS data unless otherwise authorized to do so.

F. Equipment or software issues shall be reported as soon as practical.

G. The ALPR equipment and software shall be operational by dispatch and patrol during their respective shifts.

H. The Cumberland Police Department shall maintain a hot list on the ALPR database. The hot list will include vehicles that are of interest due to local investigations.

I. Any person searching for information through the Flock Safety camera system shall include a reason for the search under the "Search Reason" block. There should be a corresponding case or call for service number associated with each search. Blanket searches absent a bona fide reason, are strictly prohibited. The only exception is for training and or demonstration purposes, in which case "Training" or "Demonstration" shall be used in the "Search Reason" block.

4. ALPR DATA COLLECTION AND RETENTION

1. All data and images gathered by an ALPR are for the official use of the Cumberland Police Department; and because such data may contain confidential TIME information, it is not open to public review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law. Flock Safety owns the data captured/recorded by their cameras, thus any information requested by any person or any organization outside of the Cumberland Police Department regarding said data will have to make the request through Flock Safety.
2. Data obtained from ALPR's and used by the Cumberland Police Department in criminal investigations shall be retained and stored in accordance with Cumberland Police Department policy and procedures as they relate to digital evidence.
3. All mobile ALPR data downloaded to the server will be stored for 1 year in accordance with the provisions outlined in the agreement with the Cumberland Police Department, and all fixed ALPR data (Flock system) will be retained for 30 days in accordance with Flock Safety data retention policy. If it is reasonable to believe that the data will become evidence in a criminal or civil action or is subject to a lawful action to produce records, the applicable data should be downloaded from the server on to media to be retained as evidence.

5. SAFEGUARDS AND ACCOUNTABILITY

1. All saved data will be closely safeguarded and protected by both procedural and technological means. The Cumberland Police Department will observe the following safeguards regarding access to and use of stored data:
 - A. Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relates to a specific criminal investigation or department-related civil or administrative action. Blanket searches absent a bona fide reason are strictly prohibited.
 - B. All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
 - C. ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.
 - D. All non-law enforcement requests for access to stored ALPR data shall be referred to the Chief of Police and processed in accordance with applicable law.
 - E. All ALPR system audits should be conducted on a regular basis.

6. PRIVATELY OWNED/FUNDED ALPR SYSTEMS

1. The Cumberland Police Department acknowledges that residents and private organizations may want to purchase their own ALPR systems and link them to the Cumberland Police Department network of ALPR cameras. All private systems linked to the Cumberland Police Department network of ALPR cameras must be approved by the Chief of Police, and;
 - A. The Cumberland Police Department shall not incur any costs associated with any privately owned ALPR camera;
 - B. Privately owned ALPR cameras shall meet all government right of way ordinances, state

laws, rules, and regulations.

2. All data received or obtained by the Cumberland Police Department from privately owned ALPR cameras shall become data subject to all provisions of this policy.
3. The Cumberland Police Department will not actively monitor any privately owned ALPR cameras.

400 INSTRUMENTS AND USE OF FORCE

Reference 66.312(2) WI Stats.

The use of force is a privilege that may be exercised by law enforcement Officers only when necessary to perform their official duties.

Clearly the use of force is an issue of considerable legal and moral importance; therefore, the following policy is established to provide guidance and direction to Officers when using force. The Cumberland Police Department adopts the use of force standards as established by the Wisconsin Department of Justice, Law Enforcement Standards Board, Defensive and Arrest Tactics Training Advisory Committee.

400-1-0 EXCESSIVE USE OF FORCE

Excessive force is that force which is beyond what a reasonable and prudent Officer in similar circumstances would use in gaining or retaining custody of a suspect during a lawful arrest or custodial situation. Excessive force shall never be used.

400-1-1 DUTY TO INTERVENE

As of January 1, 2022, per the 2021 Wisconsin ACT 75, the following policy is adopted:

REGARDING WI STATUTE 175.44: A law enforcement officer shall, without regard for chain of command, intervene to prevent or stop another law enforcement officer from using force that does not comply with the standards under sub. (2) (b) or (c) in the course of that law enforcement officer's official duties if all of the following apply:

1. The law enforcement officer observes the use of force that does not comply with the standards under sub. (2) (b) or (c).
2. The circumstances are such that it is safe for the law enforcement officer to intervene.

A law enforcement officer who intervenes as required under par. (a) shall report the intervention to his or her immediate supervisor as soon as is practicable after the occurrence of the use of such force.

400-2-0 DISTURBANCE RESOLUTION

The use of force options listed below are the techniques established by the Wisconsin Department of Justice, Law Enforcement Standards Board, Defensive and Arrest Tactics Training Advisory Committee.

Disturbance Resolution

- 1) Approach considerations
 - A) Decision-making
Justification
Desirability
 - B) Tactical Deployment
Control of distance
Positioning
Team tactics
 - C) Tactical Evaluation
Threat assessment opportunities
Officer/subject factors

Special circumstances
 Level/stage/degree of stabilization

2) Intervention Options

| <u>Mode</u> | <u>Tactic</u> | <u>Purpose</u> |
|-------------------------|---|---|
| Presence | Professional Image | Visible display of authority |
| Dialog | Tactical Communication | Verbally persuade |
| Control Alternatives | Escort Holds Compliance Holds Control Devices Passive Countermeasures | To overcome passive resistance, active resistance or their threats |
| Protective Alternatives | Active Countermeasures Incapacitating Techniques Intermediate Weapons | To overcome continued resistance, assaultive resistance, or their threats |
| Deadly Force | Firearm | To stop the Threat |

3) Follow-through Considerations

- | | |
|----------------------|------------------------------------|
| A) Stabilize | Application of restraints |
| B) Monitor/debrief | |
| C) Search | If appropriate |
| D) Escort | If necessary |
| E) Transport | If necessary |
| F) Turn-over/release | Removal of restraints if necessary |

NOTES:

400-3-0 USE OF NON-DEADLY FORCE

Non-deadly force is the use of any weapon, instrument or other action which does not fall into the deadly force category, but which may result in bodily harm or injury to a person.

In serving the community, law enforcement officers shall make every effort to preserve and protect human life and the safety of all persons. Law enforcement officers shall also respect and uphold the dignity of all persons at all times in a nondiscriminatory manner.

When using force, a law enforcement officer is required to act in good faith to achieve a legitimate law enforcement objective. A law enforcement officer is authorized to use force that is objectively reasonable based on the totality of the circumstances, including:

1. The severity of the alleged crime at issue.
2. Whether the suspect poses an imminent threat to the safety of law enforcement officers or others.
3. Whether the suspect is actively resisting or attempting to evade arrest by flight.

400-3-1 Specialty Impact Munitions (SIMs)

The purpose of this policy is to provide police Officers with direction in when and how to use SIMs.

The availability of SIMs can assist Officers in de-escalation of potentially violent confrontations and provide additional alternatives to the use of deadly force. SIMs are an important component of this agency's less lethal force equipment. Officers are authorized to employ SIMs in accordance with provisions of this policy and this department's overall policy on use of force.

SIMs: Devices used by police Officers to stop, control, and restrain individuals potentially causing less harm than deadly force to the individual as well as the Officer and any nearby persons. Examples of SIMs include, but are not limited to bean bag, wood baton, rubber pellet, sponge ball and pepper ball munitions. SIMs are designed to incapacitate a subject with a minimal potential for causing death or serious physical injury when compared to conventional projectiles when used in accordance with agency policy and training guidelines.

SIMs Philosophy: Planning and application of force that meets operational objectives with less potential for causing death or serious physical injury than conventional police tactics.

1) Guidelines of Use Impact Projectiles

- A) SIMs may be used as one of many weapons if consistent with the use-of-force continuum.
- B) All uses of SIMS shall be consistent with this agency's policy on use of force and principles of the use-of-force continuum. Use of SIMs fall below that of deadly force on the force continuum.
- C) Impact projectiles are primarily designed for us against subjects who are actively resisting an Officer.
- D) There is a broad range of scenarios in which use of an impact projectile may be justified. Major factors to consider when deciding whether such use is justified include the following:
 1. Seriousness of any crime committed by the individual
 2. Whether the individual is armed and, if so, the potential lethality/threat

3. Propensity of the individual to be violent
 4. The urgency of the situation and potential impact of actions that may be committed by the suspect
 5. The ability of Officers to use an impact projectile against the suspect in accordance with policy and training
 6. The potential for collateral damage to Officers, other persons, or property should the impact projectile incapacitate the suspect (e.g., the suspect is or is allegedly holding a triggering device connected to explosives or other destructive devices)
- E) Consideration may be given to the use of SIMs against those who are posing a threat of death or serious bodily injury to themselves or others.
- F) Only Officers who have met this agency's training requirements or use of the SIMs are permitted to carry or deploy SIMs.
- 2) Deployment and Follow-up
- A) Specific deployment weapons shall be designated for deployment of impact projectiles and shall be definitively marked by paint or other conspicuous distinguishing features as authorized by this department. These shotguns shall not be used for any other purpose, shall be loaded only with SIMs, and shall be kept only by authorized personnel in a manner designated by the department.
 - B) Where possible, Officers should inform other police personnel in immediate vicinity that SIMs will be deployed in order that the shot will not precipitate the use of firearms by other Officers.
 - C) SIMS shall only be used when the deploying Officer has a back-up Officer prepared to use deadly force if necessary.
 - D) Suspects who are struck with a projectile should be restrained as necessary and transported to a medical facility for examination.
 - E) After deployment of SIMs, photographs of the struck individual and any injuries shall be taken and made part of the deploying Officer's report. The SIMs casing and projectile shall be sealed in an evidence bag and stored as evidence.
 - F) Use of SIMs is a use of force and is subject to the same reporting and investigative policy requirements as other types of force incidents.
 1. A use of force investigation shall be conducted in any situation involving the discharge of an impact projectile.
 2. The depth of any investigation shall be determined by designated departmental authorities based on the extent of suspect injuries and a review of the circumstances surrounding the incident.
- 3) Training
- A) Impact projectiles shall be directed at suspect target areas based on the circumstances at hand, established safety priorities, the exigency of the situation, and the level of force that is authorized.
 - B) Officers authorized to deploy SIMs shall receive designated training and certification, and shall re-qualify with the weapon on a yearly basis.
 - C) Officer shall receive agency-authorized training specifically designed to simulate actual deployment situations and conditions to enhance Officers' discretion and judgment in using impact projectiles in accordance with this policy.
 - D)

The Cumberland Police Department has approved the use of the Electronic Control Device manufactured by TASER International.

- 1) ECD's can be checked out by an Officer during their shift and should be returned to the appropriate area before the end of the Officer's shift. If the Officer, because of job assignments, was not able to return the ECD to the Police Department, the Officer must return it or make arrangements to have it returned as soon as possible.
- 2) Trained personnel may use a ECD when a subject is threatening to actively resist or is actively resisting an Officer and the subject poses an articulable threat of harm to an Officer or another person. It may also be used when the subject poses a threat of harm to himself or herself, such as self-inflicted injury or a suicide attempt.
 - A) Officers may also consider in the decision to use this force option information known to the Officer at the time of the incident, including conduct or statements of the subject or prior history of resistive or assaultive behavior.
- 3) When an ECD is used against a person or animal, the user shall notify an on-duty supervisor and shall complete an offense report detailing the circumstances of the incident. The user shall also complete a Use of Force form and forward it to the Chief. The Officer completing the form shall list the number of the deployed ECD unit on the form so that the deployment information may be downloaded.
 - A) Officers must detail in their report what prompted the decision to use this force option (known criminal history, behavior, statements made).
 - B) Passive resistance without posing an articulable threat of harm to Officers or others does not permit the use of an ECD.
- 4) An Officer shall not brandish, display or threaten the use of a ECD unless he or she can reasonably conclude its use may become justified and is anticipated.
- 5) Department personnel who use a ECD against a person shall ensure the person is monitored for injury as soon as practical after the person is under control.
- 6) In an adverse reaction the ECD occurs transport to a medical facility shall be arranged, or is requested by the subject.
- 7) If the probes are imbedded in sensitive tissue areas, i.e. neck, face, groin, or the breast of a female, Officer shall arrange transport to a medical facility for removal. If the probes are imbedded in other non-sensitive tissue areas, a trained Officer may remove them according to the trained procedures.
- 8) After the probes have been removed, they shall be handled as a biohazard and packaged according to the trained procedure. This package shall be put in a hazardous materials bag and placed into a temporary storage locker with instructions for it to be destroyed.
- 9) Trained Officers shall complete a refresher course and a written examination every two years concerning the use of this weapon.

NOTES:

400-3-3 Pursuit Intervention Technique (PIT)

The purpose of this policy is to provide Officers with direction in when and how to use Pursuit Intervention Technique (PIT).

The pursuit intervention technique, known as PIT, is a controlled contact between the patrol unit and the pursued vehicle normally done at speeds of 35 miles per hour or less, low speeds which are intended to cause the operator of a pursued vehicle to lose control of the vehicle and become disabled. PIT is a form of ramming under Forced to Stop

Options, and if utilized should be identified as such. The PIT maneuver speeds in excess of 35 miles per hour is considered deadly force and its use shall follow the protocol under 400-4-0 of this section.

Officers may employ PIT against a pursued vehicle in order to terminate a pursuit or prevent a pursued vehicle from continued operation under the following circumstances:

- 1) When all other means of apprehension have been considered and rejected as impractical.
- 2) When the use of PIT is in accordance with the prescribed training guidelines.
- 3) When the risk of harm to people of a continued pursuit outweighs the risk of harm to people from an intentional vehicular collision, and;
- 4) When the Officer affecting the vehicular contact has been trained in PIT.

400-3-4 BolaWrap

The purpose of this policy is to provide Officers with direction when and how to use the BolaWrap device.

1) Use of the Bola Wrap Device

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

2) Application of the BolaWrap Device

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

- (a) The subject is assaultive, actively resisting, or passively non-compliant.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm Officers, him/herself or others.
- (c) Prior to deployment, the Officer will in a clear and loud voice, inform all present that the BolaWrap will be deployed with the following instruction: "Bola,Bola,Bola".

3) Special Deployment Considerations

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

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals who are handcuffed or otherwise restrained.
- (d) Individuals detained in a police vehicle.
- (e) Individuals in danger of falling or becoming entangled in machinery or heavy equipment, which could result in death or serious bodily injury.
- (f) Individuals near any body of water that may present a drowning risk.

- (g) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

4) Targeting considerations

Reasonable efforts should be made to target lower extremities or lower arms. The head, neck, chest and groin shall be avoided. If the dynamics of a situation or Officer safety do not permit the Officer to limit the application of the BolaWrap device to a precise target area, Officers should monitor the condition of the subject if it strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel. If the laser stops working, the Officer may continue to deploy but aimed from the knees down.

5) Multiple Applications

Multiple Officers may use the BolaWrap device simultaneously on a subject, referred to in training as a “double wrap.” The intent of the “double wrap” is to immobilize a subject and ensure effective application of the device. In this instance, the preferred application would be to apply BolaWrap “high” and “low” or to the legs and lower arms.

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

- (a) Whether the Kevlar cord and/or anchor’s hooks are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.
- (d) Under exigent circumstances, nothing in this policy prohibits an Officer from deploying the BolaWrap at a subject without requesting or having the presence of additional Officers; this is not an ideal application of the device.

6) Actions Following Deployments

Officers shall notify a supervisor of all BolaWrap device discharges. The cartridge serial number shall be documented in the report. In the event that the device barbs penetrate the subject’s skin, the Officer will request medical care for the subject. Only medical personnel shall remove barbs embedded in the subject’s skin. The Kevlar cord shall be cut and removed prior to transporting the subject.

Officers shall document device discharges in a written report. The report shall include:

- (a) All personnel firing the device
- (b) Identification of witnesses
- (c) Medical treatment, if needed
- (d) Reasons for the deployment
- (e) Serial number of the BolaWrap cartridge
- (f) Any known or suspect drug use, intoxication, or other medical problems.

7) Training

Officers authorized to carry the BolaWrap device shall be permitted to do so only after successfully completing the department approved training. The initial training will consist of practical exercises including at least one live fire deployment along with a written test. Re-certification of the BolaWrap will be bi-annually.

- (a) Officers who do not carry BolaWrap devices should receive training that is sufficient to familiarize them with the device and with working with members who use the device.

400-4-0 USE OF DEADLY FORCE

Deadly force is: The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm. It is simply “any use of force that is likely to cause death”.

- 1) A law enforcement officer may use deadly force only as a last resort when the law enforcement officer reasonably believes that all other options have been exhausted or would be ineffective. A law enforcement officer may use deadly force only to stop behavior that has caused or imminently threatens to cause death or great bodily harm to the law enforcement officer or another person. If both practicable and feasible, a law enforcement officer shall give a verbal warning before using deadly force. This policy is in no way intended to limit an Officer's ability to use deadly force when the proper circumstances exist. The Officer is expected to defend himself or others with as much force as necessary to affect that defense.
- 2) Deadly force to human life may be used in any of the following circumstances:
 - A) In the defense of oneself when there is reasonable belief that one is in imminent danger of great bodily harm or death
 - B) In the defense of another when the Officer reasonably believes that person is in imminent danger of great bodily harm or death
 - C) After all other reasonable means of capture are exhausted to effect the arrest or prevent the escape of a suspect whom the Officer reasonably believes has committed, is highly likely to commit, or attempted to commit a serious crime involving the use or the threatened use of deadly force, and the Officer reasonably believes that the suspect cannot be apprehended later without the use of deadly force.
- 3) An Officer shall not threaten to use deadly force unless the Officer would be justified, under the circumstances, to use such force. There is no legal distinction regarding the use of deadly force against a juvenile and an adult, by policy or by law.
- 4) Warning shots shall not be fired.
- 5) Firearms are generally considered the method of applying deadly force; however, many items such as batons, flashlights, knives, and automobiles--when intentionally used in a lethal manner--are subject to the provisions of this policy.
- 6) The justification for the use of deadly force is “behavior which has caused or imminently threatened to cause death or great bodily harm to you or another person or persons”.
- 7) Use of choke holds is prohibited, except in these situations where the use of deadly force is allowed by law.
 - A) Choke Hold - a physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.
- 8) The departments use of force policies adhere to all applicable federal, state and local laws.

400-5-0 POST USE OF FORCE PROCEDURES

Whenever, non-deadly and deadly force is used by an Officer of this department, each Officer applying such force shall promptly report and document the incident.

400-5-1 Non-Deadly Force Reports

Whenever an Officer applies physical force in an incident, in addition to a complete and thorough incident report, the Officer is required to complete a Supplementary Report of the Use of Force. This report is to be completed as soon as reasonably possible and filed with the Chief of Police or designee.

Application of force for purposes of this section include the use of firearms, batons, chemical agents, and any other item or device used to overcome resistance. This will also include the delivery of strikes, pushing, blocking, or applied pressure; however, it is not intended to include the routine use of handcuffs or other restraint devices.

400-5-2 Use of Deadly Force after the Fact

- 1) Officers involved in a use of deadly force incident shall immediately notify the communications center. The communication Officer shall, as the highest priority, assign resources as needed to end the threat and provide for medical concerns. Secondarily the communications staff shall notify the Chief.
- 2) The first Officer on the scene, not directly involved, will be the Officer in charge until relieved by a supervisor. The duties of the Officer in charge shall consist of, but not limited to:
 - A) act as appropriate to end the threat and preserve life
 - B) promote medical assistance
 - C) secure the scene
 - D) preserve all evidence
 - E) isolate Officers involved
 - F) identify and isolate all witnesses
- 3) Officers involved in a deadly force confrontation shall, at the direction of the Officer in charge, surrender all weapons for inspection. Officers directly involved in a deadly force confrontation may be placed on paid administrative leave until the determination of a use of force review panel, or as otherwise directed by the Chief.
- 4) If requested, counseling will be provided to individual Officers and immediate family members. If an Officer's duty weapon is not returned upon the return to active duty, the department will seek to supplant it with a like weapon.

400-5-3 Review Panel and Investigation

- 1) Officers involved in a deadly force confrontation are entitled to, subject to, and expected to fully cooperate with a shooting review as an administrative investigation. Any Officer or witness subject to a use of force review panel is entitled to have a representative accompany them, as directed in *Garrity v. New Jersey*, 385 U.S. 493 (1967). Any fees for the Officer's representation may be paid by the Cumberland Police Department, ref. WI Stat. 895.35
- 2) The use of force review panel shall work independently of any criminal investigation. The use of force review panel shall convene no more than seven days after the incident, except under extraordinary circumstances. If practical and available, the deadly force (shooting) review panel will consist of:
 - A) Chief
 - B) Department Firearms Instructor
 - C) Three Sheriffs, Police Chiefs or other law enforcement Officers from other jurisdictions

- D) Firearms Instructor from another jurisdiction
- 3) At no time shall the review panel consist of less than five people. The review panel shall consider the following elements:
 - A) disturbance resolution
 - B) department policy
 - C) facts and evidence
 - D) statements of involved Officers
 - E) statements of witnesses
 - F) individual panel members' knowledge and personal experiences
 - 4) At the conclusion of the review panel hearing, the panel shall by a majority vote, deem the use of deadly force, as it relates to each involved Officer, justified or unjustified.
 - 5) Under the direction of the Chief, a written decision will be created stating the panel's conclusion, recommendations, commendations, and policy violations, if any. A copy of the decision shall be provided to each affected Officer and shall become a permanent part of his personnel file.
 - 6) The Chief, at his discretion, may consider a coroner's inquest in lieu of a deadly force review panel.
 - 7) All Officer's appearing before the review panel shall wear their department dress uniform.

400-5-4 Outside Law Enforcement Investigation - Required

Officer-involved death is: A death of an individual that results directly from an action or an omission of a law enforcement Officer while the Officer is on duty or while the office is off duty but performing activities that are within the scope of his or her law enforcement duties. (See 2013 Wisconsin Act 348, effective April 25, 2014)

- 1) Whenever an Officer(s) is involved in an Officer-involved death, the department will require at least two investigators, who are not employed by the law enforcement agency that employs a law enforcement Officer involved in the Officer-involved death, to conduct the Officer-involved death investigation.
- 2) The investigators from the outside agency(s) must provide a complete report in an expeditious manner to the district attorney of the county in which the Officer-involved death occurs. The district attorney must determine whether the Officer(s) involved in the death acted legally.
- 3) The department may assign an internal investigator to the Officer-involved death to conduct its own internal investigation of the death, but does not replace the external investigation and shall not interfere with the required outside investigation, described above.

The external investigating agency has a responsibility to determine the release of information, according to Wisconsin's public records law, whether a record is released entirely, released with redaction, or withheld. The release of information will be determined on a case-by-case basis.

Release of information available to the public obtained during the internal investigation will be the responsibility of the Chief or designee, dependent on the balancing test and compliance with Wisconsin's public records law according to Wis Stat. 19.31 – 19.35.

NOTES:

400-6-0 FIREARMS

It is the purpose of this policy to regulate the use of firearms and ammunition by sworn personnel of the Cumberland Police Department. The procedures for training Officers in the use of firearms and testing proficiency with firearms will also be addressed in this policy.

It is the policy of the Cumberland Police Department that Officers shall only utilize firearms that have been approved for use, are mechanically sound and are properly maintained. Only firearms that have been registered with the Cumberland Police Department, and with which an Officer has demonstrated proficiency may be used, on or off-duty, by Officers pursuant to their authority as a law enforcement Officer.

The Chief of Police or Firearms Training Coordinator will establish handgun, shotgun, and rifle training and qualification programs for the department, maintain records of it and insure adequate supplies for these programs. Training programs shall include instruction pertaining to the appropriate use of deadly force as well as the actual use of firearms.

400-6-1 Definitions

Authorized Firearm: Any make, model, or caliber of firearm that meets the Cumberland Police Department's requirements or specifications, and has been formally approved by the agency's Chief of Police or his or her designee for general or individual use by sworn law enforcement personnel. This includes primary service handguns, alternate service handguns, backup handguns, shotguns, and rifles used for law enforcement purposes and any firearm carried as an off-duty weapon.

Primary Service Handgun: The firearm authorized by this agency to be carried as part of the service uniform and related equipment for uniformed personnel or the authorized firearm to be carried by plainclothes Officers.

Secondary Handgun: A handgun which is owned by the Officer. The Officer may carry this firearm on-duty, in addition to his/her duty firearm, or it may be carried off-duty. The firearm should be easily concealed, must be authorized for use and be registered with the department and the Officer must be currently qualified with the firearm.

Firearms Qualification: Periodic testing required of Officers to determine their competency to carry authorized firearms.

Restricted Duty: In the context of this policy, an assignment that does not require an Officer to be armed to take enforcement actions.

2. Firearms Training Coordinator

- 1) The Chief of Police will select one Officer who will act as the Firearms Training Coordinator for the department. Assistant Firearms Training Coordinators and Shooting Instructors may be appointed as needed.
- 2) The Firearms Training Coordinator shall be responsible for:
 - A) Instructing and testing Officer's knowledge of the lawful use of deadly force.
 - B) Establishing a procedure for qualification and training personnel including the registration and physical inspection of all firearms utilized by department personnel.

- C) Maintaining records of firearms training and qualification for all sworn personnel with handguns, shotgun, and rifles.
- D) Maintain adequate supplies for department firearms training and qualification programs

400-6-3 General Provisions

- 1) Officers when on or off duty shall carry only authorized firearms.
- 2) Only ammunition that has been approved by this agency shall be used in authorized firearms.
- 3) Only sworn Officers who have successfully passed firearms qualification and the use-of-force training course prescribed by this agency shall be authorized to carry a firearm
- 4) The primary service handgun shall be carried in accordance with uniform and related requirements found in Chapter 200 of this policy manual.
- 5) Officers are required to carry the primary service handgun when on-duty.
- 6) Officers shall be issued fresh duty ammunition in the specified quantity for all department issued firearms on an annual basis. When needed in accordance with established policy, firearms instructors shall dispense replacements for defective or depleted ammunition.
- 7) Officers on special assignment and other Officers with an articulable need may request written authorization to carry alternate service firearms or alternate ammunition on an ongoing or periodic basis.
- 8) When Officers have qualified with a department authorized weapon and they must take that firearm out of service for repair, the Officer may borrow another firearm of the same type from the department or another individual for temporary use. Prior to use the Officer shall fire a familiarization course with the borrowed firearm to insure serviceability, correct sight alignment and familiarity with that particular firearm. Arrangements for the familiarization shoot shall be made through the Firearms Training Coordinator. The change of weapons shall be approved and recorded by the Firearms Training Coordinator.

3. Secondary or Back-up Firearms

Officers may carry a secondary firearm, in addition to their duty firearm, while on-duty or may carry their duty firearm or secondary firearm while off-duty, providing it meets the following criteria:

- 1) The firearm, revolver or semi-automatic, should be .380, .40, .45, .38, .357 or 9mm caliber. Use of other caliber firearms is subject to the approval of the Firearms Coordinator based on the caliber's ability to afford a strong probability of incapacitating a suspect without an unreasonable hazard of over penetration and/or ricochet.
- 2) If a revolver, the firearm must be capable of double action fire.
- 3) The secondary firearm must be carried in a safe and concealed manner.

400-6-5 Off-Duty Firearms

- 1) Officers are required to have, readily available, a handgun which they are currently qualified while operating a marked Cumberland Police Department vehicle.
- 2) With the exception of 400-6-5(1), off-duty Officers on this department are not required to go armed while off-duty but may do so in accordance with this policy and with applicable state and federal laws. The decision to go armed when off-duty shall be based on the Officer's personal evaluation of his/her expected activity. Officers are prohibited from carrying firearms when:

- A) The Officer's mental or physical capabilities have been impaired by the use of alcohol, medications or a combination thereof; or

- B) The Officer anticipates his/her mental or physical capabilities may become impaired by the use of alcohol, medications, or a combination thereof.
- 3) Off-duty firearms shall be carried concealed when the Officer is in plain clothes or in uniform unless:
 - A) the Officer is in the workplace, and the Officer's badge is prominently displayed next to the firearm;
 - B) the Officer is engaged in law enforcement actions that may reasonably require quick access to the firearm, and the Officer's badge is prominently displayed near the weapon; or
 - C) the Officer is engaged in activities where it would be permissible for a citizen to carry an exposed firearm, such as in hunting or target practice.
- 4) When armed, whether on or off duty, Officers shall carry their badge and agency identification.
- 5) Any handguns and ammunition the Officer intends to carry while off-duty must be authorized and registered with the department. The Officer must train and qualify with the weapon as stated in 400-6-6 of this policy. For off-duty weapons Officers must supply their own ammunition for qualifications.

400-6-6 Firearms Training and Qualification

- 1) All Officers authorized to carry firearms are required to qualify with authorized firearm at all scheduled department shoots. If an Officer fails to attend a scheduled training, the Officer must notify the Firearms Training Coordinator and Chief of Police of the absence before training. The Officer must also submit notification of the absence to the Chief. An Officer who fails to attend training may be required to attend a make-up shoot scheduled at the department's discretion. See 400-6-6 (6) for failure to qualify.
- 2) All Officers shall be graded on a pass/fail basis for purposes of firearms qualification. Each Officer shall be given a copy of the training session's evaluation sheet signed by a department firearms coordinator. Some qualifications will require a minimum score to achieve a pass rating. The minimum score needed to pass will be documented on the evaluation sheet and in the training session's lesson plan.
- 3) At least once a year, all Officers authorized to carry firearms shall receive and shall be required to demonstrate their understanding of the law and agency policy and procedures relating to the use of force.
- 4) When qualifying, Officers shall utilize the holster, duty belt and ammunition pouch normally worn for duty by the Officer. Plain clothes and off-duty personnel should use the equipment and manner of carry they would typically use.
- 5) Officers who fail to qualify with the primary service firearm or any firearm that is otherwise required for the Officer's duty assignment shall be relieved of those firearms, reassigned to restricted duty, and be subject to the following requirements:
 - A) The Officer's supervisor shall be notified and shall promptly arrange with the firearms trainer for a period of formal remedial firearms training not to exceed one week in duration. Such training does not preclude an Officer from engaging in any additional informal practice or training sessions that the Officer may deem necessary.
 - B) The Officer shall be given additional attempts to re-qualify within a reasonable period of time. A written report shall be forwarded to the supervisor of any Officer who fails to re-qualify within a reasonable time period. The report shall include the training Officer's recommendations for corrective action.
 - C) If the Officer fails to qualify within a reasonable period of time, he or she shall be subject to termination of employment.

- 6) Other firearms: any Officer who fails to qualify with a firearm that is not required for the Officer's duty assignment shall not be permitted to carry that firearm. The Officer may remain on duty if qualified with the primary duty firearm.
- 7) Officers shall be required to qualify with their primary service handgun and additional firearms (as appropriate) following return to duty after a leave of absence when it reasonably appears necessary or if they have missed their qualification date.
- 8) All Officers shall be required to qualify using additional proficiency standards established by the training Officer. These include, but are not limited to proficiency testing at night and in reduced light situations, in combat simulation, when using reaction and strong hands, multiple targets, moving targets, and while the Officer is moving.

400-6-7 Firearms Modifications

- 1) Modifications to any agency-authorized firearm require the written approval of the agency head with the written input of the Firearms Coordinator. This includes but is not limited to modifications involving spring kits, sights, finishes, laser sights, optical sights or extended magazines. The addition of slings, grips, night sights or shell/magazine holder accessories are not considered modifications.
- 2) Defective, unsafe, or unauthorized firearms shall be reported to the firearms trainer.
- 3) Repairs or alterations to agency-authorized firearms shall be made only by an armorer employed or authorized by this agency.
- 4) Department issued firearms shall be maintained in a clean and safe operating condition and shall be inspected periodically by the unit supervisor and by the firearms trainer annually at the time of qualification.

400-6-8 Shotguns and Rifles

- 1) Shotguns and rifles shall be carried in a secure rack as provided in department vehicles or in a gun case in the trunk of a department vehicle, with the magazine loaded to capacity, with no shell in the chamber, and with the safety on.
- 2) Officers shall carry and use only ammunition authorized by the Cumberland Police Department unless the Chief of Police grants approval for an exception and the Officer qualifies with that ammunition.
- 3) Officers who are currently qualified with a department shotgun or rifle may utilize any firearm of the same type that is currently registered with the department.
- 4) Select fire weapons shall only be fired in the semi-automatic mode.

400-6-9 Firearms Safety

- 1) Officers shall not carry a firearm when on or off duty if they are mentally or physically impaired.
- 2) Officers shall report, in writing, to their immediate supervisor any use of prescription drugs, or other medication or any physical ailment or injury that they reasonably believe could impair their ability or judgment to use a firearm.
- 3) Officers shall be responsible for the safe storage of their duty weapon and any other personally owned firearms when not in their personal possession by using trigger locks, safes, gun lockboxes, or other means approved by the department firearms trainer or range master as designated by this department.
- 4) All authorized firearms shall be carried in a safe and secure manner as authorized by the Cumberland Police Department.
- 5) Removal of firearms from their holster or other carrying devices for other than authorized purposes—such as tactical use, training and qualification, inspection, or cleaning and maintenance—shall be prohibited. Any careless, flippant, or casual use or display of a firearm shall constitute grounds for discipline.

- 6) Firearms shall not be permitted in holding facilities, lockups, or jails of this or other law enforcement agencies.
- 7) Any discharge of a firearm shall be reported to the supervisor and the firearms trainer, except when the discharge was for training or disposing of an animal.
- 8) Each year, during firearms qualification, the firearms trainer shall provide Officers with refresher training and additional information as available concerning firearms safety and the use-of-force policy.

400-6-10 Carrying Firearms on Commercial Aircraft

- 1) Officers are governed by federal regulations for carrying firearms on commercial aircraft. All Officers acting in these capacities shall familiarize themselves with these provisions as contained in 14 CFR 1544.221 and related documentation.
- 2) All Officers shall be required to complete the training program "Law Enforcement Officers Flying Armed" as required by federal law in order to carry a firearm aboard a commercial aircraft.
- 3) When conducting official business that requires commercial airline travel, Officers shall check their firearm in checked baggage if it is not needed while in flight to guard a prisoner or for other purposes. In these cases, Officers are required by federal regulations to certify to the airline that a firearm is in the baggage and that it is unloaded.
- 4) When Officers need to carry a firearm aboard a commercial airline for purposes of prisoner transportation or other reasons, Officers shall submit a letter on Cumberland Police Department letterhead addressed to the commercial airline carrier that details the need for the Officer to be armed. The letter shall be submitted to the Chief of Police for approval and signature.
- 5) When Officers need to carry a firearm aboard a commercial airline for purposes of prisoner transportation or other reasons, Officers shall arrive at the airport in sufficient time, or in an emergency as soon as practicable prior to departure, present the letter to the airline ticket agent together with agency badge and identification card (with full face photograph), declare possession of firearm, and request that the necessary security and airline personnel be notified.
- 6) When Officers need to carry a firearm aboard a commercial airline for purposes of prisoner transport or other reasons, Officers shall request that they be notified of any other persons who are traveling armed aboard the aircraft.

NOTES:

7. CHEMICAL AGENTS

The Cumberland Police Department Officers have one chemical agent at their disposal; Oleoresin Capsicum (OC). OC Spray will be assigned to all Officers for everyday use.

400-7-1 Application of Oleoresin Capsicum by Patrol Officers:

The Cumberland Police Department has adopted oleoresin capsicum (OC) spray to be used as the chemical agent of choice by Officers of this department. Unlike traditional chemical irritants, OC is a naturally occurring inflammatory agent derived from the cayenne pepper plant and requires no special decontamination. Unlike chemical irritants, OC is biodegradable and will not persist in clothing or effected areas.

As an inflammatory agent, OC causes almost immediate swelling of the eyes and breathing passages. Additionally, there is an intense burning sensation of the eyes, throat and sprayed areas of the skin. When the agent is inhaled, the respiratory tract is inflamed and breathing is restricted. Physical effects may include involuntary closing of the eyes, coughing, choking, lack of upper body strength and coordination and nausea. Psychological effects such as disorientation and fear are also likely to occur. The end

results and desired effects of OC application as identified above do not support high levels of physical activity such as resisting or fighting with police Officers. However, no device, including OC is universally effective. Consequently, OC should supplement, rather than replace, other tactics and control techniques.

OC is a tool that can be utilized at the discretion of the Officer. As with any use of force, the application of OC must be objectively reasonable under the circumstances. OC may be carried by trained Officers within the performance of their duties. The criteria for use of OC spray is “active resistance or its threat.”

Due to the incapacitating effect of OC spray, deadly force may be justified as a final escalation of force if an Officer reasonably believes he, she, or another person is facing the imminent threat of death or great bodily harm. This perception must be based on the totality of circumstances, including threat assessment opportunities, Officer/subject factors, and special circumstances. Remember, the standard for judging the use of any force including OC is objective reasonableness.

Primary target areas for the application of OC are the eyes, nose, and mouth. Officers should deploy only the amount of OC needed to achieve the desired effects. For maximum effect, the Officer should be aware of range, type of aerosol being used and environmental considerations.

After the resistance has ceased and control has been established, the Officer shall make reasonable efforts to allow the OC-affected person relief from the discomfort associated with OC. Flushing the affected area with cold water and exposure to fresh air should help alleviate the discomfort. Since OC exposure also causes anxiety, the Officer will also need to calm the person and explain the effects of OC exposure. If practical, the person should be allowed to wash all exposed areas with water. The exposed person should be monitored closely until the symptoms subside. Symptoms should disappear within 15 to 45 minutes. If the exposed person does not respond well to decontaminative measures, or complains of injury, the Officer should make arrangements for medical attention.

Reasonable efforts should be made to decontaminate rooms after exposure to OC. Doors and windows should be opened, surfaces washed, and exposed food disposed of and containers cleaned or discarded.

Officers are authorized to carry only OC that is provided by the department.

All applications of OC shall be documented in accordance with 400-5-1.

10. **POSITIONAL ASPHYXIA**

The following procedure applies equally to the policy outlined in both 400-7-0 and 400-7-1. A person exposed should not be left unmonitored until the symptoms have subsided.

- 1) Positional asphyxia apparently occurs from being placed face down in a position, which causes the person to either interrupt the airway or cause the weight of the body to inhibit breathing. This is often called “hog-tying.” Officers need to be aware and recognize certain risk indicators to minimize the risk of “positional asphyxia,” also known as sudden custody death syndrome. These indicators generally include:
 - A) excessively violent or bizarre behavior
 - B) obesity or other health problems effecting the heart or lungs

- C) drug or alcohol involvement
- D) apparent ineffectiveness of OC spray
- E) unconsciousness

“Hog-tying” will be used only in the most unusual cases, and then, only with justifiable discretion.

- 3) If a suspect in custody must remain in prone restraints, they will be monitored closely and continuously. If the person shows any signs of respiratory distress, they shall immediately be transferred to a medical facility.
- 4)

11. **MEDICALLY SIGNIFICANT BEHAVIORS**

Officer’s need to be cognizant of people displaying medically significant behaviors and know how to react to those behaviors.

- 1) Medically significant behavior includes a variety of behaviors that indicate a serious and potentially life-threatening medical condition is present. Medical behaviors could be the result of psychological problems, the use of illicit drugs, alcohol, psychotropic medications or a syndrome called Excited Delirium and are exacerbated by prolonged struggles with the police, setting in motion a series of chemical changes in the blood and brain. Without prompt medical intervention, a person experiencing these chemical reactions will likely die.
- 2) Typical Behaviors Associated with Excited Delirium:
 - A) Confusion and bizarre behavior
 - B) Extreme agitation and excitement
 - C) Hallucinations and paranoia
 - D) Violence directed at objects, especially glass and shiny surfaces
 - E) Superhuman strength and insensitivity to pain
 - F) Hyperthermia- the body may rise as high as 113° F, resulting in profuse sweating and undressing
- 3) Responding to Medically Significant Behavior
 - A) Although criminal acts may be taking place, you are responding to a medical emergency.
 - B) Use of force decisions should be based on the safety of all those involved. Safety of the individual Officer, other Officers and the public are the first priority.
 - C) If possible, avoid increasing the subject’s agitation or excitement, minimize physical struggles, minimize the use of restraints, and get medical care as quickly as possible.
 - D) If circumstances allow, the State of Wisconsin, Department of Justice, Bureau of Training and Standards recommends the following procedures:
 - 1. Attempt to calm the subject
 - 2. Request backup and Advanced Life Support EMS response (paramedics). Local Basic Life Support ambulance services will most likely be used, but EMT’s should be told to have the suspect transferred to an ALS ambulance, per their protocols.
 - 3. Once EMS is on scene, use an Electronic Control Device to make it possible to approach the subject
 - 4. Have the paramedics administer a tranquilizer, in accordance with local protocols.
 - 5. Contain the subject without restraints until he or she is calm.

6. Transport the subject to a hospital in an ambulance, using minimal restraints.

NOTES:

500 TRAFFIC

Traffic-related duties are usually considered routine tasks for Officers although many law enforcement Officers are killed each year performing this function. Too often the Officer begins to become complacent, treating the next contact like the experience of the past contacts. Unfortunately, hazards exist. The next contact could be a desperate, fleeing felon or a psychopath. There are usually few obvious indications that a violator will become hostile or attempt to injure or kill an Officer. Because of this, all Officers must regard every stop as a potentially deadly confrontation. At the same time, treat every contact as an opportunity to promote positive community-police relations. In addition, the very nature of working around traffic and vehicles is inherently dangerous. Officers must be alert and always mindful to protect themselves from passing cars and other hazardous situations.

The following sections are designed to assist the Officer in safely performing traffic-related duties in a lawful, consistent manner.

500-1-0 VEHICLE CONTACTS

Racial profiling is defined as: any police-initiated action that relies on race, ethnicity, or national origin of an individual rather than the behavior of that person, or information that leads police to a particular person who has been identified as being engaged in or having been engaged in criminal activity. Officers may use race or ethnicity to determine whether a person matches a specific description of a particular suspect. However, Officers of the Cumberland Police Department will never use racial or ethnic stereotypes as factors in determining whom to stop.

Once a decision has been made to affect a vehicle stop, the Officer shall consider the following elements:

The Officer should, while still in motion, close the distance between the suspect's vehicle prior to activating emergency signals to reduce the risk of flight opportunity.

The Officer shall choose a safe site to stop the vehicle and position the squad as far out of the path of other traffic as possible, while yet providing protection to the Officer and suspected violator.

Before approaching the suspected violator, the Officer shall notify the communications center that they are engaged in a traffic stop, giving the location, vehicle plate number, and if necessary, the vehicle description and number of occupants.

500-1-1 Anticipatable Reasonable Suspicion

The threshold of information necessary to stop a motorist, or any other person for that matter, is reasonable cause or anticipatable reasonable suspicion. It is from information gathered during that stop that probable cause is either determined or not. The Officer takes action, i.e. citation, arrest, etc., based on that probable cause. This is not to say that probable cause cannot be obtained simultaneously with **Anticipatable** reasonable suspicion.

If the threshold of probable cause is not met, the Officer shall release the motorist without action and without undue delay.

500-1-2 Officer Contact with Suspected Violator

At all times during the vehicle stop, the approach, and violator contact, the Officer shall constantly be alert for suspicious or hostile action by any occupant in the vehicle. If the Officer suspects a dangerous situation, the Officer may consider withdrawing, request backup, or affect a high risk stop.

Officer safety and the safety of other persons are of paramount importance and cannot be compared with the enforcement of minor traffic laws or other non-threatening offenses.

Violators and passengers should, in most cases, be required to remain within the vehicle. Upon approaching the suspected violator, the Officer shall inform the driver of the reason for the stop, request a driver's license, or otherwise validate the operator's identity. The Officer shall confirm driver's license status and wanted status of the individuals and vehicle. The Officer shall not accept anything whatsoever from the suspected violator except the documents necessary to perform the Officer's duties. Any person attempting to bribe an Officer of this department, and anticipatable probable cause is established the person shall be immediately arrested.

The Officer shall not detain a violator any longer than is necessary.

Despite a violator's remarks and actions which may be indecent, the Officer shall be polite and professional and not act in any way as to give offense. Even the issuance of a citation is an opportunity for public relations. Traffic offenders must be treated courteously and professionally, demonstrating that true professional law enforcement exists to protect and to serve, not to punish. If a citation is to be issued, verbal chastisement of any sort is not appropriate. If a violator is to be released without a citation, only the most discriminate, professional reprove is allowed. Arrogance is damaging to the department's image. It is, therefore, a violation of this provision.

500-1-3 Suspected Felons

Prior to making a high risk stop the Officer(s) involved must have prior knowledge of or reasonable cause to believe that a serious offense has been, or is about to be committed and that the risk of personal safety is significant. The Officer shall communicate his intentions with the communication center, giving location, description, direction of travel, and other pertinent information. The communication center will arrange for a backup unit who will coordinate with the primary unit.

Unless unreasonable under the circumstances, an Officer should not remove high risk suspects from a vehicle until backup arrives. Using a loud, unmistakable voice or with a

public address system, occupants should be removed one at a time in a manner which affords the Officers the maximum amount of control and safety.

NOTES:

500-2-0 ENFORCING TRAFFIC LAWS

The following procedures are intended to govern the Officer's actions as it relates to enforcing Wisconsin laws and county ordinances.

500-2-1 Speeding

Speeding is dangerous. Speed and alcohol are the #1 and #2 causes of highway related fatalities; therefore, Officers have a duty to enforce the speed limits. Pursuant to 500-5-0 Officers are encouraged to exercise discretion while enforcing speed limit laws. See 500-7-0 for further regulations.

500-2-2 Required Stop or Yield

Motorists who violate required stops or yield situations often cause or are the primary contributing factor in motor vehicle crashes. Because deliberate failure to obey stop and yield regulations is inherently high risk, and often fatal, Officers are encouraged to strictly enforce these laws.

500-2-3 Reckless Driving

Reckless driving is considered negligence to a high degree and puts the motoring public in extreme risk. Therefore, Officers are encouraged to strictly enforce incidents which the suspect driver knows, or should know, that his/her behavior will very possibly cause serious harm to oneself or others.

500-2-4 Operating While Intoxicated

See Section 500-11-0

500-2-5 Other Traffic Laws

In all other traffic-related violations not previously mentioned, Officers are expected to exercise sound judgment in the investigation thereof and expected to exercise justifiable discretion in the enforcement thereof.

500-3-0 HIGH SPEED PURSUIT

Reference WI Stats. 346.03 Authorized Emergency Vehicle
Reference WI Stats. 346.04 Fleeing From Officer
Reference WI Stats. 346.03(6) Regional Policy
Reference WI Stats. 346.175 Owners Liability
Reference WI Stats. 346.19(2) Duty to Drive with Due Regard
Reference WI Stats. 346.03(5)
Reference WI Stats. 175.40 Officer Authority
Reference Chapter 400-4-0 Department Handbook

It is the general policy of this department to pursue violators of the law with due regard for the safety of all persons and property upon the roadway. The department recognizes that decisions to initiate and continue the pursuit of vehicles and suspects who are attempting to elude law enforcement Officers in a vehicle must, as a matter of public policy, reflect a balance of public interests inherent in both the apprehension of the violator and the safety of all persons who might be endangered by the pursuit.

The decision, responsibility and method of pursuit rest solely with the individual Officer. In deciding, he must exercise sound judgment and carefully consider the facts, seriousness of the offense, potential and probable risks, and the safety of the community.

500-3-1 Officer Liability

When a high-speed pursuit is initiated, a continual balance of the seriousness of the offense versus the threat to public safety is mandatory. In most cases, the pursuing Officer is the best-qualified person to make that judgment based on vehicle conditions, road conditions, visibility, exposed citizens, etc. Recognizing that the conditions are always changing, Officers are expected to terminate the pursuit whenever the risk to his own safety and the safety of others outweighs the danger to the community if the violator was not apprehended.

Only with justified discretion may an Officer take part in a high-speed pursuit while in the company of a prisoner, suspect, complainant, witness, or any other passenger except authorized ride-a-longs. When another unit becomes available the Officer will relinquish responsibility as the primary pursuit unit.

Officers who display negligence in the form of reckless disregard for the safety of others that results in damages may be sued civilly for those damages.

The responsibility for the decision to pursue, and the decision to continue a pursuit, rests primarily with the individual Officer. If a supervisor is available, the supervisor is to monitor the progress, evaluate the risks involved, control and coordinate other responding units and if necessary, order the chase terminated.

500-3-2 Authorized Pursuit

The pursuit of vehicles and suspects are authorized in accordance with the following guidelines:

- 1) Felony situations. Officers shall pursue, attempt to stop, and apprehend as expeditiously and safely as possible, any person in a vehicle who the Officer has reasonable cause to believe:
 - A) has committed or attempted to commit a felony involving the use of force or the threatened use of force,
 - B) when a high probability exists that the suspect, if not immediately apprehended, may cause death or great bodily harm, or

- C) is operating a vehicle in a manner which creates a high probability of death or great bodily harm.
- 2) Criminal situations. The Officer shall pursue and attempt to stop and apprehend any person who is eluding apprehension in a vehicle when the Officer has reasonable grounds to believe the person committed or attempted to commit a criminal violation, but shall, in most cases, discontinue pursuit when:
 - A) the act of pursuit, in itself, creates an unreasonable danger of death or great bodily harm to the Officer, suspect, or to the community.
 - 3) Traffic or other non-criminal violations. The Officer may pursue and attempt to stop and apprehend any person who is eluding apprehension in a vehicle when the Officer has reasonable grounds to believe the person committed any traffic violation or ordinance violation but shall discontinue the pursuit when:
 - A) the act of pursuit, in itself, creates an unreasonable danger of death or great bodily harm to the Officer, suspect, or to the community.

500-3-3 Terminating the Pursuit

- 1) The pursuing Officer must at all times use his best judgment in evaluating and re-evaluating the high-speed chase and make a constant perpetual evaluation of it in deciding whether or not he should continue the pursuit. Never should the element of any personal challenge enter into his decision. The proficient Officer is aware that the decision to terminate the pursuit is, under some circumstances, the most intelligent and most professional course of action. Officers shall terminate the pursuit when:
 - A) In his judgment, the risks outweigh the seriousness of the offense or
 - B) Considering the vehicle condition, driving ability, environmental conditions, road conditions, visibility, length of chase, number and location of assisting units, and geographical location, a safe, successful apprehension is unlikely or
 - C) The pursuing Officer knows or is almost certain that the fleeing vehicle is operated by an unlicensed juvenile and that the offense is not one which involves the actual or threat of violence or force or
 - D) Supervisory personnel order that the chase be terminated or
 - E) The fleeing suspect's identity has been established and there is no other immediate reason to pursue or
 - F) Based on prevailing traffic, roadway, environmental conditions, presence of pedestrians, and density of the area or it is clear that the level of danger to the Officer or the community is greater than the necessity for immediate apprehension or
 - G) The suspect's vehicle location is no longer known.
- 2) Termination of a pursuit does not generally prohibit the following of a suspect at normal speeds or remaining in the area to reinitiate pursuit if the opportunity and conditions permit.
- 3) A decision to terminate the pursuit does not reflect on the Officer's courage, diligence, or persistence, but rather is recognized as a decision that indicates concern for life and property.
- 4) Post-Pursuit Officer actions (non-apprehension)
 - A) When a vehicle pursuit is terminated, the pursuing Officer(s) shall:
 1. Notify dispatch that he/she has terminated the pursuit and his/her location.
 2. Slow to the posted speed limit.

3. Turn off his/her emergency lights and siren.
 4. Pull over and stop along the shoulder and remain there for **one (1) minute**.
 5. Resume patrol, without emergency lights and siren activated, by continuing in the last known direction of the violator in order to check for accidents or other problems possibly created by the violator. Maintain the posted speed limit.
- B) Definition
1. The term “terminate” shall be construed to mean discontinue or stop chasing the fleeing vehicle(s)”.

500-3-4 Pursuit Tactics

Unmarked Squads. Officers in unmarked vehicles may engage in pursuits on the same basis as a marked squad; however, when a marked squad becomes available to take over the pursuit, it shall do so and the unmarked vehicle shall serve as support for the marked squad.

Number of Police Vehicles. Generally, the number of primary, actively pursuing vehicles should be limited to two or three. Other Officers should be alert to the pursuit progress and location and provide support according to 500-3-5.

Ramming. Officers may not attempt to stop a fleeing vehicle at high speeds by striking or ramming the vehicle unless the use of deadly force is justified. Justification for a Officers’ use of force is behavior that presents an imminent threat of death or great bodily harm to the Officer or others. Ramming of fleeing vehicles is generally considered the use of deadly force and is subject to policy 400-4-0. At lower, controlled speeds the use of intentional vehicle to vehicle contact is generally discouraged; however, it may be utilized with extreme caution and only to prevent an incident from escalating.

Pursuit Intervention Technique (PIT). PIT is the intentional act of using a police vehicle to physically force a fleeing vehicle from a course of travel in order to impede further progress and stop it. It is a specific technical maneuver that requires advanced practical training prior to use. PIT is a Protective Alternative (at speeds of 35 mph or less) or Deadly Force (at speeds over 35 mph) in the Intervention Options within the Disturbance Resolution Model.

Motorcycles. The pursuit of fleeing motorcycles shall comply with this policy except roadblocks of any type, whether moving or stationary, shall not be used. The use of tire-deflating devices shall likewise not be used. Ramming or intentional vehicle contact shall be used only when deadly force is justified.

Heavy Trucks or Large Vehicles. Extreme caution must be exercised when encountering a fleeing vehicle of extraordinary size. However, the elements of this section do not change. Merely by size and weight a large vehicle can be potentially more dangerous to life and property that makes an Officer’s response less forgiving.

Discharging Firearms from or at Moving Vehicles. Officers shall use only the minimum amount of force necessary and exhaust all reasonable means of apprehension or defense before resorting to the justifiable use of firearms. Firing from or in the direction of a moving vehicle is forbidden except in cases of justifiable deadly force. Officers should consider the low success rate of stopping a fleeing vehicle by use of firearms. Even when in compliance with this handbook and Wisconsin law, Officers may use firearms only as a last resort and only in the most extreme cases. When doing so, Officers must consider the potential effects of ricochets, out of control vehicles, and safety of passengers and other innocent persons.

Commandeering Civilian Vehicles. Wisconsin State Statute 62-09(13)(2) allows an Officer to demand assistance from citizens, even to the extent of using their vehicles for a roadblock. This course of action is to be avoided unless a serious felony situation exists.

Pursuit Trailing. In the event the initiating unit from this agency relinquishes control of the pursuit to another unit or jurisdiction, that initialing unit may, with permission of a supervisor or Officer in charge, trail the pursuit to the termination point in order to provide information and assistance for the arrest of the suspect. The term "trail" means to follow the path of the pursuit at a safe speed, while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the training unit will maintain sufficient distance from the pursuit units to clearly indicate an absence of participation in the pursuit.

500-3-5 Pursuit Procedures

As soon as the operator of a vehicle increases his speed or drives in such a manner so as to elude apprehension, the pursuing Officer shall immediately activate siren and red/blue emergency lights, and shall continuously use both throughout the entire pursuit. Officers are reminded that the warning effect of the siren will decrease rapidly as the speed of the pursuit vehicle increases.

When safe to do so, the pursuing Officer, or preferably the second primary unit shall maintain steady communication with the communication center, relaying information such as the identity of his unit, location, and direction of travel, speed, reason for pursuit, and other pertinent details that will enable other Officers in the area, as well as the communications staff, to assist.

Units responding to assist should concentrate on covering roads parallel to the one the pursuit is on, thus creating a "boxing in" effect, which will, hopefully, if not capture, at least discourage the violator from continuing his flight. This technique is also advantageous in the event the violator is able to elude the immediate pursuit vehicle, or in case the violator abandons his vehicle and alights on foot. If the violator should abandon his vehicle and flee on foot, the pursuit Officer should, before giving foot pursuit, notify the communication center of their location, secure his vehicle, and check the violator's vehicle for other occupants who may have hidden, are injured, or are the victims of a crime.

To the fullest extent possible, detailed descriptions of the car, license number, and occupants should be obtained and broadcast. Even a partial license number is a valuable aid in identification.

In the course of pursuit, a safe distance shall be maintained between both cars, as this will enable the pursuing Officer to duplicate any sudden turn and lessen the possibility of a collision in the event of a sudden stop.

Because of the potential dangers involved, pursuing Officers shall not pull alongside a fleeing motorist in an attempt to force the subject into a ditch, curb, parked car, or any other obstacle.

In order to avoid being arrested, many motorists will take imperiling chances. Regardless of the extenuating circumstances, the pursuing Officer shall not duplicate these hazards. In the apprehension of traffic offenders and other violators, an Officer must be sensitive to the public's reaction. This means that in all cases, the Officer must operate the vehicle in a manner that shows consideration for their own safety, the safety

of the violator whom the Officer seeks to apprehend, and, above all, the safety of others who may be using the roadway.

500-3-6 Pursuit into another Jurisdiction

Reference Wis. Stats. 175.40(2) Fresh Pursuit
Reference Wis. Stats. 175.46 Mutual Aid

When an Officer anticipates a pursuit will be crossing jurisdictional lines, he will notify the communication center. The communication center will alert the proper jurisdiction of that possibility and specifically request assistance. If and when the host jurisdiction actively participates in the pursuit, the Cumberland Police Department squad(s) shall yield operations to the host agency but continue to participate as support under the direction of the jurisdiction assuming control.

Should the jurisdiction being entered not assume the primary role in the pursuit, the Cumberland Police Department Officer(s) shall discontinue the chase when directed to do so by an Officer of that jurisdiction.

500-3-7 Assist another Jurisdiction in Pursuit

Department members may offer immediate response to assist in another jurisdiction's vehicle pursuit; however, if a specific request is not offered, a request to assist should be solicited as soon as possible. If this is not clear, the Officer or communication staff should seek to clarify the request. Upon receiving a request for assistance, the communications staff will obtain and relay pertinent information to Officers. Involvement of Officers by this department will proceed thereafter in accordance with the provisions of this policy.

500-3-8 Options to Stop: Roadblocks - Stationary and Moving

If a fleeing driver refuses to stop, it may be necessary to induce or force the driver to stop.

1. **Forced to stop** –Are techniques that give the suspect only two options: surrender or crash.
 - A) Closed road blocks
 - B) Ramming
 - C) Pursuit Intervention Technique (PIT)

These techniques are considered to be an application of deadly force, for the Officer to use deadly force is a behavior that presents an imminent threat of death or great bodily harm to the Officer or others. For behavior to present an imminent threat the Officer should be able to articulate that the suspect had;

- A) Intent to cause death or bodily harm and,
 - B) A weapon capable of inflicting such harm and,
 - C) A delivery system for using that weapon.
2. **Induced to Stop** -The purpose of these techniques is to convince the fleeing driver to stop, rather than to force him or her to stop. The blocking of a roadway in such a manner as to allow enough space for a vehicle to pass, but only at a reduced speed.
 - A) Open road blocks – Is a placement of vehicles or other objects on the roadway to impede or alter the suspect vehicle direction or to show force to convince the suspect to stop.

- B) Moving road blocks- The suspect vehicle is surrounded by four squad cars (front, back, and one on each side). The squads gradually slow down bringing the suspect vehicle to a gradual stop. This is a high-risk maneuver because the Officers cannot control the suspects actions.
 - C) Channeling – Is not itself a technique that induces a fleeing driver to stop but it is used to divert the fleeing vehicle to a preferred location
 - D) Tire – deflation devices
- 3) Utilization of Forced to stop methods is reserved for those cases where the Officer has reasonable belief that the occupants of the fleeing vehicle have presented behavior for imminent threat of death or great bodily harm to the Officer or others. Officers are authorized to employ partial roadblocks in cases of fleeing traffic offenders or when the passengers of the fleeing vehicle are unknown or in less serious non-violent crimes. Moving roadblocks may be authorized when time is of the essence and does not allow for the deployment of an induce to stop method. Whenever a roadblock is utilized, all visual warning equipment is to be in operation. The location chosen should be on a straight, level stretch of the roadway, and adequate sight distance to give the suspect time to stop. If possible, other traffic should be diverted away from the location. No person may remain in, on, or at the blocking vehicles, but should position himself or herself as to afford maximum safety.

500-3-9 Tire-Deflation Devices

- 1) The Cumberland Police Department recognizes and subscribes to the method of using commercial devices designed to be placed on the roadway to deflate a fleeing vehicle's tires in a safe and timely manner. Cumberland Police Department Officers, pursuant to the provisions of this manual, are authorized to deploy tire-deflating devices under the following guidelines:
- A) The Officer deploying the device is authorized by the department to do so.
 - B) The Officer is considered authorized by the department when the Officer:
 - 1. **Reads and understands sections of this manual,**
 - 2. Participates and satisfactorily completes the training material provided by the manufacturer of the tire-deflating device, and
 - 3. Can demonstrate the proper method of deployment, use, removal, and maintenance of the device.
 - C) The location chosen for setup should be outside of or prior to entering a population center, if possible.
 - D) Safety of the general public and Officers should be of prime consideration when employing the device.
 - E) In most cases, it is safer to deploy the device than to let the chase continue.
 - F) Officers deploying the device are to notify other responding Officers of the location of the device to allow reactionary measures to be taken.
- 2) If practical, the tire-deflating device should be used in conjunction with a partial roadblock. This dramatically increases the odds of success and reduces the risk of injury to Officers. In most cases, it is safer to deploy the device and direct traffic around it than it is to deploy the device a few seconds before the target vehicle reaches the device (although both situations are acceptable).
- 3) Except in cases of justified deadly force, tire-deflating devices shall not be used on vehicles with less than four wheels.

500-3-10 High Speed Pursuit Reports

Following a high-speed pursuit, whether the suspect was apprehended or not, the primary pursuing Officer(s) shall prepare a written police report outlining the Officer

actions and the justification thereof. A copy of the report shall be forwarded to the Chief who will review the case with the Officer in view of this policy.

NOTES:

500-4-0 MOTOR VEHICLE CRASHES

It is well recognized that the cost associated with motor vehicle crashes has far reaching effects and impacts the entire motoring public in regards to vehicle costs, insurance premiums etc. The public has a reasonable expectation that motor vehicle crashes are investigated promptly and fairly. It is therefore the policy of this department to diligently and thoroughly investigate each reported motor vehicle crash within its jurisdiction.

An Officer responsible to respond to a report of a motor vehicle crash shall respond without delay, using due care. The Officer will evaluate all the information available when determining the manner or level of response. Remember: An Officer that does not safely arrive at the scene complicates the situation instead of being in a position to render aid. They themselves may be competing for limited emergency services.

500-4-1 Scene Control

Officers are to take those steps necessary to secure a crash scene. The first responsibility is to prevent further damage, further injuries and to take measures to prevent additional crashes.

Secondly, the Officer must assess the need for additional assistance and communicate (scene size up) the same to dispatch or other responding units.

Thirdly, the Officer must render aid as appropriate and necessary as their training allows. Victims evidencing potential serious neck or spinal injuries are to be moved only by skilled medical personal unless a life-threatening situation exists.

When stabilizing a crash scene of a minor nature the vehicle(s) may be moved off the traveled portion of the roadway to facilitate normal traffic flow. If a crash scene has injuries or a serious consequence exists, the effected vehicles should not be moved until the investigation is complete. In either case safe passage around the scene, perhaps by an alternate route should be afforded other motorists.

Regardless of the severity, an Officer must demonstrate that he can control and take charge of the crash scene. It is the philosophy of this department that law enforcement is ultimately responsible for scene control, enforcement, investigation and documentation of a motor vehicle crash. The Officer must recognize the professional abilities and responsibilities of other emergency service providers i.e., fire, EMS, first responders, biohazard and salvage personnel. All Officers must respect and support these efforts; however, ultimate control of the overall scene lies with law enforcement.

500-4-2 Investigation of the Crash

A traffic crash investigation may be routine to an Officer and over time, considered a wearisome task. This, however, must not be apparent to anyone else. The Officer must be courteous, fair and considerate to all property owners and persons involved. Recognizing that a traffic crash is an emotional, often traumatic event and in most cases with significant monetary consequences. Even though the event is unpleasant to those involved it is, strangely, an extraordinary opportunity to promote a professional department image.

The Officer assigned to investigate a crash will have the responsibility to:

- 1) Identify the operator(s) with full and complete personal data.
- 2) Record specific data relative to each vehicle involved.

- 3) Record location, time, number of people involved, environmental conditions etc.
- 4) Identify any witnesses.
- 5) Collect and record any relevant physical evidence.
- 6) Record statements of involved parties and uninvolved witnesses.
- 7) Obtain and record any other information necessary to make an accurate account of the incident.

It should be understood that many times a civil action evolves from a vehicle crash and many times taking years to resolve. The Officer may be called to present evidence or give testimony long after personal recollection is reliable. Therefore, an accurate account of the event is essential.

500-4-3 Fatal and Serious Injury Crashes

It is expected that the extent of the investigation will be influenced by the seriousness of the crash or any related crime or offense.

In addition to the procedures previously stated, an Officer investigating a fatal crash should:

- 1) Notify the Chief.
- 2) Notify the medical examiner or deputy medical examiner and maintain a secure scene as necessary.
- 3) Create a detailed record of the scene by photograph.
- 4) Create a diagram depicting the physical layout of the scene.
- 5) Promptly notify the Department of Transportation of the fatal crash through a MVFR (motor vehicle fatality report).
- 6) Contact the Crash Reconstruction personnel.
- 7) Assemble the basic pertinent facts to support a news release and provide this information to the Chief.
- 8) Complete a coroner's fatal blood kit for every fatal victim driver.
- 9) Attempt to obtain voluntary consent for all drivers in fatal crashes.
- 10) Cause the family members of any deceased victim to be personally notified pursuant to 700-2-0.

Every fatal or serious injury crash has, by its very nature, serious civil and legal consequences. Additionally, a serious crash can affect many people and literally change lives. The Officer must recognize this and always make himself available to the family, always demonstrating a considerate professional demeanor.

500-4-4 Citations

With justified discretion, Officers shall issue a citation when there is sufficient evidence to substantiate a violation and that this violation is a contributing factor in the cause of the crash.

Although it is not the role of a law enforcement Officer to attach fault in a motor vehicle crash, it is; however, the Officer's responsibility to determine the facts and contributing factors that will support the cause and manner in which an event occurred. This can, in most cases be documented in the form of an accident report and/or a traffic citation.

500-4-5 Accident Reports

The most basic goal of traffic enforcement is to prevent crashes, therefore preventing injuries and property damage, therefore protecting the public. A determination of effective enforcement policies requires a continuous analysis of the traffic crashes that do occur. This analysis stems from the statistical compilation of traffic accident reports. Therefore, the investigating Officer shall complete a traffic accident report (MV4000) as soon as practical after the accident.

Per Wisconsin State Statutes 346.66-346.70, traffic accident reports shall be completed when a crash occurs on any public roadway and upon all premises held out to the public for use of their motor vehicles, all premises provided by employers to employees for the use of their motor vehicles, and all premises provided to tenants of rental housing in buildings of 4 or more units for the use of their motor vehicles, whether such premises are publicly or privately owned; and the estimated damages will cost more than \$1,000 to repair.

If a motor vehicle crash occurred on private property, a crash report does not need to be completed by law enforcement. However, all recreational vehicle crashes are reportable whether on private property or not.

As a general rule, once a traffic crash investigation is complete and a report is filed, the report is a public record. There is a high demand for the reports by the media, insurance companies, property owners or any other affected person. Officers must bear in mind the need to file reports in a timely fashion.

Obtaining copies of accident reports is addressed in 100-10-7.

500-5-0 USE OF RADAR

It is the policy of this department that radar will be used in an effort to gain voluntary compliance of traffic laws. Radar devices will assist the Officer in identifying those motorists who through excessive speed present a hazard to the law-abiding public.

An Officer operating radar in the City of Cumberland must comply with the following requirements:

- The Officer must first have adequate training and experience in radar operation, per Wisconsin training and standards
- The Officer must be able to demonstrate that the device is in proper working order prior to, and after each citation and at least once annually, show that the radar device has been calibrated using accepted techniques, by an authorized technician. Officers shall maintain records of when the radar was tested which can be documented on the Officers Daily Log.
- Provide that each device including the tuning forks are recorded and constantly maintained by the assigned Officer.

NOTES:

500-6-0 ACCIDENTS INVOLVING CITY OWNED VEHICLES

When a city owned vehicle is involved in a crash, the Officer shall request an Officer from another agency be responsible for documenting the crash.

Anytime there is damage to city owned property, the involved employee shall file a written report explaining all relevant details of the event. This report is to accompany the insurance claim file, if any.

500-6-1 Injury to Employee

In the event of any personal injury whether it be a city employee or another person, the Chief shall be notified as soon as practical. At that point, based upon the circumstances, a decision will be made as to whether or not an outside agency will be requested to investigate the event.

NOTES:

500-7-0 CITATIONS

Law enforcement Officers obtain their authority to issue a uniform traffic citation from WI Stats. 345.11.

When an Officer of this department finds it appropriate to issue a uniform traffic citation it shall comply with the following rules.

The four-part citation shall be type written or be hand written in such a fashion as to be clearly legible through all copies. The citation may also be issued through the Traffic and Criminal Software (TraCS).

The citation shall contain the name, address, date of birth, license number and physical description of the alleged violator. It shall contain the vehicle license number or VIN, the alleged offense, the time and date of the offense, the section of the statutes and/or ordinance violated. The citation shall describe the offense and include any other information as may be pertinent.

The Officer shall give an account of the facts surrounding the alleged violation in written form on the backside of the fourth (agency) copy. This information shall be legible and be sufficient to allow a prosecutor to proceed to a trial.

The Officer shall deliver the completed citations to the place designated in a timely fashion but no later than eight days prior to the listed court date.

500-7-1 Accountability of Citations

In the event a citation is voided prior to issuance, the entire four copies shall be labeled "VOID" and all copies delivered to the department's records clerk.

Officers shall not share citations with other departments and conversely shall not borrow citations from other departments.

500-7-2 Officers Motion to Dismiss Citation

Once issued to the defendant, an Officer shall not move to dismiss or void a citation prior to its court ordered disposition without first obtaining authority to do so by the Chief.

500-8-0 SEATBELTS

Although Wisconsin law exempts law enforcement Officers from mandatory seatbelt requirements, it is the policy of the Cumberland Police Department that all employees driving, or any passengers in the front seat of any county owned vehicle be secured with a seat belt while the vehicle is in operation upon a roadway.

Officers are exempt from this policy when they are involved in unusual activity that would be hindered by a fastened seatbelt or when the potential need to quickly exit the vehicle is likely. Any other exemption must be based on a medical concern and must be properly documented.

NOTES:

500-9-0 SCHOOL BUS PASSING VIOLATIONS

Reference WI Stats.346.48 and 346.485.

- 1) The following guidelines are adopted to assist Cumberland Police Department Officers and communication personnel in responding to reports of illegally passing school buses.
 - A) School bus drivers must submit a written report of school bus passing violation to the appropriate law enforcement agency within 24 hours of the observed offense. Reports may be received by fax or delivered in person. In either case, the document must contain sufficient information to commence an investigation.
 - B) Written reports of illegal passing of a school bus will be immediately assigned to a Patrol Officer. The assigned Officer will investigate the alleged offense and, if appropriate, issue a citation to the owner or, if known, the operator of the vehicle. The Officer will personally serve the citation within 48 hours after receiving the report, pursuant to the provisions of WI Stats. 346.485(3),(4), and (5). If, after reasonable diligence, the owner or operator cannot be found, the Officer may leave a copy at the owner's home with a competent member of the owner's family that is at least 14 years of age who shall be informed of the contents thereof. If the owner or operator resides outside of Cumberland; the citation may be mailed via certified or "signature required" mail.
 - C) Regardless of the result of the investigation, the Officer will provide the written driver's report and any other documents to the records clerk for filing.

500-10-0 USE OF BODY-WORN/MOBILE AUDIO AND VIDEO RECORDING EQUIPMENT

500-10-1 Mobile Audio and Video Recording Equipment

Mobile or "in car" Video/Audio recording equipment is a valuable tool in presenting evidence for prosecution of traffic violations and criminal offenses. These are also essential in recording crime scene evidence, traffic accident scenes, critical incidents, as well as evaluating Officer performance and Officer training. The use of videotape recordings will enhance Officer reports, evidence collection, and testimony in court. The Cumberland Police Department has a responsibility to the citizens of Cumberland, to provide them with the best imaging possible to provide for their life, liberty, and security interests. It is important to remember that in addition to our own criminal investigations, there may be subsequent civil actions resting on the images that are recorded.

- 1) Operation of Audio/Video Recording Equipment
 - A) Officers shall be knowledgeable in the use and care of the video camera equipment. Prior to each shift, Officer shall determine whether their assigned equipment is working satisfactory and shall bring any problems to the attention of their immediate supervisor as soon as possible.
 - B) Officers operating squads containing audio/video equipment shall wear the remote microphone on their person and ensure the audio and video is operating properly.
- 2) Officers shall utilize the video recording equipment installed in the squads in the following manner:
 - A) The unit will automatically activate the video and audio system when the emergency lights are activated. The video/audio system is often designed to automatically record the previous thirty seconds before the lights are activated.

- B) Officers shall manually activate the video and audio system for significant events such as suspected OWI incidents, reckless drivers, vehicle pursuits, domestics, fights, weapons calls, and other high priority or high-risk incidents.
- C) Officers may activate the video and audio record for any incidents not covered in (A) or (B).
- D) Officer reports, incidents, arrests, and/or related reports shall indicate if the video camera equipment was used. If the Officer was unable to record the incident with the equipment, a report shall be completed documenting the reason for not recording.
- E) Officers shall not erase, destroy, or in any manner alter video/audio recorded evidence.
- F) Officers recording traffic stops, accident scenes, crime scenes, and other incidents, should indicate the date and time, location, and other relevant information about the case. They shall describe the incident in an incident report.

3) Preservation of Recordings

- A) Officers shall be responsible for preserving recordings. The following recordings should always be preserved:
 1. OWI investigations and arrests
 2. Vehicle pursuits
 3. Any recorded squad car accidents
 4. All recorded arrests
 5. Any recorded statement of an adult accused of a felony(s) and juvenile accused in any situation where they may be charged with a crime or offense.
 6. Any incident the Officer believes is pertinent to a current investigation or that may result in a future investigation.
- B) In all criminal cases, Officers shall note in their incident report that a recording of the incident exists. If a copy of the recording needs to be made, Officers shall advise the administrative assistant. A copy will be burned to a CD or preserved in another manner, and forwarded to the appropriate department (example: District Attorney's Office).
- C) Recorded CD's are evidence and property of the Department. Recorded CD's and other video/audio evidence should not be disseminated outside the agency without the permission of the Chief or designee.
- D) Mobile Video/Audio recordings shall be kept for 121 days after the case has been adjudicated. Upon meeting this requirement, the video/audio recording CD shall be destroyed pursuant to city ordinance record retention policy.

500-10-2 Body-Worn Audio and Video Recording Equipment

PURPOSE

The purpose of this policy is to establish guidelines for the use, management, storage and retrieval of recordings from the department's body worn camera (BWC) system. BWC's will be used to support the mission of the department and assist department members in the performance of their duties by providing an accurate and unbiased recording of interactions between police members and the public.

POLICY

This policy establishes standards and guidelines related to the capture and use of audio and video recordings produced by body worn cameras. This policy applies to all members assigned a BWC, and any members, investigative personnel, and support staff

responsible for preparing cases for criminal prosecution and the release of public records. This policy does not apply to the use or management of the in-car video system that is permanently mounted in police vehicles.

GENERAL INFORMATION

Each BWC system will be used to document various events that occur during the duty shift of the assigned member. Upon completion of the assigned member's shift, all captured data will be preserved in a secure recording storage location. Once captured, these recordings are protected with multiple layers of encryption and cannot be altered. BWC technology facilitates the department's objectives to collect evidence for prosecutions, ensure both Officer and citizen accountability, facilitate administrative inspection functions, and provide a valuable training aid by allowing for the evaluation of Officer and citizen behavior.

TRAINING

Members will receive prescribed training prior to being assigned a BWC. Any training provided will be commensurate with the level of participation in the BWC program (e.g., camera wearer, detective, and administrator).

CARE AND EQUIPMENT

- 1) The only BWC authorized by the Cumberland Police Department is the department Axon BWC. Personal video recording devices are prohibited.
- 2) All BWC's and related equipment will be issued to individual members by the Chief or his/her designee.
- 3) A record of inventory will be maintained by the Chief or his/her designee.
- 4) Only members that have received the prescribed training will be assigned or permitted to wear a BWC.
- 5) Members assigned a BWC are responsible for the proper care of the equipment.
- 6) Any BWC that is lost or stolen will be reported to supervisor.

REPAIR

When a BWC is in need of repair or replacement due to damage the member assigned the camera must notify a supervisor. The member shall detail the circumstances leading to the damage in an official report if the damage occurred during an incident. If the damage did not occur during a reportable incident, the member shall detail the circumstances in a report to supervisor.

OPERATIONAL GUIDELINES

- 1) **PRE-SHIFT INSPECTION** - Prior to each shift, members assigned a BWC will ensure the unit is adequately charged. Further, members will inspect the camera to ensure there is no visible damage and the device is in good working order. Any visible damage or concerns about the functionality of the equipment will be brought to the attention of the member's immediate supervisor as soon as it is practical to do so.
- 2) **AUDIO / VIDEO RECORDING**
 - A) **Wearing Position of the BWC** - The camera will be worn on the outer vest carrier near the center of chest area to best optimize the visual picture obtained.
 - B) **Use of and Recording with the BWC**

1. A member assigned a BWC must wear it at all times when on duty, in uniform and performing or likely to perform enforcement duties except while in court.
2. In car video and body cameras are each considered a tool in the performance of law enforcement duties. When a member is assigned a BWC and operating a vehicle equipped with in-car video, both the in-car video body microphone and the BWC will be worn.
3. The department recognizes that Officer safety is paramount. Members with a BWC who arrive on a scene or engage in an enforcement contact must start recording as soon as it is safe and practical to do so. If multiple members are on scene with a BWC, all members with a BWC will record.
4. Members with a BWC will make every effort to activate their BWC for all investigative or enforcement contacts including, but not limited to:
 - a. Vehicle stops
 - b. Impaired driver investigations
 - c. Field interviews and pedestrian stops
 - d. Transporting citizens or prisoners
 - e. Searches of persons or property
 - f. Dispatched calls for service
 - g. Crime scenes
 - h. Crash scenes (may be turned off if member is waiting on a tow truck and no additional enforcement activity is likely).
 - i. Advising a subject of Miranda warnings
 - j. Suspect/witness statements and interviews
 - k. Vehicle and foot pursuits
 - l. Emergency response to critical incidents
5. Members assigned a BWC and with a prisoner in a booking room will record until either the booking Officer releases the member or the prisoner is put into a cell.
6. Once a BWC is recording, members must continue to record until either the completion of the event or until they leave the scene and their involvement in the event ceases.
7. While not required by policy or state law, members assigned a BWC may find it valuable to inform other parties that they are being recorded. This has proven to be influential in garnering cooperation of subjects and has been shown to reduce incidents of use of force.
8. A BWC is not specifically designed to log evidence or to be used for any situation where fine detail and resolution is necessary. Members are encouraged, however, to use their assigned BWC to record crime scenes prior to the arrival of crime scene technicians or forensic investigators, especially if the scene may change or be compromised

C. EXCEPTIONS TO RECORDING

1. Patrol Officers have discretion in whether or not to record potentially sensitive events or circumstances (e.g., victims of a sexual assault, child victim statements / interviews, nude persons who are not the target of enforcement action, or a citizen victim/witness who requests they not be recorded while giving a statement, or where otherwise authorized in this policy).
2. Police members may deactivate BWC's during non-enforcement activities such as:
 - a. Member to member conversations about crime charging issues or other general conversations.
 - b. Traffic control at fires, crime scenes, or crash scenes when the member's likelihood of being involved in enforcement activities is low.

- c. Lengthy hospital stays awaiting medical clearance (unless enforcement actions are likely, the likelihood of additional criminal activity or escape attempt is high, the suspect is making voluntary statements, or the member is gathering additional evidence (e.g., OWI blood draws).
 - d. During search warrant the BWC's must be on and can be deactivated once the likelihood of being involved in further enforcement activity is low. Example - Residence is secure.
3. Members shall make a verbal notation on the recording anytime he or she plans to intentionally stop a recording prior to the completion of an event or incident. The verbal notation must include the reason why the member is stopping the recording.

D. PROHIBITED RECORDINGS

In keeping with the department's core values of respect and integrity, members assigned a BWC will adhere to the following guidelines:

- 1. BWC's will not be activated in a place where a reasonable expectation of privacy exists, such as dressing rooms, locker rooms and restrooms (Wis. Stat. § 175.22). Any purposeful or accidental recordings made under these circumstances may be deleted prior to the standard 121-day retention period at the direction of the Chief or his/her designee.
- 2. BWC's shall not be used to record a strip search or a body cavity search conducted in a hospital setting.
- 3. BWC's will not be intentionally activated to record conversations of fellow members without their knowledge during routine and non-enforcement activities. This includes while a member is on a break, while report writing, general discussions with other members, discussing a case with another member, or performing other administrative functions.
- 4. BWC's will not be utilized to surreptitiously record conversations of the public and/or other members of the department.
- 5. Members utilizing a BWC will not knowingly record undercover Officers or confidential informants.
- 6. BWC's will not be utilized to record any off duty or personal activity.
- 7. BWC's will not be utilized in area hospitals when enforcement action is considered low or medical information is being shared or the possibility of information being shared or overheard.
- 8. BWC's will not be utilized in homes when no enforcement action is expected, unless the recording is needed for an interview.

E. CRITICAL INCIDENT PROTOCOL

- 1. A critical incident for the purpose of this policy is any police action or activity that directly or indirectly results in great bodily harm or death to a department member and/or a citizen.
- 2. In the event of a critical incident, members assigned a BWC will refrain from viewing the recorded data until the investigative entity responsible for the investigation arrives on scene and any permitted viewing can be done in conjunction with current critical incident protocols. This section does not prohibit members in critical incidents with ongoing exigency from viewing BWC recordings that may aid the present investigation (e.g., suspect descriptions, suspect vehicles, direction of travel).
- 3. If there are BWC's in use during a critical incident, a supervisor assigned to the Investigations and not involved in the actual critical incident will take physical custody of any BWC's that may have captured the incident and deliver them to supervisor will immediately upload them

F. IMPOUNDING OF DATA, DATA UPLOADING AND VIDEO CATEGORIZATION

1. ID field:
 - a. Members should use the following formats in the ID field: Incident #.
Example: 21CU0223
2. Title field:
 - a. Members should use the following formats in the title field: Type of call
Example: Medical Assist, Interview with John Johnson or Traffic Stop-Brenda Johnson.
3. Category fields - Videos will be categorized. Categorize felony arrests as such as their retention time is longer.

There are several category choices for each individual recording. Members will categorize each recording.

G. REPORTING / DOCUMENTATION

1. The use of a BWC will be documented in member's incident or supplemental report.
2. When a BWC records an incident resulting in either an arrest or citation, the use of the BWC will be documented in the citation. If a citation is issued, the words "On Officer Video" will be written in the lower right-hand corner of a paper citation or typed in the Agency Notes section when using TraCS.

H. DEPARTMENT REVIEW / TRAINING

1. All recordings made with a BWC are the property of the Cumberland Police Department.

Recordings may be reviewed:

 - a. By a department member to ensure a BWC system is working properly.
 - b. By a police member viewing their individually assigned recordings to assist with writing a report, supplement, citation, memorandum or court case preparation.
 - c. By authorized persons for the purpose of reviewing evidence and processing records requests.
 - d. By a supervisor to investigate a specific act or allegation, by another member or by a member of the public. While recorded data shall not be routinely or randomly viewed by supervisory members for the sole purpose of enforcing policy violations, the Chief or his/her designee may order periodic integrity inspections of recordings to be conducted.
 - e. By authorized department personnel participating in an official investigation, such as a citizen complaint, administrative inquiry or criminal investigation.
 - f. By others with permission of a supervisor, if they are participating in an official investigation.
2. BWC recordings may be used for the purposes of training. Members aware of BWC recordings that may serve as a training aid for other members should notify a supervisor who will review the recording to determine its feasibility as a training aid.

- a. Members involved in a recording that has been deemed a training aid will be notified by a supervisor of the intent to use the recording for training purposes.
 - b. Supervisors having received the involved member's permission to use a video for training or when a member's objection for use has been overruled by the commanding Officer shall categorize the video as a training video in the category section.
4. BWC recordings will never be used with the intent of belittling, ridiculing or embarrassing any member of the department, notwithstanding the potential use of BWC recordings in disciplinary matters.

H. DATA PRIVACY / RETENTION OF RECORDINGS / RECORDS REQUESTS

1. All digital media that is captured with a BWC is the property of and will be retained by the Cumberland Police Dept for a minimum of 121 days following the date it is recorded. Captured video may be retained for longer periods in the event the video is the subject of a litigation hold, a criminal case, part of discovery, etc.
2. Unauthorized accessing, copying, or releasing captured video without the approval of the Chief or his/her designee is strictly prohibited. Members are prohibited from making copies of a BWC audio/video recording by using another recording device such as a cell phone.
3. With the proper permission recordings may be duplicated or shared with criminal justice agencies or when otherwise authorized by the Chief or his/her designee.
4. Members will not allow citizens to review video captured by a BWC unless there is an investigative reason to do so and such viewing has been approved by a supervisor. Members shall advise citizens that they may request a copy of the recording through the public records process.
5. The release of video requested through a public records request will be handled in accordance with existing policy and public records laws. Reproduction fees for duplication of recordings will be charged.
6. Prior to the release of any BWC recording to the public, Open Records will ensure that proper redactions have been made in accordance with state law.
7. The Cumberland Police Department will not release video that does not contain enforcement action in order to protect personal and business property in the City of Cumberland.

500-11-0 Operating While Intoxicated

This policy provides guidance to those Department members who play a role in the detection and investigation of operating while intoxicated (OWI).

500-11-1 Investigations

The Department will develop and maintain, in consultation with the District Attorney's Office, report forms with appropriate checklists to assist investigating Officers in

documenting relevant information. Information that should be documented includes, at a minimum:

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

500-11-2 Field Tests

The Department, along with the Wisconsin Department of Justice - Training and Standards, should identify standardized FST's and any approved alternate tests for Officers to use when investigating violations of OWI laws. Officers must attend SFST and ARIDE training before use in the field.

The following field tests are authorized by the Department in accordance to Standardized Field Sobriety Testing (SFST):

- 1) Horizontal Gaze Nystagmus Test (HGN)
- 2) Walk and Turn
- 3) One Leg Stand

The following field tests are authorized by the Department in accordance to Advanced Roadside Impaired Driving Enforcement (ARIDE) training:

- 1) Lack of Convergence
- 2) Alphabet Test
- 3) Modified Romberg Test

500-11-3 Breath Samples

The Chief or designee shall ensure all devices used for the collection and analysis of breath samples are properly serviced and tested and a record of such service and testing is properly maintained. Officer's 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 Chief.

500-11-4 Blood Samples

Only persons authorized by law to draw blood shall collect blood samples (Wis. Stat. § 343.305(5)(b)). The blood draw should be witnessed by the assigned Officer. Officers should inform an arrestee that if he/she chooses to provide a blood sample, a separate

sample can be drawn for alternate testing. Unless medical personnel object, two samples should be drawn 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.

500-11-5 Preliminary Breath Testing

An Officer who has probable cause to believe a person has committed an OWI offense or where the Officer detects any presence of alcohol, a controlled substance or any other drug on a person operating a commercial motor vehicle, may request that the person submit to a preliminary breath test (PBT). The result of the PBT may be used by the Officer in deciding whether to arrest the person and whether to require or request additional chemical testing under Wis. Stat. § 343.305(3). A person may refuse to take the PBT (Wis. Stat. § 343.303).

500-11-6 Additional Testing

If a person submits to a chemical test requested pursuant to the implied consent law, he/she is entitled to a reasonable opportunity, upon request, to have additional chemical testing done.

500-11-7 Chemical Testing Protocol

The primary test for OWI - 1st offense is the Intoximeter. If the defendant refuses, the Officer can determine if a search warrant should be obtained to warrant a blood draw. The primary test for 2nd and subsequent OWI violations is a blood draw. If the defendant refuses, a search warrant should be obtained for blood.

The primary test for Baby Luke and Restricted Controlled Substances is blood. If the defendant refuses, a search warrant should be obtained for blood.

500-11-8 Search Warrants – OWI Related

If a defendant refuses to submit to a chemical test under the implied consent, the arresting Officer must apply for a search warrant, unless under exigent circumstances. The Officer shall follow the processes outlined under the Electronic Search Warrant Protocol.

600 THE CRIMINAL PROCESS

The following chapter titled “the criminal process” is indeed a vast subject. Clearly this manual cannot even begin to address all of the information relative to the criminal process. It is well recognized that volumes of reference material are available for a single phase of the criminal process. Libraries are created to support interpretation of criminal law; further, careers are dedicated to the perpetual changing field of criminal procedure. Therefore, it is expected that an Officer employed by the Cumberland Police Department have, as a condition of employment, a basic fundamental knowledge of Wisconsin criminal procedures. The following chapter is created to assist the Officer in identifying that which is specific to the Cumberland Police Department. Therefore, little or no attempt is made to describe commonly accepted law enforcement procedures.

600-1-0 STOP AND FRISK

Officers of this department are expected to conduct field contacts in a manner that not only promotes public safety and safeguards law enforcement Officers from harm, but holds the invasion of personal privacy to a minimum.

Often times an Officer must approach individuals who appear to be engaged in some type of activity calling for an investigation. In keeping with the thoughts contained in the preface of this handbook, such activities may cover a wide range of situations. In some, the Officer will be preventing or detecting a crime; in others he will be providing assistance to someone in need.

A “STOP” is the temporary detention of a person for investigative reasons. A “STOP” occurs whenever an Officer uses his authority to cause a person to cease their activity or to keep a person in a certain place or to compel a person to perform a certain act. If a person is under a reasonable belief that they are not free to leave the Officers presence, a “STOP” has occurred.

Officers acting in their official capacity obtain their authority to “STOP” a person from WI Stats. 968.24.

A “FRISK” is a limited protective search for concealed weapons or other dangerous instruments. A “FRISK” may be conducted when an Officer reasonably believes that it is necessary to protect himself or others.

Officers acting in their official capacity obtain their authority to conduct a “FRISK” from WI Stats. 968.25.

In Terry V Ohio, 392 US 1, 28 (1968) the United States Supreme Court states that the manner in which stops and frisks are conducted are “as vital a part of the inquiry as whether they were warranted at all”.

Officers of this department will conduct “TERRY STOPS” in a manner that will promote a professional image by demonstrating respect for human rights and dignity. Every Officer

conducting a stop, or a stop and frisk, shall be prepared to cite the existence of such factors in support of his determination that "REASONABLE SUSPICION" for the stop and frisk was present.

In every case, the person stopped shall be advised of the reason for the stop, and be provided an explanation, if requested.

600-1-1 Reasonable Suspicion

The department's policy on stop and frisk indicates that every Officer that conducts a "TERRY STOP" must be able to justify the governmental intrusion on personal privacy.

The term "REASONABLE SUSPICION" is very difficult to describe and perhaps quite likely does not have a precise definition. It is, however, more than a hunch or mere speculation but less than "PROBABLE CAUSE" which is required to affect an arrest.

In justifying the particular governmental intrusion, the Officer must be able to point to specific and articulable facts which, taken together with rational inferences from these facts, form a reasonable basis for the intrusion.

600-2-0 PROBABLE CAUSE

The terms "probable cause" and "reasonable grounds" are used interchangeably. Mere suspicion alone is never sufficient to authorize an arrest. When an Officer, in good faith, believes a crime has been committed and that the person in question has committed it, and his belief is based on such grounds as would induce an ordinary, prudent and cautious Officer, under these circumstances to believe likewise, then, the Officer has "probable cause" for his belief and is justified in making an arrest without a warrant.

In making an arrest decision, the Officer shall determine if there is "probable cause" which is more than a good faith suspicion but less than proof beyond a reasonable doubt that a person has committed or is committing a crime. "Probable cause" means that there is "reasonable grounds" to believe. "Reasonable grounds" refers to the judgment that an ordinary prudent person would make on the basis of all the facts available to him at the time he is faced with the decision.

Officers with the Cumberland Police Department shall not make a warrant-less arrest without first establishing probable cause.

NOTES:

600-3-0 ARREST POLICY

An Officer acting in his official capacity obtains his authority to make a physical custodial arrest from 968.07 WI Stats.

- 1) For purposes of this chapter, an arrest is an act which takes an individual into physical custody with the intent of furthering criminal proceedings against the person. An arrest is a restraint on liberty. All law enforcement Officers have an obligation to make an arrest in certain circumstances. Officers also have an obligation to protect all persons right to life and liberty. These two issues must be carefully weighed and considered when an Officer makes a decision to affect a custodial arrest.
- 2) This department views an arrest as a serious action, which may have severe repercussions throughout a person's life. Consequently, the Officer should make

the arrest decision carefully so that the power is exercised in a fair and impartial manner. Officers shall bear in mind that an arrest is one of the most severe sanction that society can exercise against those that violate the law.

- 3) An Officer may make an arrest when the Officer:
 - A) Has a warrant commanding that such person be arrested, or
 - B) Believes, on reasonable grounds, that a warrant for the person's arrest has been issued in Wisconsin, or
 - C) Believes, on reasonable grounds, that a felony warrant has been issued in another state, or
 - D) Establishes probable cause (reasonable grounds) to believe that the person is committing or has committed a crime.
- 4) WI Stats. 939.12 defines a crime as conduct that is prohibited by state law and is punishable by fine or imprisonment or both.
- 5) Conduct that is punishable by forfeiture is not a crime.
- 6) The best practice is to obtain an arrest warrant whenever practical.
- 7) Arrests shall be made primarily for the protection and preservation of peace, life, liberty and property.
- 8) When an Officer establishes that a crime has been committed, and there is a likelihood of continued violence or any other breach of the peace if the accused is not arrested, the Officer shall effect the arrest.
- 9) An Officer need not make a physical custodial arrest, even when sufficient facts are established to meet the probable cause threshold if, in the Officer's best judgment:
 - A) Justice will not be adversely affected, and
 - B) There is no likelihood of violence, and
 - C) The accused will be available for further legal proceedings, or
 - D) It is approved by a supervisor and/or the District Attorney or his assistant.
- 10) An Officer shall not make an arrest when any of the following occur:
 - A) The Officer is under suspension or otherwise not authorized to do so.
 - B) The Officer is under the influence of alcohol, drugs or other controlled substances or otherwise not physically, mentally, or emotionally capable of doing so.
 - C) The accused is a member of the Officer's immediate family.
 - D) The accused qualifies for immunity under 21.12 WI Stats.
 - E) There is no intent to pursue further legal proceedings against the individual.
- 11) When an Officer takes another person into physical custody, the Officer shall be sure that the individual knows and understands that he is under arrest and therefore, not free to leave the Officer's presence.
- 12) When an Officer of this department arrests another person, the Officer will, or will cause another Officer to complete a written probable cause statement which fulfills the requirements of the Riverside Decision. This P.C. statement must contain enough information to support the arrest and address all of the elements of the alleged crime. It shall be prepared without undue delay and be filed with the jail staff.
- 13) Anytime someone is arrested, a complete incident report must be prepared by the end of the officer's shift, unless there is no court the following day.

600-3-1 Release of Arrested Person

- 1) As stated in WI Stats. 968.08, a law enforcement Officer having custody of a person arrested without a warrant may release the arrested person without requiring the person to appear before a judge, if the Officer is satisfied that there is insufficient grounds for the issuance of a criminal complaint.
- 2) The process for filing criminal complaints is found in WI Stats. 968.01 and 968.02.

- 3) It is the accepted practice within the Cumberland Police Department that once a person has been arrested and subsequently incarcerated in the Barron County Jail, the individual should remain in jail until:
- A) Bond is posted for an out-of-state resident without ties to the community, in a forfeiture offense.
 - B) The arrested person or another person has arranged for a cash bond to be posted consistent with the misdemeanor bail bond schedule.
 - C) The person was arrested for a violation involving a motor vehicle and their release is consistent with WI Stats. 345.24.
 - D) The person has complied with all bail requirements and has signed a no-contact provision notice if arrested on a domestic abuse related misdemeanor.
 - E) The person has had an initial appearance as provided in WI Stats. 970.01 and has been granted bail in accordance with:
 - F) WI Stats. 969.02 if the defendant is charged with a misdemeanor, or
 - G) WI Stats. 969.03 if the defendant is charged with a felony.
 - H) The Chief, district attorney, assistant district attorney, or a judge of this county orders the person's release.

600-3-2 Resist Arrest/Failure to Give Name

The Cumberland Police Department strives to maintain an attitude of mutual respect with the citizens of Barron County. As a part of this endeavor, it is the philosophy of this department to actively support the prosecution of any individual who, by use of force, resists arrest when the Officer is acting in his official capacity.

When an Officer experiences an incident wherein an arrested person uses force or attempts to use force to avoid an arrest, the Officer must provide a detailed police report to his immediate supervisor without undue delay.

Case law has well established that an arrest for obstructing an Officer by refusing to identify oneself or refusing to give an Officer one's name or mere silence is insufficient in itself to constitute obstruction. It is therefore a policy of this department that an Officer must not make a physical custodial arrest in these circumstances.

600-3-3 Battery to a Police Officer

The Cumberland Police Department has a zero-tolerance policy on battery to a law enforcement Officer, much like the department will not tolerate its members using excessive force toward citizens.

Every Officer with first-hand knowledge will aggressively pursue the criminal prosecution of any individual who is known to intentionally cause bodily harm to any law enforcement Officer acting in an official capacity.

Any Officer within this department who has information relative to an incident involving battery to any police Officer, regardless of the severity, shall, without unjustified delay, file a police report giving all pertinent details.

600-3-4 Handcuffs

- 1) It is the general policy of this department that all people placed under arrest or those in protective custody shall be handcuffed. Handcuffs must be double locked.
- 2) The following procedures must be observed when handcuffing individuals:

- A) Handcuffs should be applied behind the back, in most cases.
 - B) If handcuffs are applied in front, a belt style restraint must be used.
 - C) During long transports, the Officer will use a belt restraint in conjunction with handcuffs and leg irons, if appropriate.
 - D) Although it is likely that the offender will experience some pain or discomfort, handcuffs must never be applied with the intent of causing pain.
- 3) When transporting a prisoner to the jail, the handcuffs will not be removed until directed to do so by the corrections Officer.
- 4) In some cases, it may be prudent of the Officer to avoid using handcuffs. Officer discretion may be used when:
- A) The person in custody is frail or in poor health.
 - B) The person in custody has an injury to any affected portion of the body.
 - C) The person in custody is very young or very old and not a physical threat.

600-3-5 Other Restraints

In addition to the standard handcuffs, other approved restraint devices include: RIP restraints, leg irons, belly chains, belly belt, flex cuffs, restraint chair or any other device which is not likely to cause injury but will assist in controlling a subject and prevent harm to the subject or the Officer.

NOTES:

600-4-0 SEARCH AND SEIZURE

No single subject is likely to cause greater debate than the fourth amendment right that a citizen holds regarding protection against unreasonable searches and seizures.

- 1) The Cumberland Police Department is like any other law enforcement agency in the sense that it is duty-bound to seek out crime and the evidence thereof and, at the same time, apply equal energy and forethought to protecting each and every constitutional right afforded to each citizen.
- 2) Officers are to possess the knowledge necessary to conduct reasonable searches and seizures when called upon to do so. The Officer is to develop a level of understanding so as to appreciate the level of expectation of privacy and security a person is afforded in the home and other places. The Officer is “the government” and must conduct himself in a manner consistent with judicial direction.
- 3) As authorized under WI Stats. 968.10, a law enforcement Officer may search a person, object, or place, and things may be seized when the search is made:
 - A) incident to a lawful arrest
 - B) with consent
 - C) pursuant to a valid search warrant
 - D) with the authority and within the scope of a lawful inspection
 - E) as otherwise authorized by law including with a showing of exigent circumstances, or plain view

600-4-1 Search Warrants

The department’s policy on search warrants shall be governed by WI Stats. 968.12. If at all possible, the search warrant application process will be conducted in conjunction with the Barron County District Attorney’s Office.

The following statutes shall apply to the specific activity in its descriptions:

- 1) 968.12(3)(d) telephonic search warrants
- 2) 968.13 property subject to seizure
- 3) 968.135 subpoena for documents
- 4) 968.14 force used to execute warrant
- 5) 968.15 time limits to execute warrant
- 6) 968.16 detention of subjects on premises
- 7) 968.17 search warrant return
- 8) 968.18 receipt for property seized
- 9) 968.19 custody of property seized
- 10) 968.20 return of property seized
- 11) 968.21 secrecy prior to execution
- 12) 968.23 search warrant forms

600-4-2 Arrest Warrants

An arrest warrant is a judicial finding where, after review of a complaint, a judge finds that there is probable cause to believe that a crime has been committed and that the accused committed it. A judge may issue a warrant for the accused or a summons in lieu thereof. Or, as in WI Stats. 968.09, the judge may issue a bench warrant for failure to appear or violation of bond. In either case, when there is a warrant which is valid on its face, the Officer shall arrest the person named in the warrant with due regard for the safety of others. An arrest warrant is considered valid on its face if it complies with WI Stats. 968.04(3).

A valid arrest warrant eliminates the Officer’s discretion to employ alternatives to arrest. However, if the person insists in a plausible argument that the warrant is satisfied, the

Officer shall make reasonable efforts to confirm the warrant's validity. This may include consulting the district attorney or calling a judge, if necessary.

An Officer need not have a warrant in possession but must have credible information that one exists.

Officers shall effect an arrest on an out-of-state felony warrant in the same manner as an in-state warrant.

No individual is to be incarcerated solely on the basis of an out-of-state misdemeanor warrant until first obtaining a fugitive warrant in accordance with WI Stats. 976.03(14).

Prior to incarceration, all warrants shall be confirmed with the originating agency. A hard copy of confirmation of validity shall accompany the arrest record.

600-4-3 Strip Search

No employee of the Cumberland Police Department will participate in a strip search without first obtaining specific authority from a commanding Officer and complying with all requirements of WI Stats. 968.225.

600-4-4 Body Cavity Searches

The search of any person's body cavities will be done only at a medical facility and only by a physician, physician's assistant, or a registered nurse, and only upon specific authority of the Chief.

Note: Wisconsin law provides for criminal and civil penalties for those persons who violate this section, including law enforcement Officers acting in their official capacity.

600-4-5 Field Search of Arrestees

Whenever practical, Officers should request the assistance of a gender-specific Officer to perform a field search of an arrestee of the opposite sex. If this is not practical, the Officer is not excused from the general policy that all arrested persons be searched prior to transportation.

All Officers are cautioned to use careful judgment and to apply professional demeanor when field searching an arrestee of the opposite sex.

Should a field search of an offender reveal an object, which could reasonably be believed to be a weapon, the Officer shall retrieve and secure such object regardless of gender issues.

Dealing with a custodial arrest of the opposite sex is an extremely sensitive issue and must be conducted with the utmost professionalism. However, safety of the Officer, suspect, and others nearby is of paramount importance. As always, Officers are required to articulate their concerns and justify their actions.

NOTES:

600-5-0 MOTOR VEHICLE SEARCH AND SEIZURE

This policy will dictate how and when motor vehicle searches will be conducted. It is based on accepted practices consistent with the law and case law.

- 1) Motor vehicle searches, seizures, and inventories will be performed with due regard to those involved and with the intent to protect personal property. Any seizures of a motor vehicle will fall into one of the following categories:
 - A) seizure for evidentiary reasons
 - B) seizure for forfeiture (expected future legal proceedings)
 - C) protective possession (to protect the property of another)
 - D) traffic impoundment
 - E) abandoned property
 - F) non-criminal impoundment (i.e. civil process)

Anytime an Officer takes possession, either by seizure or impoundment, the Officer, or another department employee, will complete a Vehicle Impound Report. The form shall indicate reason for impound and the reason for the hold.

Impound: to take into temporary legal custody
Seizure: to lay hold of and retain for a further legal process

Generally, vehicles which are seized will be towed to the law enforcement center and vehicles which are impounded will be towed to the impound area provided by the towing agency. This procedure is further defined in Section 700-5-0 TOWING OF VEHICLES

NOTES:

600-6-0 CONSENT SEARCH

- 1) WI Stats. 968.10(2) provides that "with consent" is an authorized exception to the search warrant rule. Consent searches are a valuable tool available to the Officer in some circumstances. When an Officer intends to request consent to search a particular place or thing, two prerequisite issues must be considered:
 - A) The person in control of the place or thing to be searched has legitimate right to deny consent and any threat to circumvent the consent must be avoided.
 - B) It is the Officer's responsibility to show that the consent is truly voluntary.
- 2) Therefore, a waiver and consent to search form should be completed and kept in the appropriate case file. If the person from whom consent was received withdraws consent at any point, the Officer must cease searching unless he has a basis for continuing, other than consent.

NOTES:

600-7-0 INVENTORY SEARCH

Inventory searches may be conducted in cases where the Officer does not believe the inventory search will contribute directly to a criminal action. Such events would include primarily impounded vehicles, but could, in some cases, include buildings, abandoned containers or found property. In the event an Officer conducts an inventory search of property, it will be documented in written form for the purpose of:

- 1) temporary legal custody until the owner complies with a particular directive
- 2) processing particular property for evidence after obtaining by legal means
- 3) safekeeping of property
- 4) identifying abandoned property
- 5) other non-criminal or civil process reasons

NOTES

600-8-0 INFORMANTS

The purpose for this policy is to provide regulations for the control and use of confidential informants (CI).

In many instances, a successful investigation cannot be conducted without the use of CIs. While the use of CIs is an effective tool in investigations, it can be undermined by the misconduct of either the CI or the Officer utilizing the informant. Therefore, it shall be the policy of this law enforcement agency to take necessary precautions by developing sound informant control procedures.

600-8-1 Definitions

- 1) *Informant*: Refers to any individual who agrees to procure information, or receives some benefit in exchange for his/her information, or who assists the investigation by supplying services under the direction or supervision of an Officer or supervisor.
 - A) *Participating Informant*: Refers to an informant who supplies information and participates in an investigation acting under the specific direction of a member of the Cumberland Police Department.
 - B) *Nonparticipating Informant*: Refers to an informant whose activity is limited to supplying the police department with information. This informant does not become actively involved in an investigation. A complainant supplying information for money would be included in this category.
- 2) *Confidential Informant File*: File maintained in order to document all information that pertains to confidential informants.
- 3) *Unreliable Confidential File*: File containing information pertaining to individuals determined generally unfit to perform as informants.

600-8-2 Establishment of an Informant File System

- 1) The Chief or his designee shall be responsible for developing and maintaining master informant files and an indexing system.
- 2) A file shall be maintained on each CI used by Officers. Each file shall be coded with an assigned informant control number and shall contain the following information:
 - A) Informant's name
 - B) Name of Officer initiating use of the informant
 - C) Informant's photograph, fingerprints, and criminal history record
 - D) Briefs of information provided by the CI and its subsequent reliability. If an informant is determined to be unreliable, the informant's file shall be placed in the unreliable informant file.
 - E) Signed Informant Agreement Form
 - F) Update on active or inactive status of informant.
- 3) The confidential and unreliable informant files shall include an indexing system. An informant history summary, coded with the informant control number, shall be prepared to correspond to each informant file and include the following information:
 - A) Special skills and/or avocations
 - B) Date of Birth
 - C) Aliases
 - D) Height, Weight, hair color, eye color, race, sex, scars, tattoos, or other distinguishing features.

- E) Current home address and telephone number
 - F) Residential addresses over the last five years
 - G) Current employer, position, address, and telephone number
 - H) Marital status and number of children
 - I) Vehicles owned and their registration numbers
 - J) Places frequented
- 4) Informant files shall be maintained in a secured area of the records section
 - 5) The two informant files shall be utilized in order to
 - A) Provide a source of background information about the informant
 - B) Provide a complete history of the information received from the informant
 - C) Enable review and evaluation by the appropriate supervisor of information given by the informant
 - D) Minimize incidents that could be used to question the integrity of investigators or the reliability of the CI.
 - 6) Access to the informant files shall be restricted to the Chief Officer or his designees.
 - 7) Officers may only review an individual's informant file upon the approval of the Chief Officer or his designee. The requesting Officer shall submit a written request explaining the need for review. A copy of this request, with the Officer's name, shall be maintained in the CI's file.

600-8-3 Use of Informants

- 1) Before using an individual as a CI, an Officer must receive initial approval from the Chief or his designee.
- 2) The Officer shall compile sufficient information through a background investigation in order to determine the reliability and credibility of the individual.
- 3) After the Officer receives initial approval to use an individual as a CI, an informant file shall be opened.
- 4) All persons determined to be unsuitable for use as a CI shall be referenced in the Unreliable Informant File
- 5) An Officer wishing to utilize an unreliable informant shall receive prior approval from the Chief Officer or his designee.

600-8-4 General Guidelines for Using Confidential Informants (CI)

- 1) All CIs are required to sign and abide by the provisions of the departmental informant agreement. The Officer utilizing the CI shall discuss each of the provisions of the agreement with the CI, with particular emphasis on the following:
 - A) Informants are not law enforcement Officers. They have no arrest powers, are not permitted to conduct searches and seizures, and may not carry a weapon.
 - B) Informants will be arrested if found engaging in any illegal activity. They will receive no special legal considerations, unless consideration was discussed and approved by the District Attorney or Assistant District Attorney.
 - C) Informants are not to take, and the department will not condone, any actions that may be considered entrapment. Entrapment occurs where the informant encourages, persuades, or otherwise motivates a person to engage in criminal activity.
- 2) No member of this agency shall knowingly maintain a social relationship with CIs while off duty, or otherwise become personally involved with CIs. Members of this agency shall not solicit, accept gratuities, or engage in any private business transaction with a CI

- 3) Whenever possible, an Officer shall always be accompanied by another Officer when meeting with a CI
- 4) Juveniles shall only be utilized as a CI when the request is accompanied by written consent from the parent or guardian. Juveniles shall only be used in extraordinary circumstances.

600-9-0 CONFIDENTIAL FUNDS

The purpose of this policy is to establish accounting and control procedures for the confidential fund.

It is the policy of the Cumberland Police Department to maintain stringent control over all confidential fund monies used by the agency to ensure that the funds are used only for authorized purposes.

1. Definitions

- 1) *Confidential Funds*: The agency accounting and banking system that provides Officers with investigative expense monies
- 2) *Confidential Fund Custodian*: The employee or unit responsible for dispensing and monitoring the use of investigative funds by Officers

2. Authorization

- 1) The confidential fund custodian shall have the following responsibilities with respect to the agency's confidential fund:
 - A) Maintenance of the fund in accordance with all appropriate laws and procedures
 - B) Proper disbursements and deposits
 - C) Bookkeeping and banking procedures
 - D) Direction of a quarterly internal audit of the fund by a third party
 - E) Maintenance of a file containing copies of all relevant fund transaction
 - F) Purging of the confidential copies of all relevant fund transaction retention provisions.
- 2) An annual audit of the confidential fund shall be performed by an independent accounting authority from outside the department in order to evaluate the continued integrity of the fund, and the need for any additional controls.

- 3) The confidential fund custodian shall make disbursements from the confidential fund only to authorized personnel for the following purposes:
 - A) Payments that are to be made directly to confidential informants
 - B) Investigative funds for the purchase of illegal drugs, contraband and other criminal evidence
 - C) Purchases of food and beverages for a confidential informant
 - D) Expenditures of authorized undercover operations
 - E) Flash and front money
- 4) The confidential fund custodian shall not be permitted to make disbursements from the confidential fund to himself.
- 5) Confidential fund transaction records shall be stored in a secured location, and access shall be restricted.

600-9-3 Withdrawals and Expenditures from Fund

- 1) Requests for withdrawals from the Confidential Fund shall be made to the Chief or his designee for approval.
- 2) Prior to the issuance of money from the confidential fund, an Officer shall complete and submit to the Chief a written request for funds. The confidential fund custodian will be notified by the Chief if the request was approved.
- 3) The confidential fund custodian shall issue the requesting Officer a copy of the receipt acknowledging that funds were requested and received by the Officer.

600-9-4 Accounting for Expended Funds

- 1) All Officers receiving confidential fund monies shall prepare a written expense report accounting for all monies withdrawn from the fund, as soon as practical. The report should include:
 - A) Item or informant control number on which the monies were expended
 - B) Date and place of the expenditure
 - C) Copies of receipts
 - D) Type of investigation
 - E) Case number, where applicable
- 2) The written expense report with all supporting documents and receipts shall be submitted to the Chief Officer for review and approval
- 3) For all funds expended, the Officer issuing payment shall ensure the appropriate receipt is obtained, unless such an action would jeopardize a transaction or operation.
 - A) Whenever distributing funds to an informant, two Officers should be present. The receipt should be signed by the informant and both Officers.
- 4) All unexpended funds shall be returned to the confidential fund custodian as soon as practical. The fund custodian shall issue the Officer a receipt acknowledging that such funds were re-deposited as unexpended.
- 5) Each Officer may maintain a personal file containing a record of all confidential fund transactions, and copies of all relevant receipts and agency fund forms.

NOTES:

600-10-0 CIVIL ACTIONS WITH CRIMINAL IMPLICATIONS

Often times a law enforcement Officer is required to intervene in situations that are the subject of a civil action. Certain civil actions carry a criminal penalty for a violation thereof. Law enforcement is charged with the responsibility to investigate and enforce court orders, which carry the weight of law, and direct the behavior of particular individuals in civil actions.

Generally, law enforcement is an ineffective resource in actually resolving civil disputes. This is the responsibility of the courts. A law enforcement Officer must never take sides or advocate for one party or show favoritism.

The Officer will recognize that law enforcement's primary goal is to protect people from harm and to prevent continual threat to public peace. The Officer will strive to eliminate the risk or threat in a civil dispute until the court process has settled the conflict.

600-10-1 Temporary Restraining Orders

An Officer may suggest to one or more parties in a civil dispute that a restraining order is an available method in resolving the conflict. To seek such an order, a person should be referred to the Barron County Clerk of Courts Office.

Temporary restraining orders (TRO) are usually issued upon filing of a petition to the court. TRO's are enforceable only after the specific person(s) identified as respondent has been served a copy thereof and then only for a period of seven days from the date of issuance wherein the courts must hold an injunction hearing. In the event that the respondent is not personally served a copy of the TRO, the court may extend once for seven days the date that the injunction hearing must be held. In a domestic abuse temporary order, the courts may extend once for fourteen days upon a finding that the respondent has not been served a copy of the TRO.

TRO's may be sought in the following categories:

| | |
|-------------------|-------------------|
| Domestic abuse | WI Stats. 813.12 |
| Child abuse | WI Stats. 813.122 |
| Vulnerable adults | WI Stats. 813.123 |
| Harassment | WI Stats. 813.125 |

An Officer shall arrest and take a person into custody for a violation of a TRO if the Officer has knowledge of the existence of the order, has knowledge that the person named in the order has been served a copy of the order, the Officer has probable cause to believe the person has violated the terms of the order, and it appears that the time limits of the order are in effect.

600-10-2 Injunctions

The next logical step in a civil restraining order process is a court action changing the TRO to an injunction.

An injunction is enforceable only upon the specific person(s) named in the order. An injunction is enforceable according to its terms for a period not to exceed two years from the date of issuance.

An Officer shall arrest and take into custody a person who violates the terms and conditions of an injunction when the Officer believes to the level of probable cause that the court order was violated.

Copies of TRO's and injunctions need not be kept or maintained if the effective date has been met either through expiration or dismissal. The recommended means for disposal of records is by shredding.

600-10-3 Family Court Orders

Family court orders may be expressed in many ways but most commonly in the form of a divorce judgment decree, child custody arrangement, or a temporary order filed in a family court action.

Generally, family court orders are to be enforced by a petition for contempt by one or more of the parties to the action. Law enforcement's duties are restricted to preservation of public peace. However, in the event an Officer learns of the demonstrated intent to take a child out of the region to deprive another party of custody as defined in WI Stats. 822.02(9), the Officer should take action and may effect a custodial arrest under WI Stats. 948.31. The primary objective of the Officer is to stop any event from occurring which would complicate the courts' ability to enforce an order based on WI Stats. 948.31. Officers are encouraged to contact the District Attorney prior to arresting a person for violation of this section.

If either legal custodian of a minor child alleges a violation of WI Stats. 948.31 or alleges a violation of another family court order and there are no extenuating circumstances beyond inconvenience of the aggrieved custodial parent, the Officer should not take any action beyond a collection of the facts in a cursory investigation. The Officer shall complete a written report of the incident and forward the report to the District Attorney's Office to review for possible criminal charges.

If the Officer feels the child is in danger or there is a risk the parent who has the child may flee, the Officer may place the child in protective custody and shall contact the Department of Health and Human Services to place the child. The Officer shall make a written report stating the circumstances of the protective custody and any actions taken by the Department of Health and Human Services.

WI Stats. 948.31(1)(b) states, in part, that the fact that joint legal custody has been awarded to both parents does not preclude a finding that one parent has violated this section. This, however, short of extraordinary circumstances as previously stated, is reserved for private parties to resolve and the proper forum for dealing with a violation of a family court order is in the family court under an action for contempt. It is law enforcement's obligation however, whenever possible, to keep the peace.

600-10-4 Foreign Protection Orders

- 1) Officers of the Cumberland Police Department are expected to enforce a protection order issued anywhere in the United States.
- 2) A foreign protection order is an order essentially the same as those described in 600-9-1 and 600-9-2, but has originated in another circuit court of this state, a tribal court, any court of another state, or a federal court of the United States.
- 3) Officers are to give full faith and credit to any foreign protection order that meets the requirements under WI Stats. 806.247(2). In effect, the Officer shall arrest and take the suspect of a foreign protection order into custody if:
 - A) A person protected under a foreign protection order presents an Officer with a copy or the Officer determines that a valid order exists through communication with appropriate authorities, and
 - B) Upon examination of the order, it appears valid on its face and circumstances suggest that the order and any modifications are in effect, and
 - C) The Officer has probable cause to believe that the person has violated the terms of the foreign protection order.

- 4) When an Officer makes an arrest under this section, it is the Officer's responsibility to collect all relevant orders, modifications, and correspondence with other jurisdictions, and present the same to the district attorney's office as soon as reasonably practical.

600-10-5 Firearms Relating to Protection Orders

In the case of a domestic abuse temporary restraining order or injunction under WI Stats. 813.12, or a child abuse temporary restraining order or injunction under WI Stats. 813.122, the court shall impose a restriction on the possession of firearms. In the case of a harassment temporary restraining order or injunction under WI Stats. 813.125, the court may impose a restriction on the possession of firearms, and in all cases may order the respondent to surrender all firearms either owned or in their possession to the Sheriff's Department or Police Department in which the action was commenced or the Sheriff's Department or Police Department in which the respondent resides.

In the event a court orders a respondent to surrender firearms to the Cumberland Police Department, any Officer of the department will accept the firearms and issue a receipt for each firearm received. The receiving Officer shall record the make, model, serial number, and any other significant details about the firearm and sign the receipt, and compel the respondent to sign the receipt.

The original receipt shall accompany the firearm(s) in a safe and secure location under the direction of the department's evidence room custodians until further direction of the court. The department's property/evidence form may be used for this purpose.

When the court provides a directive for return of the firearm(s), the evidence room custodian will surrender the original receipt and any copies to the respondent and no other copies are required to be kept at the department.

There is no statutory authority expressly given to allow law enforcement to compel compliance of an order that a respondent surrender firearms. Therefore, members of this department will consult with a supervisor and/or the district attorney prior to taking any action intended solely for the purpose of insuring compliance with this section.

NOTES:

600-11-0 HANDLING OF EVIDENCE

Reference WI Stats. 59.66(3).

Reference WI Stats. 171.04 and 171.06.

This purpose of this policy is to establish specific guidelines for the proper handling of evidence, including evidence collection, chain of custody, storage, and disposition of evidence associated with an incident that is **a crime or suspected of being a crime**. It also addresses property collected by Officers for other reasons such as property taken for safe keeping, abandoned property, or lost and found, because it may be necessary to store that property in the evidence room.

600-11-1 Collection of Evidence

- 1) Every Officer of the department will be held accountable for having the basic knowledge of proper evidence collection and preservation. The State Crime Lab publication titled "Crime Laboratory Handbook" is the official standard of the Cumberland Police Department. Additionally, technical assistance is available through the Wisconsin State Crime Lab 24 hours a day via telephone at (608) 266-2031.
- 2) Administration recognizes that complex crime scenes may overextend the resources of the department and it may become necessary to request the assistance of the Wisconsin State Crime Lab by asking them to respond to the scene. This can be done with the approval of the Chief by calling the Wisconsin State Crime Lab at (608) 266-2031.
- 3) Prior to collecting evidence, the Officer shall, when appropriate, photograph and/or videotape the evidence and its surroundings, and create a diagram of the evidence and the surroundings and make notes of observations and particular interests as they pertain to the scene.
- 4) To ensure safety, firearms to be submitted as evidence should be cleared of any live rounds before being removed from the scene.
- 5) To ensure safety, hazardous materials collected as evidence shall be clearly and boldly labeled as such, and packaged in a safe manner. Items that contain bodily fluids and bodily materials shall be labeled with biohazard labels provided by the department.
- 6) Officers are required to complete an incident report under the appropriate case number that accurately represents the circumstances in which the Officer came into possession of that evidence/property, a description of the evidence/property, and its relevance.
- 7) The Officer collecting the evidence shall package and label the evidence in such a manner that it prevents another person from knowingly or inadvertently contaminating the evidence. The Officer that collects the evidence shall maintain continuous custody of that evidence until s/he secures the evidence in an evidence locker.
- 8) The Officer that collects the evidence shall keep a written log of the evidence that includes a description of the evidence, where it was located, and who located it. This can be done on the evidence bag. Information from that log will be transferred into the evidence management database (Spillman) per instructions posted in the Police Department. These instructions are not included in this policy manual as they are subject to change. Each item(s) of evidence shall be secured in a temporary locker or another designated location at the Police Department.
- 9) Each item(s) of evidence that are logged into the evidence tracking software shall include at least the following information:
 - A) Case Number
 - B) Item number
 - C) Description of item(s)
 - D) Date and time of collection
 - E) Officer who located and/or collected the item

- F) Location of item when found/discovered
 - G) Full name of complainant when applicable
 - H) Full name of suspect/defendants when applicable
- 10) All other property that is to be secured in the evidence room, whether it is actually evidence of a crime or otherwise, must be logged in to the department evidence management software (Spillman) before it will be accepted into the evidence room. It is the responsibility of the Officer that collected the property to ensure that it is properly logged into the evidence management software and labeled correctly.

600-11-2 Chain of Custody

- 1) All Officers handling evidence are responsible for maintaining an unbroken chain of custody while the evidence is under their control, and until the responsibility of the evidence is signed over to another Officer. All evidence must be secure by the end of the shift. Failure to do so will result in disciplinary action.
- 2) The evidence room custodian(s) may refuse to accept any evidence/property that is not properly packaged, labeled, or identified. Any evidence that is entered into an evidence locker or otherwise submitted to the evidence room that is improperly marked, labeled, logged, or packaged will be returned to the Officer that submitted the evidence along with a memo indicating the problem that needs to be corrected. If the problem is not corrected after that, a second letter will be given to the Officer and a copy of which will be provided to the Chief.
- 3) Whenever a change in custody of evidence/property occurs that cannot be noted in the evidence tracking software, the change in custody shall be noted in the Officer's incident report.
- 4) Any request by an Officer to obtain evidence/property from the evidence room shall be made in writing. E-mail requests are the preferred method of making such requests.
- 5) Written requests for evidence/property from the evidence room and signed receipts for evidence/property released from the evidence room shall be filed in the corresponding case file.

600-11-3 Storage of Evidence / Property

- 1) The Chief shall appoint two members of the department to be custodians of the evidence room. The evidence room custodians shall be responsible for the control of evidence/property being received into the evidence room, being stored in the evidence room, and being released from the evidence room.
- 2) Property too large or otherwise impractical for keeping in the evidence room may be kept in secure impound or other secure off-site location approved by the Chief.
- 3) The Chief may inspect the evidence room at any time to ensure policy and procedure is being followed, and overall cleanliness and organization of the evidence/property room is being maintained.

600-11-4 Access to the Evidence Room

- 1) The evidence room custodians shall possess the only keys for accessing the evidence room, and they are responsible for their safekeeping. If keys for the evidence room are lost, it shall be immediately reported to the Chief. The Chief shall make a determination as to whether or not it is necessary to replace the locks on the doors to the evidence room.
- 2) No person, including the Chief, shall be permitted to have access to the evidence room without being accompanied by an evidence room custodian, unless the Chief is one of the evidence custodians.
- 3) The Chief may conduct announced and/or unannounced inspections of the evidence room at any time to ensure policy and procedure is being followed, and overall cleanliness and organization of the evidence/property in the evidence room.

600-11-5 Evidence Room Records

- 1) The Cumberland Police Department utilized evidence tracking software in Spillman for the purposes of maintaining records and tracking evidence/property in the evidence room at the Cumberland Police Department. Whenever possible, a computer record shall be made of any transfer of evidence/property to or from the evidence room using the evidence tracking software.
- 2) The evidence room custodians shall keep records on file at all times of evidence/property that is in the evidence room. The record shall identify the case number, item number, a brief description, and the date and time the item was logged into the evidence room, and if applicable, the date the evidence/property was disposed of and the manner in which it was disposed of.
- 3) The evidence room custodians shall keep records of all evidence/property that leaves the evidence room for any reason. The record shall indicate the case number, the item number, description of the evidence/property, reason for which the evidence was being released, who it was released to, and the date and time it was released. If evidence/property is being released to another person or Officer, the evidence custodian should print a receipt of the evidence/property to be signed by the evidence custodian and the person receiving the evidence, or the evidence custodian should mark the evidence as "released" in Spillman and information regarding whom it was released to.
- 4) An inventory audit of evidence / property in the evidence room shall be conducted whenever a new evidence custodian is assigned. Discrepancies discovered during the audit shall be reported to the Chief.
- 5) It is recommended that annual audits of the evidence/property in the evidence room be conducted. Discrepancies discovered during any such audit shall be reported to the Chief.

600-11-6 Retention of Alcohol

- 1) Limited space for storage dictates that items of little significance be disposed of in a timely fashion. It shall be the policy of the Cumberland Police Department to destroy alcoholic beverages as soon as it is determined the beverage container(s) are not needed in a criminal action.
- 2) Alcohol seized for a forfeiture action should not be submitted for evidence storage. The Officer that confiscates alcohol for forfeiture matters shall photograph the alcohol, then dispose of the alcohol in the presence of another Officer, if applicable. The information pertaining to the alcohol, such as type, quantity, and how it was disposed of shall be noted in the Officer's incident report.

600-11-7 Evidence / Property Retention

Wisconsin State law dictates the retention of certain evidence/property.

- 1) Lost and Found and abandoned property shall be kept for a period of at least one (1) year from the date it was found. After one year the property can either be auctioned (upon approval of the Chief), destroyed, or retained for department use.
- 2) Evidence containing biological material such as DNA (deoxyribonucleic acid) that was collected during a criminal investigation that resulted in a criminal conviction, delinquency adjudication, or commitment under state statute, the evidence must be retained until every person involved in the investigation, including victims and suspects, are deceased. If the suspect is not known, then evidence shall be retained as long as it can be reasonably assumed a potential suspect could be living.
- 3) Evidence collected (excluding biological materials) as part of a homicide or felony murder investigation that resulted in a criminal conviction, delinquency adjudication, or commitment must be retained until every person in custody as a result of the criminal conviction, delinquency adjudication, or commitment have reached their discharge date.

- 4) Evidence collected (excluding biological materials) as part of a felony level sexual assault investigation that resulted in a criminal conviction, delinquency adjudication, or commitment must be retained until every person in custody as a result of the criminal conviction, delinquency adjudication, or commitment have reached their discharge date.
- 5) All other evidence must be retained until one of the following occurs, whichever applies:
 - A) The statute of limitation expires for the offense investigated on open / unsolved cases. Statute of limitations for offenses are defined in Wisconsin Statute 939.74.
 - B) 120 days after a conviction of a person charged with an offense resulting in the investigation. This is the amount of time a convicted person has to appeal a conviction.
 - C) If an appeal of the conviction is filed, the evidence must be retained until the all appeals options are exercised or forfeited.
 - D) All defendants in a criminal conviction, juvenile adjudication, or commitment have completed serving their entire sentence or commitment.

600-11-8 Evidence / Property Disposal

Evidence/property shall be disposed of in accordance with state law. All Officers share the responsibility of keeping an up-to-date evidence room.

- 1) The evidence custodian shall occasionally generate reports for Officers who have submitted evidence / property into the evidence room.
- 2) The Officer that submitted the evidence will have seven scheduled work days to review the report and determine the disposal method of the evidence/property. When making a determination on whether or not to dispose of evidence, the Officer shall consider the status of the case, and the guidelines as outlined in **Section "5" of the Evidence/Property Retention section of this policy** in making a determination on disposition. The Officer may also consult with the District Attorney's Office to assist in making this determination. The evidence custodians cannot be responsible for knowing the status of every case of other Officers.
- 3) When the Officer makes a determination as to the disposition of the evidence, the Officer shall note that disposition on the report and return it to the evidence custodians within seven scheduled work days.
- 4) The Officer shall choose a disposition which shall be one of the following options:
 - A) Hold
 - B) Return to owner
 - C) Destroy
- 5) Returning Evidence to its rightful owner:
 - A) When it is determined that evidence is no longer needed for evidentiary purposes, all evidence within the evidence room with the exception of firearms, controlled substances and illegal drugs or contraband, shall be returned to its lawful owner unless otherwise dictated by court order under Wisconsin statute 968.20.
 - B) Every reasonable effort must be made to try to contact the owner to pick-up the evidence/property. Telephone contact is sufficient. If telephone contact can't be made, then a certified letter to the owners last known address shall be sent to him/her requesting him/her to pick up the evidence/property within a reasonable, clearly stated time frame.
 - C) In the event the owner receives the letter but doesn't respond within the specified time, the evidence/property shall be considered abandoned property.

- D) If the owner cannot be located, the property can be disposed of by other means. In this circumstance the property can be destroyed, retained for department use, or auctioned. The Chief must approve the property to be auctioned.
 - E) When the owner of the evidence/property cannot be located, the Officer releasing the property shall document the details of the steps that were taken to attempt to locate the owner and return the evidence/property. This information shall be filed with the appropriate case file.
 - F) If the owner of the evidence/property does not wish to claim it, it can be destroyed, auctioned, or retained for department use. In cases of items of little value, oral approval from the owner is sufficient. The approval shall be documented in the chain of custody. Items of a more significant value require a written release from the owner. The written release shall be filed with the corresponding case file.
- 6) Disposal of Illegal drugs, controlled substances, and contraband:
- A) All illegal drugs, controlled substances, and contraband shall be destroyed by incineration at the Barron County incinerator facility. Either both evidence custodian Officers, or one evidence custodian and the Chief or designee shall be present when these types of items are destroyed. At no time shall only one Officer handle the destruction of evidence.
 - B) If the contraband is currency or otherwise valuable or useful, an Officer may ask the District Attorney to require the defendant to petition the court to have the items returned. If the court finds the items to be contraband, the items can be auctioned or put to department use. Proceeds from auctioned contraband, or if the contraband is currency, must be used in accordance with Wisconsin Statute 961.55.
 - C) To ensure integrity of the evidence room and the evidence custodians, prior to the destruction of illegal drugs or controlled substances, the Chief can order a quantitative test of the drugs to be conducted by the Wisconsin State crime lab. The Chief can also order a qualitative test of the drugs as long as a qualitative test was conducted when the evidence was originally submitted to testing.
 - D) Illegal drugs, controlled substances, and contraband may be retained for department use for certain reasons, such as canine training, for public presentation materials, or reverse delivery operations in drug investigations.
- 7) Disposal of Firearms:
- A) All firearms used in the commission of a crime must be destroyed **except** in situations when an the rightful owner had no prior knowledge of, and gave no consent to the commission of the crime (Wisconsin Statute 968.20(1m)(b)).
 - B) Firearms to be destroyed must be delivered to the Wisconsin State Crime Lab in Madison to be destroyed in accordance with State Statute.
 - C) Before returning a firearm to anyone, the Officer releasing the firearm shall run a criminal history check to make sure the person is not a convicted felon, or prohibited from possession a firearm because of a protection order or domestic abuse injunction.
 - D) If the firearm was seized as part of a domestic abuse injunction or protection order, the court that issued that order shall order the firearm returned if the prohibition has been cancelled.
 - E) Convicted felons may request that their firearms be turned over to a third person that is not prohibited by law from possessing a firearm. This person may not live with the convicted felon. The request to release the firearm to a third person must be in writing.

In every case, documentation of property disposal shall be reflected in the case file. Additional procedures regarding property disposition are identified in 700-4-0.

NOTES:

600-12-0 INTERVIEW AND INTERROGATION

For purposes of this policy, the term “interview” will indicate that the person with whom the Officer is communicating is not under arrest. Further, it is not the Officer’s intent to place the person into physical custody. Perhaps more importantly, the person must not believe that he is being arrested or in custody.

The term “interrogation” implies that the suspect is in physical custody, in which case the subject’s Fifth Amendment right against self-incrimination is of paramount importance. Custodial interrogation is questioning initiated by law enforcement after a person has been taken into custody or otherwise deprived of his freedom in any significant way.

600-12-1 Not in Custody

An Officer may interview many people; some in situations where there is no intent to ever classify the person as a suspect. Victims and witnesses are examples of this. However, the Officer may also interview potential or identified suspects and still have no intent to arrest the suspect. In this case, the Officer is free to interview the suspect without fear of violating the suspect’s Fifth Amendment rights if: 1) the Officer clearly states the person is not under arrest, 2) the suspect believes that his statements are voluntary, and 3) the Officer does not use threats, force, intimidation, or improper inducements.

In a non-custodial interview, the person being questioned must be free to discontinue the questioning or terminate the contact at their will.

It is the policy of the department that any interview be conducted in a professional manner which promotes a positive department image.

600-12-2 In Custody

All Officers of the Cumberland Police Department are required to possess the basic knowledge necessary to conduct an in-custody interrogation properly, affording an arrestee all rights of the fifth amendment of the U.S. Constitution.

The Miranda warnings are required to be given prior to any custodial interrogation which may occur at any location, including a jail setting. This situation occurs whenever an investigation moves from an investigative stage to a custodial stage.

Miranda warnings should be given verbally and in writing and any subsequent waiver signed by the suspect. The warning should essentially include:

The suspect has the right to remain silent.

If the suspect does waive the right to remain silent, anything said can be used against him in court or other proceedings.

The suspect has the right to consult with an attorney and to have an attorney present during the interrogation.

If the suspect cannot afford an attorney, one will be appointed without cost prior to any questioning.

Even when Miranda is complied with, the statements must be voluntarily given—meaning that an arrestee has knowingly and explicitly waived those rights stated in the Miranda warning which form the Supreme Court’s interpretation of the fifth amendment right against self-incrimination.

The Cumberland Police Department will supply written Miranda warnings and waiver forms for this purpose. A completed Miranda warning form must accompany the case file.

Miranda warnings are not required nor is the right to counsel, when an arrested driver is asked to submit to a chemical test pursuant to WI Stats. 343.305. However, when an Officer prepares to question an arrested driver following the chemical test, or the refusal thereof, any answers could be self-incriminating and therefore subject to Miranda warnings. A standard alcohol influence report must be used for this purpose.

In the event a suspect has answered some questions, the suspect continues to have the right to terminate the questioning at any stage of the interrogation.

Officers shall not conduct interrogations in an offensive or intimidating manner.

600-12-3 Recording of Custodial Interrogations

Under Wisconsin law, all custodial interrogations of adults on felony matters should be recorded. The recording should be either audio or visual, although where possible both are preferred. The entire interrogation contact should be recorded, not just the part that follows the reading of Miranda warning. It is not required that custodial interrogations of ordinance or misdemeanor matters be recorded.

NOTES:

600-13-0 EYEWITNESS IDENTIFICATION

Eyewitness identification has always been a powerful tool for investigating and prosecuting criminal cases. Eyewitness evidence can be the most important and convincing evidence in a case. Research and nationwide experience suggest that eyewitness evidence can be fragile and that eyewitnesses can be mistaken. Eyewitnesses can make identification errors but those errors may be difficult to detect because the witnesses are sincere and have no motive to lie. When wrong, they usually are not being deceitful but are simply mistaken. To reduce the risk of wrongful conviction and aid in the detection and apprehension of the guilty, Officers should adhere to procedures set forth here in order to maximize the reliability of identifications, minimize unjust accusations of innocent persons and to establish evidence that is reliable and conforms to established legal procedure.

600-13-1 Definitions

- 1) Photo Array: The sequential showing of multiple photographs to an eyewitness for the purpose of obtaining an identification.
- 2) Live Line-up: The presentation of a number of individuals, including a suspect, sequentially before an eyewitness.
- 3) Show-up: The presentation of one suspect to an eyewitness within a short time following the commission of a crime.

600-13-2 Photo Arrays and Live Line-ups General Considerations

1. Choose non-suspect fillers that fit the witness's description and that minimize any suggestiveness that might point toward a suspect;
2. Use "double blind" procedures in which the administrator is not in a position to unintentionally influence the witness's selection;
3. Specifically instruct eyewitnesses that the real perpetrator may or may not be present and that the administrator does not know which person is the suspect;
4. Present the suspects and fillers sequentially (one at a time) rather than simultaneously (all at once). This encourages absolute judgments of each person

presented because eyewitnesses are unable to see the subjects all at once and are unable to know when they have seen the last subject;

5. Assess eyewitness confidence immediately following an identification. Carefully document a witness's response before any feedback from law enforcement;
6. Avoid multiple identification procedures in which the same witness views the same suspect more than once.

600-13-3 Show-ups General Considerations

Some courts have suppressed identification evidence based on the use of show-ups due to inherent suggestiveness of the practice. Therefore, the use of show-ups should be secondary in preference to the use of photo arrays or line-ups when possible. However, when exigent circumstance requires the use of a show-up the following guidelines should be considered:

1. Document the eyewitness's description carefully prior to the show-up.
2. Whenever practical, transport the eyewitness to the location of the suspect.
3. Specifically instruct the eyewitnesses that the real perpetrator may or may not be present.
4. Show-ups should not be conducted with more than one witness present at a time. If identification is conducted separately for more than one witness, witnesses should not be permitted to communicate before or after any procedures regarding the identification of the suspect.
5. The same suspect should not be presented to the same witness more than once.
6. Show-up suspects should not be required to put on clothing worn by the perpetrator. They may be asked to speak words uttered by the perpetrator or to perform other actions of the perpetrator.
7. Words or conduct of any type by Officers that may suggest to the witness that the individual is or may be the perpetrator should be scrupulously avoided.
8. Assess eyewitness confidence immediately following an identification.

600-13-4 Facial Composite General Considerations

Inaccurate information from outside an eyewitness's memory can taint development of a composite. As with photo arrays, live line-ups, and show-ups, composites can be compromised if the witness's description relies on information learned from external sources after the crime or if the person administering the procedure either unintentionally supplies the witness with information or unintentionally incorporates outside knowledge of the case into the production of the composite. For this reason, when a composite is used double-blind concepts and principles in which both the witness and the person making the composite are unaware of external information about the case may be helpful. It may not be feasible to conduct a completely double-blind procedure for a variety of reasons in which case witnesses should be told to rely on their independent recollection of the event – not information learned from other sources – and administrators must be mindful of any natural tendency to incorporate prior knowledge into the process.

NOTES:

700 MISCELLANEOUS PROVISIONS

700-1-0 RIDE-ALONG POLICY

The Cumberland Police Department strives to develop and maintain a level of mutual respect with the citizens of Barron County. As part of that process, the department makes available to the citizens an opportunity to ride-along with a Patrol Officer while on duty in a marked squad. The overall purpose of allowing a ride-along is to enhance the citizen's knowledge and understanding of the complexities of the law enforcement function.

Interested persons must complete a Cumberland Ride-Along form and must be approved by the Chief. Once approved the applicant must read, sign and follow the rules and regulations outlined in the form. A person who has not attained the age of 18 will not be permitted to ride-along. Only one citizen may ride-along with a single Officer at any given time.

Seatbelts shall be worn by all riders. Riders shall not be permitted to carry a firearm of any type while on a ride-along.

700-2-0 DEATH NOTIFICATION

It is the philosophy of the Cumberland Police Department to extend a high level of professional courtesy to families of victims that have been met with an untimely death. Members of this department will diligently attempt to locate the nearest relative or a close relative and make personal contact when notifying a family of an unexpected death.

If the close relative is located within reasonable driving distance of the City of Cumberland, Officers are authorized to leave the city to make notification. If the close relative is located farther outside of the City of Cumberland, department staff will request that the appropriate agency make personal death notification.

Initial death notifications by phone are generally not permissible except in unusual circumstances.

The identity of a victim of an untimely, unexpected accidental or intentional death will be withheld from all forms of media until sufficient time has passed to allow all family members to be notified.

700-2-1 Serious Injury Notification

Officers should also extend professional courtesies to families of seriously injured people.

Whether a victim is a minor or an adult, the Officer should attempt to notify the next of kin in person, if practical, by phone, if not. The Officer shall give facts as to type of injuries and destination of conveyance. The Officer may arrange transportation for next of kin if needed and is authorized to transport next of kin within reasonable driving destination of the City of Cumberland.

NOTES:

700-3-0 PRISONER TRANSPORT/ NON-PRISONER TRANSPORT

Officers of the Cumberland Police Department routinely transport patients from facility to facility in accordance with the statutory requirement. Officers also routinely transport arrested persons to the Barron County Jail, other law enforcement agencies and detention centers. In an effort to assure that these transports are done safely and effectively, a field policy is needed to establish policies and procedures for the safe transfer of these types of people. These people may be adults or juveniles, male or female, and may be incarcerated in secure correctional facilities, juvenile detention facilities, patients of a mental health facility, arrested adults or juveniles taken into custody.

It is the policy of this department that prisoners will be transported to the jail, from one facility to another or other location in a safe and secure manner. The transport Officer should always maintain physical and psychological control of the individual during the transport. The procedures associated with this policy shall reflect minimal provisions necessary to achieve the safe transport, and does not by any means, limit the transport Officer from using additional precautionary measures if such measures are deemed necessary. Any additional measures used however, shall not exceed the limits established under the guidelines of the excessive use of force policy.

1. Definitions

- 1) Transport Officer: Full, Part-time Officers of the Cumberland Police Department who are actively transporting a prisoner any reason.
- 2) Prisoners: For purposes of this policy, the word prisoner will mean both prisoner and patient, adult or juvenile, male or female.

700-3-2 Transporting Prisoners from Facility to Facility

- 1) Officers who transport inmates must adhere to 600-3-4 and 600-3-5 as it relates to restraint devices and procedures.
- 2) The prisoner being transported shall be placed behind the cage barrier between the prisoner and transport Officer, apply seat belt.
- 3) The prisoner shall be kept in sight at all times.
- 4) Restraints shall not be removed unless a medical doctor requests that partial restraints be removed to accomplish tasks, such as blood pressure checks, or changing of clothes, or any other task that cannot be accomplished with full restraints applied.
- 5) Plans for transport trips shall be kept confidential, in terms of day and times of departure/arrival. Under no circumstances should the prisoner or anyone outside the department be informed in advance of any details of any transport.
- 6) Transport Officers traveling a long distance with a prisoner shall alert the prisoner prior to departure from the facility that they should use the restroom. If a prisoner needs to use the restroom during transport the Officer will accompany the prisoner. The transport Officer will inspect the restroom area for any escape routes, weapons, etc. The transport Officer may, if necessary, remove the handcuffs from the prisoner outside the inner restroom stall.
- 7) If a transport trip involves more than one day of travel, arrangements should be made in advance to secure the prisoner in a jail or other secure detention facility overnight.
- 8) Transport Officers shall be in possession of appropriate credentials in the event a facility asks for identification.

700-3-3 Transporting Arrested Persons to the Barron County Jail, Medical Facility, or other Law Enforcement Agency

- 1) Officers who transport arrested persons must adhere to 600-3-4 and 600-3-5 as it relates to restraint devices and procedures.

- 2) Officers who transport arrested persons must adhere to 600-3-1 as it relates to the release of an arrested person.
- 3) When possible, arrested persons shall be transported using a department vehicle outfitted with a cage or Plexiglas barrier between the back and front seats. The prisoner shall be placed in the backseat for transport. If a properly equipped vehicle is not available or practical, an Officer may transport a prisoner in a non-equipped department vehicle, but this practice is not encouraged.
 - A) All subjects taken into custody will be searched. All loose items removed from prisoner's pockets will be placed into a clear plastic bag before being placed in department vehicle.
- 4) A seat belt shall be used for all prisoner transports, unless extraordinary conditions exist. Extraordinary conditions include the prisoner's state of agitation and/or medical conditions.
- 5) The prisoner shall be kept in sight at all times. When an arrested person is placed in a squad car, it is that Officer's responsibility to attend to or assign a subordinate to attend to the prisoner at all times.
- 6) Officers who have transported a prisoner to the Barron County Jail shall follow the policies of the jail and jail staff in regards to transfer of custody.
 - A) Transport vehicles will proceed to the Receiving Garage on the west side of the facility to unload prisoners.
 - A) The arresting/transporting Officer will secure all weapons, to include firearms, knives, and batons, in the weapons security lockers provided.
 - B) All prisoners shall remain handcuffed and/or in other restraints inside the Officer's car until jail staff arrives in the receiving garage.
 - C) A corrections Officer will meet the arresting/transporting Officer at the entry to the receiving garage. This is to identify the demeanor of the subject and to be advised of any health or medical issues before inmate is removed from the vehicle.
 - D) The corrections Officer will visually observe the prisoner for signs or symptoms of possible serious injury or illness. If signs are present the booking Officer will notify a shift supervisor who will make the decision to refuse or accept the prisoner. If the prisoner is refused, the arresting/transporting Officer will be responsible for transporting the prisoner for medical clearance. A Medical Clearance form will be given to the arresting/transporting Officer to accompany the prisoner to the medical facility and be completed by the health care provider. Copies of this form will also be provided to the area medical facilities. The arresting/transporting Officer will be required to have the Medical Clearance report filled out upon return to the jail, prior to admittance of the prisoner. The facility's medical staff may be consulted, if they are present. Any refusal of medical treatment must be documented.
 - E) Upon entering the jail, the arresting Officer will complete the booking form on Spillman or other record database system.
 - G) The corrections Officer will conduct a pat down search of the prisoner removing all remaining items and proceed to the pre-booking room or the booking area when completed.
- 7) When releasing or transferring custody of a prisoner, the transport Officer shall note in his incident report the physical and mental condition of the prisoner.
- 8) Officers may provide a curtesy transport to subjects who are not in custody but must abide by the following:
 - a) The subject will be transported within the City of Cumberland.
 - b) The subject consents to a search of their person prior to getting in the patrol vehicle.

Officers can transport a subject from the hospital to a residence within the City of Cumberland, at the hospitals request, if no other means of transport are available. Officers are not to transport subjects outside the City of Cumberland, unless authorized by the Chief of Police.

700-3-4 Radio/Cell Phone Usage

- 1) While in the transport vehicle, radio contact shall be maintained at all times and the cellular phone shall be turned on. The transport Officer shall notify dispatch when the transport begins and when it ends. In the case of transporting a prisoner of opposite gender to the Officer, beginning and ending mileage should be given to dispatch, transport Officer will also log the start time and end time of the transport.

700-3-5 Escape

- 1) If a prisoner escapes while being transported, the transport Officers shall exhaust resources available to them in apprehending the prisoner and take immediate action to contact the nearest law enforcement agency.
- 2) The Cumberland Police Department shall be contacted at the first opportunity.
- 3) Notifications should include a summary of circumstances surrounding the escape and a complete description of the escapee and any other information that may be helpful in apprehending the escapee.
- 4) If more than one prisoner is being transported, supervision of the other prisoners shall not be relaxed in order to pursue an escaping prisoner.
- 5) The transport Officer involved shall write a complete and comprehensive incident report detailing the escape and shall submit the report to the Chief immediately.

700-3-6 Injuries

- 1) Any and all injuries shall be reported to the Chief.

700-3-7 Reports

- 1) Written reports shall be submitted to the department on any physical confrontation involving a transport Officer and a prisoner while being transported. Written report shall also be submitted concerning any unusual circumstances, which may arise.

700-3-8 Dress Code

- 1) While working, transport Officers shall dress with the appropriate clothing as defined in 200-7.

700-4-0 PROPERTY DISPOSITION

It is the general principle of the department that property held for evidentiary purposes, as well as found property or property for safekeeping, shall be disposed of as soon as practical.

1. Unclaimed Property

Reference WI Stats. 59.66(3).
Reference WI Stats. 171.04 and 171.06.

Property that is reported found without a known owner in most cases is not considered evidentiary in nature and therefore has a lesser need for chain of custody requirements. Unclaimed property with modest or significant value will be kept for one year or until a county sale or auction is held. Unclaimed property may be converted to departmental use but may not be converted to personal use.

700-4-2 Firearms

Regardless of their status, firearms will not be sold, traded, or converted to department use without the specific approval of the Chief. Any disposition of a firearm, either handgun or long gun, will comply with WI Stats. 968.20. Return of a firearm, either handgun or long gun, will comply with WI Stats. 968.20(1)(b) and (3)(b). Destruction of a firearm will comply with WI Stats. 968.20(3)(a).

700-4-3 Sale of Property

Property that is owned by the City of Cumberland may be sold after approval of the Chief and/or the Public Safety Committee. Generally, city property will be sold in such a fashion as to allow competitive bidding of the property.

Property under control of the Police Department, but not directly owned by the city, may be sold to the public after the usefulness has expired. Generally, a sale or auction approval by the property committee will be the means in which to dispose of such property.

Employees of the Cumberland Police Department may purchase property only in a competitive environment.

5. TOWING OF VEHICLES

Reference WI Stats. 200-1-2(b) Misuse or abuse of authority or position
Reference Policy 600-5-0 Motor vehicle search and seizure

The Communication Center shall keep an updated list of authorized towing companies, their equipment, capabilities, and the phone or pager numbers at which that service can be contacted.

The towing of vehicles is a business that is intended to be a for-profit private interest. Law enforcement is a non-profit public service with responsibilities that often include directing the towing of abandoned, disabled, or damaged vehicles. The two independent interests, along with the unpredictable frequency and location of events, cause considerable difficulty in providing certain fairness to towing service providers. However, it is the policy of this department to strive for equity and fairness in the manner in which towing services are used. To accomplish this, the following guidelines are established:

- A. In the event of an active emergency, Officers and/or dispatchers are authorized to use complete discretion when calling upon towing services, irrespective of the provisions of this policy.

- B. Towing service companies that desire being on the towing roster for the Cumberland Police Department must:
1. establish a business location
 2. provide a single phone number or pager number that is monitored 24 hours per day
 3. respond to calls for service in a reasonable amount of time
 4. respond to calls for service 24 hours a day, 365 days per year
 5. possess basic equipment, available immediately, including:
 - a) conventional tow truck
 - b) tire dollies
 - c) rollback flatbed
 - d) chain saws
 - e) water recovery equipment and gear
 - f) proper lighting and warning devices
 6. keep equipment in safe condition and properly maintained
 7. provide sufficient manpower to complete the specific job in a timely fashion
 8. provide a location to store towed vehicles
 9. establish reasonable business hours in which to release towed vehicles
 10. maintain proper licensing, insurance, registration, and other requirements
- C. If feasible, owners or operators of a vehicle that needs to be towed will be asked if they have a preference of towing services. If stated, department members will honor the request, including the towing services not listed as official providers on the department's roster.
- D. The communication center staff will maintain the impound log binder. An entry will be made in every CAD where an Officer requests or authorizes a vehicle to be towed, whether that vehicle is on a highway, public property, or private property. The CAD entry will include the date and time of tow, the Officer authorizing the tow, location the vehicle was towed from, description of the towed vehicle, towing service used, location that the vehicle was towed to, and any special instructions regarding that vehicle.
- E. In the event that a communication Officer or Officer experiences a conflict or unprofessional event with a towing service, a written summary of the event should be provided directly to the Chief. If any member of this department receives a complaint from a towing service, the employee is not to debate the specific issues or basis for the complaint but shall forward the complaint to the Chief.
- F. Generally, Officers are not authorized to order a vehicle towed from private property. However, an Officer may do so when specifically requested by the property owner, or if the vehicle has been used in the commission of a crime, has evidentiary value, or for some other lawful purpose.
- G. Officers shall not unfairly recommend to the public one towing service over any other.
- H. The communication center shall maintain a roster of authorized towing services to be used in Barron County. The department may, at any time, require a towing service to show proof of compliance of department standards for inclusion on the roster.
- I. Towing companies offering unsolicited services will generally not be used unless it is in the best interest of the department, the vehicle owner, or if the use thereof outweighs the spirit of this policy—which is fairness.

It is the overall philosophy of the Cumberland Police Department that highly-trained Officers are more efficient and more effective Officers and therefore more valuable to the department in serving the community.

The training of Officers and employees is expensive and is a legitimate concern for fiscal management. However, poorly-trained employees are a liability concern. The department will strive to balance the value of quality training with budgetary responsibilities.

When feasible, the department will develop instructors and exploit the interests of individual employees when in the best interest of the department and the employee. By doing this, it will allow the department to provide in-house training to the employees—which tends to be more economical than sending employees out of town for training.

700-6-1 Employee Request for Training

Employees may request to attend specific training—either general or specialized. The employee should be able to articulate the need for such training and explain why the training would benefit the department. Requests should be put in writing and submitted to the employee's Chief. The Chief will respond to the request in a timely fashion. The response need not be in writing.

700-6-2 Training Assignment

Every certified law enforcement Officer is required to maintain minimum training standards. The department will provide the opportunity to attend required training, however, the ultimate responsibility, including successful completion of such training, rests with the individual employee. Because maintaining certification is a mandatory condition of employment, employees at risk of losing certification due to lack of continuing education shall arrange a face-to-face meeting with the Chief. Both the Chief and the employee share the responsibility to develop a training plan that will bring the employee into compliance with minimum training standards. In the event an employee refuses to attend or fails to successfully complete required training, the employee is subject to discipline up to, and including, dismissal.

The department may assign any employee to attend any training deemed in the best interest of the employee and the department. Training assignments will be relevant to the employee's duties, with emphasis on developing the employee's interests and skills.

The department may schedule mandatory training for any employee or group of employees. An employee refusing to attend or failing to attend without sound justification is subject to discipline. Any employee demonstrating a significant conflict with mandatory training must notify their supervisor in advance. Supervisors may excuse an employee from mandatory training for compelling reasons. A notification of excused absence need not be in writing; however, a supervisor may require an employee to provide a written request to be excused. Additionally, a supervisor may require a written explanation as to why an employee failed to attend required training.

3. Training Expenses

Generally, the department will fund training assignments. Funding will include the employee's wages; overtime, if required; and travel expenses, including mileage if private vehicles are used. Meals, lodging, parking, and other expenses are subject to labor agreements and city policy. City-owned vehicles will be used to travel to training whenever possible.

When more than one employee is required to travel to a distant training site, carpooling is encouraged. In the event an employee is relieved from their duties the day prior or the day after the training, travel time may not be approved.

Occasionally the department may elect to permit an employee to attend training voluntarily. If the training is pertinent to the employee's duties, the department will attempt to allow the time off to attend the training. However, overtime pay and travel expenses are not permitted. The department will record the training time in the official training records.

700-6-4 Training Records

The department does receive reimbursement for some of the training expenses associated with the continuing education requirements of certified Officers. The department will, therefore, keep records of the training each certified employee attends. Computerized files will be maintained by the administrative staff. Following a training assignment, each employee is required to submit a description of the training, dates attended, location, sponsoring organization, hours of instruction, and evidence of successful completion.

NOTES:

700-7-0 DEPARTMENT RECORDS

The Chief is the official custodian of all the records of the Cumberland Police Department. As such, the Chief has ultimate responsibility to keep a secure, set policy for release and to disseminate all records. The Chief, however, authorizes designees to disseminate department records. Additionally, administrative support staff have the authority and responsibility to release records of a routine nature.

A record is anything recorded or preserved that has been created or is being kept by the department. This description includes reports, booking records, photos, tapes, computer records, audio recordings, citations, financial records, training records, policies, etc. Although considered a record, but not necessarily subject to release, are personnel records, medical records, juvenile records, ongoing investigation reports, personal notes, personal employee data, and identification of confidential informants. The following subsections will identify different types of department records and establish guidelines regarding their release.

700-7-1 Open Records Requests

The Cumberland Police Department adopts the following policy with the sincere desire to comply opening with WI Stats. 19.31 through 19.39.

All records within the department are a product of public employee's work, therefore, it is the philosophy of this department that the public has a right to view and access its own records. It is generally construed that the public has a presumption of complete access consistent with the conduct of government business. The department adopts the following policy, to be orderly, fair and consistent in releasing records. Because the general rule is that all records are open to inspection unless an exception of greater interest is present. When determining whether or not it is proper to release a record, one must balance the public's right to know against the department's obligation to have the record remain confidential. If a request for records is denied, the requester shall be notified of the reason for denial.

"Requester" means any person except a person committed to a mental facility or a person incarcerated in a federal, state, county, or municipal correctional facility. However, committed or incarcerated people may receive records about themselves or records of their children. A requester does not have to identify him/herself, does not have to state the purpose of the request, and has a greater right to access his or her own records than the general public does.

Requests are not required to be in writing, however, if the request is in writing, and the record is denied, the reason for denial must also be in writing to inform the requester that the denial is subject to review in an action for mandamus pursuant to WI Stats. 19.37(1) or by application to the district attorney or the attorney general pursuant to WI Stats. 19.35(4)(b).

If the record does not exist, inform the requester of that fact. The department is not required to create a new record by extracting or compiling information from other existing records.

The request must be reasonably specific for subject matter. Department members must respond to a request as soon as practical and without undue delay.

Generally, phone requests for access to public records will not be honored, with some exceptions: verification of employment requests, communications with other law enforcement services, social/human services, or other public service agencies, law firms, or medical service providers. Employees should instruct other requesters to appear in person, mail or fax requests for access to records to the attention of: Records, Cumberland Police Department.

Primary exceptions to the presumption in favor of open access are identified in the following subsection.

700-7-2 Confidential Records Not Subject to Release

Certain records are not subject to release or area subject to limited release. Two of the most common are juvenile records and personnel records. These are addressed in 700-7-3 and 700-7-4 respectively. The other records subject to limited release are addressed below:

Personal notes

Personal notes that are not shared with others are not subject to release. Officers' notes that are a part of a case file or notes that are disseminated to other people are considered open records.

Drafts and preliminary documents

Preliminary documents or draft copies in preparation for a finished product are not subject to release—as long as the document is not circulated to people beyond the preparer's level of authority.

Published material

Recorded material that is copyrighted or available for sale or common to a library is exempt from open records.

Personal property

Purely personal property, i.e., appointment books, calendars, etc., is not subject to open records as long as the property is intended solely for personal use.

Documents containing personal data

Information depicting personal information such as home phone numbers, names of family members, social security numbers, etc., is exempt from open records.

Ongoing investigation

WI Stats. 905.09 grants law enforcement agencies evidentiary privileges to disclosing information contained in an ongoing investigation. This exception is not absolute, however, if releasing information would reasonably divulge statements, specific information, investigative techniques, or any other information that would hinder the progress of the investigation, the records must be denied. As a general rule, the Cumberland Police Department does not release specific information regarding ongoing investigations. News releases may be issued with consideration for sensitive information.

Confidential informants

WI Stats. 19.36(8) require custodians of records to withhold access to records involving confidential informants unless a balancing test would dictate otherwise. Records custodians must delete any information that would identify an informant. Informant means any person giving information under circumstances in which a promise of confidentiality would reasonably be implied.

Department strategy

Records relating to the department's strategy or crime prevention and detention is exempt from release under open records.

Legal advice

Correspondence relating to pending or probably civil or criminal litigation is not subject to open records.

Rights of privacy

WI Stats. 895.50(2)(a) and (b) identify rights to privacy in certain circumstances. A right to privacy may exist if personal information, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to. If the contents of any record contain "highly offensive conduct," caution must be exercised when considering public accessibility. Information such as this is subject to a balance test, considering the public's right to know and the individual's opposing privacy interest. It is not an invasion of privacy to communicate information normally available to the public as a matter of public record.

Medical and mental health records

Except in unusual cases, records of medical or mental health descriptions are classified and not open to public inspection.

Employees of the Cumberland Police Department are authorized to delay the release of any record for the purpose of consulting with a supervisor or to seek legal counsel regarding the appropriateness of the release.

700-7-3 Juvenile Records

- A. Chapter 48 of the WI Stats., referred to as the children's code, and Chapter 938 of the WI Stats., referred to as the juvenile justice code, both mandate confidentiality of juvenile records. Clearly it is legislative intent that the best interest of the child and the administration of juvenile justice require protecting the confidentiality of juvenile records. However, the juvenile justice code authorizes several exceptions and establishes guidelines to the limited release of juvenile records. Department records of juveniles must be kept separate from adult records.
- B. The department's general Officer who has primary responsibility to investigate juvenile cases is the authorized custodian of juvenile records, even though the Chief is the official custodian.
- C. A juvenile record is a record that identifies a suspect of a criminal act and that suspect has not yet attained the age of 17 years. Additionally, a juvenile record may include that portion of an adult report that identifies a juvenile as a witness, victim, or co-suspect.
- D. Runaway reports involving juveniles are considered a juvenile record. In general, any record or portion of any record that identifies personal data of a juvenile, whether or not the subject is currently a juvenile or an adult, is considered confidential and must not be released without a court order or unless the record is released under the following exceptions.
- E. The general rule of nondisclosure does not apply to the confidential exchange of information between law enforcement agencies, social/human services, judicial services, attorneys acting under a court's authority and mental or medical treatment facilities. The general rule of nondisclosure does not apply to children 10 years of age or older who have been waived and are now subject to an adult court.
- F. Representatives of the news media who wish to report the news without revealing the identity of the child may be permitted limited access to juvenile reports.
- G. Pursuant to WI Stats. 938.396, other exceptions to release of confidential juvenile records are:
 - 1. To the parent, legal guardian, or legal custodian of a juvenile, or to a juvenile who is 14 years of age or older. Upon written permission authorized by a parent, legal guardian or legal custodian, or juvenile of at least 14 years of age, this department will make available to the person named in the written permission any reports specifically identified. Note: deductive reasoning then concludes that it is then proper for an adult to request the department to release records pertaining to that adult, but

created when the adult was a juvenile. This is a common practice in the background phase of armed forces recruitment.

2. To Barron County's or another county's victim-witness coordinator.
 3. To the victim of the juvenile's act. If requested, the department will disclose to the victim any information in its records relating to the injury, loss, or damage suffered by the victim—including the name and address and the name and address of the juvenile's parents. Further dissemination of the information is restricted to the purpose of recovering damages.
 4. To the victim's insurance company if the juvenile has been ordered to pay restitution and after one year of the order has failed to comply. Further dissemination of the information is restricted to the purpose of investigating a claim and recovering damages.
- H. The Cumberland Police Department may, on its own initiative, or on the request of a school district administrator or the district administrator's designee, provide to the school any information in its records relating to the following:
1. the use, possession, or distribution of alcohol or controlled substance by a juvenile enrolled in the public school
 2. the illegal possession of a dangerous weapon as defined in WI Stats. 939.22(10) or 948.295(4)
 3. an act for which a juvenile was taken into custody under WI Stats. 938.19.
- I. Except as identified previously, juvenile records or communication may not be disclosed to a person or entity which is not authorized by law to see or hear it. Access to juvenile records is not a right—a person may neither claim nor waive confidentiality. Rather, it is a status that is controlled by state law. A related concept is "continuing confidentiality." This means that the lawful disclosure of a confidential record to any party does not result in the record losing its confidential status. The person who receives the confidential record may not further disclose the record unless authorized by law to do so. Therefore, the Cumberland Police Department, in the spirit of full compliance with the law and fairness, has developed procedures for notifying recipients of confidential records of their responsibility. Under the directive of the Officer responsible for juvenile crimes, the department will stamp the face of all confidential documents with a disclaimer notifying recipients of the documents limited use. The stamp will essentially state: CONFIDENTIAL—this information is being released by the Cumberland Police Department in accordance with WI Statute 938. Its use and dissemination, beyond the person it was provided to, may be a violation of law.

700-7-4 Personnel Records

The official personnel file will be kept with the Chief of Police. In addition to city policy that governs employee personnel files, the department establishes the following guidelines in regard to the use of employee personnel records.

- A. The department shall, upon the request of a current employee, permit the employee to inspect any document contained in the department personnel file. The employee shall give reasonable notice and the department will respond in a timely fashion.
- B. Based upon WI Stats. 103.13, an employee involved in a grievance against the department may designate in writing a representative of the employee to inspect the employee's personnel records which may have a bearing on the resolution of the grievance.
- C. Under the provisions of WI Stats. 103.13(6), the right of the employee or the employee's representative to inspect the official personnel file does not extend to:

1. records relating to the investigation of possible criminal offense(s) alleged to have been committed by that employee
 2. letters of reference, including background investigations
 3. any portion of a test document except a cumulative or entire test score
 4. materials used by the department for staff management planning, including recommendations concerning promotions, job assignments, or other comments or ratings used for the department's planning purposes
 5. information of a personal nature about a person other than the employee if disclosure would constitute an unwarranted invasion of privacy
 6. records relating to ongoing administrative investigation
- D. Under WI Stats. 103.13(4), if the employee disagrees with any information contained in the personnel file, the employee may submit a written statement explaining the opposing position. The department will attach the employee's statement to the disputed portion of the record and remain attached as long as the disputed record is part of the file.
- E. Contents of an employee's personnel file will not be released to others without the written consent of the employee, except in the following cases:
1. verification of employment or past employment dates and positions held
 2. when requested as part of an appropriate governmental inquiry into the department's employment practices as provided by law
 3. to the Chief, members of the public protection committee, personnel committee, city personnel director, legal representatives, or other designated authorities actually engaged in disciplinary action
 4. to authorized department personnel engaged in performance evaluations
- F. In the event that a request is made to view any employee's personnel file and the requester is someone other than indicated above, and if there is no other legal basis for denying access, the department will give notice to the employee that a request has been made and of the intent to release the file. The department will allow a reasonable amount of time for the employee to appeal the decision to the circuit court based on reputation or privacy interests. This process will be consistent with *Woznicki v. Erickson*, 202 WI 2d178.

700-7-5 Records Retention

See the City of Cumberland Records Retention list.

NOTES:

700-9-0 CAR-KILL DEER

The following procedures shall be utilized whenever an Officer from this department comes upon a deer that has been struck by a motor vehicle and is left on or near the roadway.

As with any other obstacle or animal carcass that potentially threatens the safe flow of vehicular traffic, a deer must be removed from the road surface as soon as practical.

The department will keep a supply of high visibility orange paint in stock. Every member of the Patrol Division unit will keep a spray can in their assigned vehicle.

An Officer coming upon a deer carcass, if time allows, will paint the date on the carcass so the orange color is visible to other Officers. Example: if on the 14th of November a Officer observes a deer carcass along the roadway, even if the deer has been dead for several days, the Officer will simply paint "14" on the carcass. Additionally, if the Officer shoots an injured deer, the Officer should identify the bullet hole with orange paint to inform the person picking up the deer that it was put down by an Officer.

Note: The WI DNR contracts with a local person to remove deer carcasses from the roadway. If the contracted person discovers a bullet hole in the animal, they are required to notify the DNR, unless the bullet hole is created by an Officer dispatching the animal.

Officers will notify the communications center of the location of the deer carcass as specifically as possible. Dispatchers will have routine contact with the person responsible for removing deer carcasses from the roadway.

This process is intended to eliminate duplication of efforts by Officers and dispatchers.

700-10-0 PROTECTION OF PERSONNEL EXPOSED TO HIV OR BLOODBORNE PATHOGENS

The purpose of this policy is to provide guidelines for department personnel responding to emergency situations, dealing with individuals in non-emergency situations or coming into contact with body fluids other materials in which there is actual or potential risk of exposure to HIV (Human Immunodeficiency Virus) or other pathogens causing AIDs (Acquired Immune Deficiency Syndrome).

This policy applies to all department personnel in any of the following situations:

- 1) Responding to an emergency call in which physical contact, other than casual contact, with an individual known to be infected or possibly infected with HIV is considered possible.
- 2) Arresting, transporting, processing or otherwise having custody of an individual known to be infected or possibly infected with HIV.
- 3) Providing emergency medical care to an individual who may be infected with HIV or who belongs to a high-risk group.
- 4) Moving the body of an individual who may be infected with HIV or who belongs to a high-risk group.
- 5) Conducting investigations that involve handling materials, sharp objects or other items that, if contaminated and mishandled, may result in the transmission of HIV, including handling and marking evidence that may be contaminated.

1. SUPERVISORY AND COMMAND RESPONSIBILITIES

Supervision

The Officer responding to an emergency, taking charge at the scene of an emergency or at a crime scene, supervising the transportation, processing or custody of individuals who may place department personnel at risk, or supervising the handling of objects that may be contaminated will be expected to exercise discretion and direct departmental personnel to observe any standard or extraordinary precaution called for in this policy.

700-10-2 STANDARD PRECAUTIONS AGAINST TRANSMISSION OF HIV

Procedures

Personnel responding to emergencies or engaged in other activities that warrant concern over exposure to HIV are expected to observe the following standard precautions:

- 1) Disposable latex gloves will be worn if there is any likelihood of contact with blood or other body fluids; gloves shall be safely disposed of after a single use.
- 2) Masks, protective eye wear, gowns or aprons shall be worn in situations where there is reason to believe personnel will come into wider contact with blood or other body fluids because these fluids may be splashed.
- 3) Hands, face and other exposed skin surfaces should be washed thoroughly and immediately after any contact with blood or other body fluids; when gloves are worn, hands should be thoroughly washed after the gloves are removed and safety disposed of.
- 4) Needs used or found at the scene of an emergency should be disposed of in puncture-resistant containers; needles should not be recapped, bent or broken by hand.
- 5) Needles, knives or other sharp instruments should be handled with extraordinary caution to prevent cutting or puncturing the skin.
- 6) Personnel who have open sores or dermatitis should avoid direct contact with individuals who could be infected with HIV or handling equipment that may be contaminated.

- 7) HIV protective clothing shall be made available by the department to all department members working in the jail and patrol divisions.
- 8) Any and all contaminated articles, clothing, and protective clothing will be disposed of in designed biohazard bags. Biohazard bags (red in color) will be located in each squad, in the Chief's Department and in the Jail.

700-10-3 EXTRAORDINARY PRECAUTIONS AGAINST TRANSMISSION OF HIV

Procedures

Public safety personnel cannot wait for confirmation that an individual is infected with HIV or another pathogen before providing care or taking other actions that might require other than casual contact with the individual. Therefore, if it is reasonable to believe an individual could transmit HIV, the following extraordinary precautions will be observed:

1) Protection During Resuscitation.

While transmission of the HIV virus is not likely to occur during mouth-to-mouth resuscitation, consideration shall be given to using airway equipment, but only by personnel trained in its proper use and not at the expense of delaying resuscitation and reducing the victim's chances of survival. Non-disposable equipment or other special devices used during resuscitation shall be thoroughly cleaned and disinfected after each use when there is reason to believe a device may have been contaminated by blood or other body fluids.

2) Exposure to Body Fluids. Disposable latex gloves will be worn when:

- A) Handling items, including clothing, soiled with blood or other body fluids.
 - B) Caring for individuals with bleeding or draining wounds, diarrhea or other high-risk situations in which contact with blood or other body fluids is likely to occur.
 - C) Cleaning areas, such as holding cells, or equipment contaminated with blood or other body fluids and excretions.
 - D) Responding to a vehicle accident in which there is evidence of blood, broken glass or other sharp objects. In extreme situations, other utility gloves should be worn over latex gloves.
- #### 3) Handling Needles and Other Sharp Objects.

Needles, syringes, knives, broken glass and other sharp objects at the scene of an emergency or at a crime scene where the collection of evidence is necessary should be handled only by personnel who are wearing disposable latex gloves or preferably wearing both latex gloves and leather gloves to minimize the risk of accidental cuts and punctures when handling items that may be contaminated.

4) Cleanup and Disposal Procedures

All areas and equipment contaminated with blood or other body fluids will be cleaned as soon as possible by following these procedures:

- A) A diluted chlorine bleach solution of one (1) part chlorine to ten (10) parts water will be applied to contaminated surfaces and left in place for at least sixty (60) seconds. Cleaning agents that come in aerosol containers or spray bottles and are advertised as germicides or virus-destroying products will not be used. Alcohol may be used but only on surfaces for which other disinfectants are not recommended.
- B) To the extent possible, disposable cleaning materials, such as sponges and wipe cloths, will be used to clean contaminated areas and equipment.
- C) Personnel involved in cleanup procedures will, at minimum wear disposable latex gloves; wear masks, protective eye wear, gowns or aprons to further reduce the likelihood that exposed skin and clothing may be contaminated in the cleanup process.
- D) Equipment carried in squads used for emergency responses that may have been used and exposed to the risk of contamination will be disinfected and allowed to thoroughly dry before using the equipment again.
- E) Following cleanup, gloves and protective clothing worn during the process will be carefully removed and properly disposed of. Personnel involved in the cleanup will wash their hands and other exposed skin areas thoroughly using hot water and soap for at least thirty (30) seconds before rinsing and drying. If hot water and soap are not available, alcohol or a hand cleaning germicide may be used as a substitute.
- F) Uniforms and other clothing worn during exposure or during cleanup should be changed as soon as possible, handled carefully and washed or dry cleaned, home laundry detergents and normal machine cycles are adequate for the purpose of laundering clothing. However, the uniform must be kept separate from any other clothing items before the washing procedure is begun.

700-10-4 REPORTING EXPOSURE

Procedures

Personnel who believe they were exposed to conditions in which transmission of the HIV virus may have occurred, including unprotected contact with contaminated equipment or cuts and punctures sustained in the handling of contaminated objects, will report the details of the incident to their immediate supervisor within twenty-four (24) hours following exposure. The same form(s) or format will be used as those used when reporting an accident or injury in the course of performing assigned duties and which may result in the filing of a claim under Workers Compensation. The report will include a sufficiently detailed summary of the incident, including a description of precautions taken to minimize the risks of transmission. If personnel reporting such an incident and/or the supervisor involved suspect that the transmission of HIV could have occurred, the following steps will be taken immediately.

- 1) Arrangements will be made by the department for HIV antibody testing of the personnel exposed to establish a baseline. Initial testing will be followed by retesting at three (3) month intervals for at least six (6) months.
- 2) If the incident involved possible exposure to Hepatitis B and the personnel exposed have not received the appropriate hepatitis vaccine, medical consultation will be requested without delay.

- 3) Personnel reporting exposure may request and the department will provide counseling to address medical and psychological issues raised by exposure. Such counseling may include the spouse of any person reporting exposure.
- 4) Personnel reporting exposure will not be given involuntary changes in duty assignments, segregated from other personnel or otherwise treated in a discriminatory fashion.

5. DEPARTMENTAL RESPONSIBILITIES FOLLOWING EXPOSURE

Procedures

Upon receiving a report of possible exposure to HIV, the department will follow guidelines developed by the Center for Disease Control and take the following actions:

- 1) The department will seek to have the individual, believed capable of transmitting HIV, assessed by qualified medical personnel to determine if the individual is infected with HIV. If, upon assessment of the individual, there is clear evidence that he/she may be infected, the department will seek to inform the individual that personnel may have been exposed and the individual will be asked to voluntarily undergo testing for evidence of HIV infection.
- 2) If the source individual refuses testing, department personnel exposed will be clinically and serologically evaluated for signs of HIV with follow-up tests for at least six (6) months following suspected exposure.
- 3) If the source individual cannot be identified, the department will obtain medical consultation and proceed as recommended regarding appropriate follow-up.
- 4) The department will make arrangements for individual counseling to address medical and psychological issues raised by exposure. Such counseling will include the spouse of any person reporting exposure and may include counseling to reduce the risk of possible sexual transmission of HIV.
- 5) The department will not direct, approve or condone involuntary changes in duty assignments, segregation from other personnel or discriminatory treatment of personnel reporting possible exposure to HIV.

6. DEPARTMENT RESPONSIBILITY FOR COUNSELING AND TRAINING

Policy

It is the policy of the department that all personnel will be counseled at the time of employment concerning the risks of exposure to the transmission of HIV and the department's policy on treatment accorded individuals who are infected with HIV or have been exposed to the risk of being infected with HIV. In addition, the department's post-employment and in-service training programs for uniformed and civilian will include the following AIDS-related topics:

- 1) AIDS as a communicable disease
- 2) Transmission of the HIV virus
- 3) Methods of preventing transmission of the HIV virus
- 4) Ordinary and extraordinary precautions used in:
 - A) Providing CPR and emergency medical treatment
 - B) Search procedures
 - C) Arrest procedures
 - D) Transporting procedures
 - E) Maintaining prisoners in cells
 - F) Crime scene and accident scene processing
 - G) Collecting and handling evidence
 - H) Disposal of contaminated materials
- 5) Cleanup of contaminated equipment and areas

- 6) Reporting incidents of exposure
- 7) HIV antibody testing and follow-up
- 8) Post-exposure counseling
- 9) Departmental policy on employment and/or retention of individuals diagnosed as having AIDS
- 10) Legal and liability issues

7. REFUSAL TO PERFORM DUTIES

Policy

No employee may refuse to perform his/her assigned duties based solely on a personal belief that in performing an assigned duty he or she may risk being infected with HIV. This includes, but is not limited to, duties associated with:

- 1) Providing emergency medical treatment
- 2) Arresting, searching, transporting or processing individuals
- 3) Handling physical evidence

Refusal to perform assigned duties based on belief that an employee may contract AIDS will be regarded as a refusal to perform duties in the absence of evidence showing that a clear and present danger to an employee's health or safety exists and appropriate disciplinary action may be taken.

8. BLOODBORNE PATHOGENS AND OTHER INFECTIOUS MATERIALS

Policy

Because of the responsibilities associated with law enforcement duties when responding to emergencies, it may be reasonably anticipated that duties of this department may cause one to have contact with blood and/or other potentially infectious materials. This department takes the position that victims of accidents, victims of physical attacks, items of evidence and subjects and suspects in custody of an Officer may be carriers of blood borne pathogens. This policy recognized and limits this occupational exposure to blood and/or other potentially infectious materials since any exposure could result in the transmission of blood borne pathogens which could lead to disease or death.

Definitions

For the purpose of this policy, "infectious materials" shall include any of the following:

- 1) Semen
- 2) Vaginal secretions
- 3) Cerebrospinal fluid
- 4) Synovial fluid
- 5) Pleural fluid
- 6) Pericardial fluid
- 7) Peritoneal fluid
- 8) Amniotic fluid
- 9) Saliva
- 10) Any body fluids visibly contaminated with blood and all body fluids in situations where it is difficult or impossible to differentiate between body fluids.
- 11) Any unfixed tissues or organs from a human (living or dead)

Procedures

- 1) Officers should use available appropriate personal protective equipment including, but not limited to; gloves, face shields, masks, eye protection, apron, mouth pieces, resuscitation bags, etc. which goes not permit blood and/or other potentially

infectious materials to pass through or reach the Officer's duty uniform, street clothes, undergarments, skin, eyes, mouth or other mucous membranes under normal conditions.

- 2) Under very limited circumstances, an Officer may decline to use this protective equipment, if in the Officer's professional judgment, the use of the equipment would have prevented emergency care, public safety services, or would pose an increased hazard to another Officer. This may occur only in temporary and brief circumstances and if an Officer makes such a judgment, it is the responsibility of the department to investigate and document whether changes can be instituted to prevent such occurrences in the future.
- 3) Hand washing with soap and water will take place as soon as practical after an exposure. Because of the mobile nature of law enforcement duties, an appropriate antiseptic cleanser used in conjunction with paper towels will be available in squad vehicles. When this method is utilized, hands and any other skin will be washed as soon as feasible.
- 4) Mucous membranes will be flushed with water as soon as feasible following contact of any body areas with blood and/or other potentially infectious materials.
- 5) Eating, drinking, smoking, applying cosmetics, lip balm, and/or handling contact lenses are prohibited in an area where there is reasonable likelihood of exposure.
- 6) Officers must be extremely cautious, utilizing the preceding procedures when dealing with evidence which may contain potentially infectious materials. These may include, but are not limited to; specimens, vaginal smears, under garments, blood-stained clothing, etc. These types of items will be packaged to prevent contamination and leakage during collection, handling, processing, storage, transportation or shipping. Contaminated needles and other sharp objects shall not be bent, broken off, recapped or removed, but shall be placed in puncture-resistant and labeled containers. All procedures involving evidence containing blood or other potentially infectious materials shall be performed in such a manner as to minimize the splashing, spraying, spattering and generation of droplets of these substances.
- 7) The department will be responsible for the cleaning, laundering and/or disposal of personal protective equipment and/or uniforms and garments penetrated by blood and/or other potentially infectious materials. Garments shall be removed and packaged in an appropriate container immediately after, or as soon as feasible, upon penetration. The department will repair and replace any protective equipment and/or garments needed to maintain effective protection to the Officer.
- 8) The department will provide any exposed Officer with a confidential medical evaluation and follow-up that includes the following elements:
 - A) Documentation of the route of exposure and circumstances under which the exposure occurred.
 - B) Identification of the source individual.
 - C) The source individual's blood must be tested as soon as feasible after the consent of the source individual is obtained.
 - D) The results of the source individual's testing will be made available to the Officer exposed.

9. TRAINING AND RECORDS

Training

The department will ensure that all personnel with the probability to an exposure will participate in training programs initially, annually and upon the institution of new procedures created. The training program shall contain the following elements:

- 1) Copy of part 1910 (amended) of Title 29 of Code of Federal Regulation.
- 2) General explanation of epidemiology and symptoms of blood borne diseases.
- 3) Explanation of modes of transmission of blood borne pathogens.

- 4) Explanation of control plan.
- 5) Explanation of the appropriate methods for recognizing activities that may involve exposure.
- 6) Explanation of methods of prevention in work practices and personal protective equipment.
- 7) Information regarding types, proper use and disposal of personal protective equipment.
- 8) Explanation of the basis for selection of personal protective equipment.
- 9) Information on the Hepatitis B vaccine, its safety, method of administration, benefits of being vaccinated and that it is offered free of charge.
- 10) Information on appropriate actions to take and person to contact in an emergency involving an exposure.
- 11) Explanation of procedures to follow if an exposure incident occurs, including the method of reporting and that medical follow-up will be made available.
- 12) Information on the post-exposure evaluation and follow-up which is provided after an exposure.
- 13) Afford an opportunity for interactive questions and answers regarding blood borne pathogens.

Records

The county will establish and maintain records regarding training to include, but not limited to:

- 1) Dates of training sessions.
- 2) Contents and summary of training sessions.
- 3) Names and qualifications of person(s) conducting training.
- 4) Names of all person(s) attending the training sessions.

The city shall maintain these training records for a period of three (3) years from the date on which the training occurred. These records will be made available to personnel upon his/her request or an employee's representative. These records will be made available for transfer to other employers if an employee ceases employment with the department.

The department will cause record keeping of personnel in the case of an exposure to a potentially infectious material which shall include, but not be limited to:

- 1) Name and address of the employee.
- 2) A copy of an employee's Hepatitis B vaccination status, including dates, and any medical records relative to an Officer's ability to receive the vaccination.
- 3) A copy of all results of examinations, medical testing and follow-up procedures.
- 4) A copy of the health care professional's written opinion.
- 5) A copy of the information provided to the health care professional.

These records will be maintained confidentially and released only upon the employee's consent. These records will be maintained for a least the duration of an employee's employment plus thirty (30) years. These records will be made available for transfer to other employers if an employee ceases employment with this department.

700-11-0 USE OF NALOXONE (NARCAN)

Employees should ensure that issued Naloxone is stored in a place that is readily accessible and properly safeguarded from extreme temperature changes and direct sunlight. Nasal Naloxone needs to be kept between 59-77 degrees Fahrenheit. Employees approved to carry Naloxone shall carry their assigned non-expired medication on their person or with their equipment when on duty.

700-11-1 PROCEDURE

1. Perform assessment of suspected overdose victim and call 911 for emergency medical services (EMS) to be dispatched.
2. In cardiac arrest or pulseless individuals, after calling 911, start CPR if able and trained to do so.
3. Naloxone should only be given in accordance with their training for situations and administered nasally when:
 - a. Opioid overdose is suspected, and
 - b. Person is not responsive to painful stimuli (sternal rub), and
 - c. Person is exhibiting slow respirations; generally, less than 10 breaths per minute.
4. Maintain universal safety precautions throughout overdose incident.
5. In respiratory arrest or a non-breathing person, provide rescue breathing if able and trained to do so using CPR face mask/barrier device. Continue rescue breathing until victim is revived or EMS arrives. Administer Naloxone if possible while performing rescue breathing.
6. Position person on their back when administering Naloxone. May repeat dose after 2-3 minutes if known overdose and individual does not respond to first dose. In the case that a second dose of nasal Naloxone is needed, administer in the opposite nostril of the first dose.
7. A breathing person shall be placed in recovery position (on left side) until EMS arrives.
8. Naloxone dispensers will be disposed of in a biohazard container or given to EMS upon their arrival to the scene.
9. Employees should be mindful that individuals revived by Naloxone may quickly become combative, agitated and experience withdrawal (vomiting, cramping, nausea) upon regaining consciousness. Appropriate precautions should be considered.
10. EMS shall be notified that Naloxone was given, as well as number of doses, upon their arrival.
11. Documentation required by a written report to include the following:
 - a. who administered dose
 - b. identification of patient
 - c. date, time and location administered
 - d. method of administration
 - e. condition of patient
 - f. any complications that may have occurred
 - g. time between administration and arrival of paramedics or EMS

700-11-2 TRAINING

Identified staff will receive initial training on this policy and the proper use of Naloxone. No one shall administer Naloxone before successfully completing the required training. Naloxone Program Coordinator will offer refresher courses as needed. New staff persons will be trained within 90 days of their hire date.

700-11-3 EXPIRED MEDICATIONS

Employee(s) will notify the Chief of any used, lost, damaged, or expired Naloxone so it may be properly disposed of and replaced.

700-11-4 DUTY TO REPORT

Officers are reminded of the duty to report to the Prescription Drug Monitoring Program (PDMP) controlled substance violations, opioid-related drug overdoses or deaths and report of stolen prescription drugs.