

# Auburn Police Department

## Policy Manual

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### CHIEF'S PREFACE

The philosophy, vision, and expectations for the Auburn Police Department are something that we all contribute to and build as a cohesive team in order to enhance our status as an advocate of professional law enforcement. We shall all strive to encourage each other in order to achieve and maintain the highest standards of ethics, integrity, community interaction and professional conduct. To be a progressive, active and effective police force we must serve with professionalism and exhibit our diversity, tolerance, and sustained high standards in policing every day. We must develop strategies, combine resources, utilize partnerships, and execute programs designed to improve the profession of law enforcement.

Policing involves a special trust given to us by the public to uphold and enforce the law. As servants of the public, policing entails and requires us to have thousands of interactions with the public and the community we serve. Often times these contacts are during times of crisis and distress and can unfold rapidly and in unforeseen directions. This manual cannot predict every aspect of policing, nor can it reasonably anticipate all the potential situations that might be encountered by employees of this Department.

The Auburn Police Department's Policy and Procedure Manual is a living document that shall help us advance professional police services by promoting enhanced administrative, technical, and operational police practices. This document must be constantly reviewed, amended, and updated to change with new laws, societal norms, and expectations within our profession. The Auburn police officers shall foster cooperation and the exchange of information and experience among the organization and throughout the City of Auburn by promoting the following values:

- A. Respect: The Auburn Police Department views the law and the community as the source of its authority and will faithfully and without bias or prejudice honor this commitment.
- B. Excellence: The Auburn Police Department strives for distinct and superior service between our membership and the partnership we share with the community we serve.
- C. Compassion: The Auburn Police Department strives to show respect for and be sensitive to all citizens and their problems.
- D. Integrity: The Auburn Police Department believes in honesty, consistency and transparency in every interaction with the public that we serve.
- E. Teamwork: The Auburn Police Department believes that each citizen must become involved in efforts to solve their own problems. We must work as a team in order to accomplish mutual goals for our community.
- F. Accountability: Members of the Auburn Police Department are held to the highest standards of accountability to ourselves, our fellow officers, our administration, and those that we serve.

These are the values that a police department should have and these are the values the Auburn Police Department shall maintain by adherence to this manual and through leadership on the part of every police officer. I am pleased and thankful to everyone on the department that helped to

## *Chief's Preface*

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contribute to this manual and I look forward to our collective journey to make the Auburn Police Department one of the best police departments in the State of New York.

Yours truly,

James T. Slayton, **Chief of Police**

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

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

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or abuse and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

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

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

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### **APD RULES OF CONDUCT**

#### [APD Rules of Conduct](#)

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### **THE MISSION STATEMENT OF THE AUBURN POLICE DEPARTMENT**

To enhance the quality of life in the City of Auburn by working cooperatively with the citizenry to enforce the laws, preserve the peace, and provide for a safe environment.

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

# Law Enforcement Authority for Police Officers

## 100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Auburn Police Department to perform their functions based on established legal authority.

## 100.2 POLICY

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

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

## 100.3 POLICE OFFICER POWERS

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

### 100.3.1 ARREST AUTHORITY WITHIN THE GEOGRAPHICAL AREA OF EMPLOYMENT OF THE AUBURN POLICE DEPARTMENT

Members serving as police officers have arrest authority within the geographical area of employment of the Auburn Police Department when:

- (a) In compliance with an arrest warrant pursuant to CPL § 120.60.
- (b) Without a warrant, when there is reasonable cause to believe an offense has been committed in the presence of the member (CPL § 140.10). For a petty offense, the offense must have been committed within the member's geographical area of employment or within 100 yards of the police officer's geographical area of employment.
- (c) Without a warrant, when there is reasonable cause to believe that the person committed a crime, whether or not in the member's presence (CPL § 140.10).

### 100.3.2 ARREST AUTHORITY OUTSIDE THE GEOGRAPHICAL AREA OF EMPLOYMENT OF THE AUBURN POLICE DEPARTMENT

A member serving as a police officer may arrest a person outside the geographical area of employment of the Auburn Police Department:

- (a) Pursuant to a warrant; however, a warrant of arrest issued by a city court, a town court, or a village court may only be executed outside the county of issuance or any adjoining county if the warrant has the written endorsement of a local criminal court of the county in which the arrest is to be made (CPL § 120.70).
- (b) Without a warrant when there is reasonable cause to believe a crime has been committed anywhere in the state (CPL § 140.10).
- (c) Without a warrant when there is reasonable cause to believe that an offense has been committed in the presence of the officer.

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1. Arrests for petty offenses may be made when the petty offense occurred within the member's geographical area of employment or within 100 yards of the geographical area and (CPL § 140.10):
  - (a) The arrest is made in the county where the officer reasonably believes the offense was committed or in an adjoining county; or
  - (b) The arrest is made in the county where the individual is apprehended after continuous close pursuit as long as the pursuit began in the county where the officer reasonably believes the offense was committed or in an adjoining county.

#### **100.4 INTERSTATE POLICE OFFICER POWERS**

Police officer powers for officers of the Auburn Police Department may be extended into other states:

- (a) As applicable under interstate compacts, memorandums of understanding or mutual aid agreements in compliance with the laws of each state.
- (b) When an officer is in continuous close pursuit into Connecticut, Massachusetts, New Jersey or Pennsylvania to arrest a person for a felony committed within the state of New York (Connecticut, C.G.S. § 54-156; Massachusetts, G.L. c. 276, § 10A; New Jersey, N.J.S.A. 2A:155-4; Pennsylvania, 42 Pa.C.S. § 8922; Vermont, 13 V.S.A. § 5042).
- (c) When an officer is in continuous close pursuit into Vermont to arrest a person for a felony or the offense of operating a motor vehicle while under the influence of intoxicating liquor committed within the state of New York (Vermont, 13 V.S.A. § 5042).

When an arrest is made in another state, the officer shall take the person arrested before a judge, justice or magistrate of the judicial district or county in which the arrest was made without unnecessary delay.

A law enforcement officer of another state who enters New York in close and continuous pursuit of a person for committing an act that would be a crime if committed in New York has the authority to make the arrest under CPL § 140.55.

#### **100.5 CONSTITUTIONAL REQUIREMENTS**

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

# Chief Executive Officer

## 101.1 PURPOSE AND SCOPE

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

## 101.2 POLICY

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

## 101.3 CHIEF OF POLICE REQUIREMENTS

Appointment to Chief of Police shall be through a state or local civil service process to determine merit and fitness. The Chief of Police shall meet all minimum qualifications, including that he/she (Civil Service Law § 58; N.Y. Const. art. V, § 6):

- Is a citizen of the United States.
- Is not less than 20 years of age.
- Is a high school graduate or holder of a high school equivalency diploma.
- Has satisfied any height, weight, and physical and psychological fitness standards established by the Municipal Police Training Council.
- Is of good moral character.
- Has served as a police officer, appointed from an eligible list established according to merit and fitness, or served as a member of the New York State Police.
- Passes the New York Civil Service Police Chief test.

## Oath of Office

### 102.1 PURPOSE AND SCOPE

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

### 102.2 POLICY

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

### 102.3 OATH OF OFFICE

All department members, when appropriate, shall take and subscribe to the following oath or affirmation in addition to any other form of oath or affirmation required (N.Y. Const. art. XIII, § 1; Public Officers Law § 10):

"I do solemnly swear (or affirm) that I will support the Constitution of the United States, the Constitution of the State of New York, and the Charter of the City of Auburn, and that I will faithfully discharge the duties of the office of (police officer), according to the best of my ability

And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered, or promised to pay, contributed, offered or promised to contribute and money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made and promise to influence the giving or withholding any such vote."

### 102.4 MAINTENANCE OF RECORDS

The oath of office for officers shall be filed within 30 days of appointment with the city's recording office (Public Officers Law § 10; Public Officers Law § 30).

# Policy Manual

## 103.1 PURPOSE AND SCOPE

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

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

## 103.2 POLICY

Except where otherwise expressly stated, the provisions of this manual shall be considered as guidelines. It is recognized that the work of law enforcement is not always predictable and that circumstances may arise that warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

### 103.2.1 DISCLAIMER

The provisions contained in the Policy Manual are not intended to create an employment contract nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Auburn Police Department and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the City, its officials or department members. Violations of any provision of any policy contained within this manual shall only form the basis for administrative action, training or discipline. The Auburn Police Department reserves the right to revise any policy content, in whole or in part.

### 103.2.2 POLICY MANUAL FORMAT AND INDEXING

The Auburn Police Department policies will follow the format in the Lexipol Knowledge Management System (KMS) and have a purpose and scope section (**PURPOSE AND SCOPE**) and policy statement section (**POLICY**). Additional details will follow.

All policies shall be indexed numerically, with the first number signifying a policy manual chapter:

1. Law Enforcement Role and Authority
2. Organization and Administration
3. General Operations
4. Patrol Operations
5. Traffic Operations
6. Investigation Operations

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7. Equipment
8. Support Services
9. Custody
10. Personnel
11. General Orders

### **103.3 AUTHORITY**

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

### **103.4 DEFINITIONS**

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

**City** - The City of Auburn.

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

**Department/APD** - The Auburn Police Department.

**DCJS** - New York State Division of Criminal Justice Services.

**DHSES** - New York State Division of Homeland Security and Emergency Services.

**DJJOY** - New York State Division of Juvenile Justice and Opportunities for Youth, Office of Children and Family Services.

**DMV** - New York State Department of Motor Vehicles.

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

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

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

**Member** - Any person employed or appointed by the Department. This includes:

- Full- and part-time (if applicable) employees
- Sworn officers
- Auxiliary officers
- Civilian employees
- Volunteers

**NYSP** - New York State Police.



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**OCFS** - New York State Office of Children and Family Services.

**OPDV** - New York State Office for the Prevention of Domestic Violence.

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

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

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

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

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

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

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

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

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

### **103.5 ISSUING THE POLICY MANUAL**

An electronic version of the Policy Manual will be made available to all members on the department network for viewing and printing. No changes shall be made to the manual without authorization from the Chief of Police or the authorized designee. The policies in the manual will be consistent in their format and design, indexed by topic, and will have corresponding numbering (e.g., Organization and Administration – 200s; General Operations – 300s).

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

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

The Chief of Police will ensure that the Policy Manual is periodically reviewed and updated as necessary but at a minimum once every five-year period of accreditation.

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### **103.7 REVISIONS TO POLICIES**

Proposed changes in policy, procedures, or rules and regulations will be subject to staff review, and their ultimate approval or disapproval shall be the responsibility of the Chief of Police. Any changes will be forwarded to the Accreditation Committee for indexing and distribution. This policy shall not affect informational bulletins within or between Bureaus. All revisions to the Policy Manual will be provided to each member on or before the date the policy becomes effective. Each member will be required to acknowledge that he/she has reviewed the revisions and shall seek clarification from an appropriate supervisor as needed. The Accreditation Committee shall retain records of revised and replaced policies along with notes that track the development of such policies and their effective dates.

Members are responsible for keeping abreast of all Policy Manual revisions. Each Commander will ensure that members under his/her command are aware of any Policy Manual revision.

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

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

# Organizational Structure and Responsibility

## 200.1 PURPOSE AND SCOPE

This policy establishes the organizational structure of the Department and defines general responsibilities of department members.

## 200.2 POLICY

The Auburn Police Department will implement and maintain an organizational structure that provides clear and identifiable roles for command, control and guidance of the Department. Each position and assignment should have clearly identified responsibilities and a defined chain of command.

## 200.3 BUREAUS

The Chief of Police is responsible for administering and managing the Auburn Police Department. There are four bureaus in the department:

- Administration Bureau
- Patrol Bureau
- Detective Bureau
- Drug Task Force

### 200.3.1 ADMINISTRATION BUREAU

The Administration Bureau is commanded by the Chief of Police, whose primary responsibility is to provide general management, direction and control for the Administration Bureau. The Administration Bureau consists of technical and administrative services, Traffic Bureau, Training and Planning and Community Oriented Policing.

### 200.3.2 PATROL BUREAU

The Patrol Bureau is overseen by the Deputy Chief of Police, whose primary responsibility is to provide general management, direction and control for the Patrol Bureau. The Patrol Bureau is commanded by the Patrol Captain. The Patrol Bureau consists of uniformed patrol and special operations, which includes the School Resource Officer (SRO) Unit, Emergency Response Team, and Canine Unit.

### 200.3.3 DETECTIVE BUREAU

The Detective Bureau is commanded by the Captain of Detectives, whose primary responsibility is to provide general management, direction and control for the Detective Bureau. The Detective Bureau consists of the Detective Bureau, Identification Bureau, crime analysis and forensic services.

### 200.3.4 DRUG TASK FORCE

The Drug Task Force is overseen by the office of the Deputy Chief of Police and is commanded by a sergeant whose primary responsibility is to provide general management, direction and control

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#### *Organizational Structure and Responsibility*

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for the Drug Task Force. The Drug Task Force consists of officers assigned from participating agencies to include the Auburn Police Department..

#### **200.4 COMMAND PROTOCOL**

##### **200.4.1 SUCCESSION OF COMMAND**

The Chief of Police exercises command over all members of the Auburn Police Department. During planned absences, the Chief of Police will designate the Deputy Chief to serve as the acting Chief of Police.

Except when designated as above, the order of command authority in the absence or unavailability of the Chief of Police is as follows:

- (a) Available Senior Captain
- (b) Available Senior Lieutenant
- (c) Available Senior Sergeant
- (d) On-duty Shift Commander

##### **200.4.2 UNITY OF COMMAND**

The principles of unity of command ensure efficient supervision and control within the Department. Generally, each member shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated, authority may exist by policy or special assignment (e.g., Canine, Bicycle Patrol), any supervisor may temporarily direct any subordinate if an operational necessity exists.

During incidents where members of different bureaus are present, the ranking officer shall be in command of all members, unless otherwise directed. When officers of equal rank are present from different bureaus, the ranking officer from the bureau primarily responsible for the type of incident shall be in command of all members, unless otherwise directed.

##### **200.4.3 ORGANIZATIONAL CHART**

The Chief of Police or the authorized designee is responsible for developing and maintaining an organizational chart. The organizational chart shall be accessible to all members and should be updated as needed.

#### [Organizational Chart](#)

#### **200.5 AUTHORITY AND RESPONSIBILITIES**

Each member will be assigned duties and responsibilities. Each member is delegated the authority necessary to effectively execute those responsibilities. Each member will also be held accountable for the appropriate application of that delegated authority. Supervisors will be held accountable for members under their immediate control.

#### [Duties of the Chief of Police](#)

#### [Duties of the Deputy Chief of Police](#)

# Auburn Police Department

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#### *Organizational Structure and Responsibility*

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Duties of the Patrol Captain

Duties of the Patrol Lieutenant

Duties of the Captain of Detectives

Duties of the Administrative Sergeant of Training and Planning

Duties of the Patrol Sergeant

Duties of the Sergeant of Finger Lakes Drug Task Force

Duties of the Detectives

Duties of the Identification Officer

Duties of the School Resource Officer/Special Patrol Officer

Duties of the Community Oriented Policing (COP) Officer

Duties of the Traffic Sergeant

Duties of the Desk Officer

Duties of the Canine Officer

Duties of the Public Information Officer

Duties of the BWC Sergeant

Duties of Evidence Technicians (ET)

Duties of all Sworn Members of the Auburn Police Department

#### **200.6 GOALS AND OBJECTIVES**

The Chief of Police or the authorized designee is responsible for establishing goals and objectives for the Department using a strategic planning process, and shall ensure the goals, objectives, and outcomes are reviewed in writing and updated annually. The review shall be made available to all members.

Commanders are responsible for developing, reviewing, and updating the elements of the plan that affect their bureau. The strategic plan should specify a time period and should include but is not limited to:

- Long-range goals and objectives.
- Anticipated workload and staffing needs.
- Capital improvement, equipment, and supply needs.
- Provisions for implementation, measuring achievement, and revision as needed.
- Documentation of the review process.

## General Orders

### 201.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for issuing General Orders.

### 201.2 POLICY

General Orders will be used to modify policies of the Auburn Police Department when an immediate need to adapt a policy or procedure exists, in order to best meet the mission of the department. Applicable collective bargaining agreements and other alternatives should be considered before a General Order is issued.

### 201.3 PROTOCOL

General Orders will be incorporated into the Policy Manual, as required, upon approval pursuant to the Policy Manual Policy. General Orders will modify existing policies or create a new policy as appropriate and will be rescinded if incorporated into the manual.

The Chief of Police or the authorized designee should ensure that all General Orders are disseminated appropriately. General Orders should be numbered consecutively and incorporate the year of issue. All members will be notified when a General Order is rescinded or has been formally adopted into the Policy Manual.

### 201.4 RESPONSIBILITIES

#### 201.4.1 COMMAND STAFF

Command staff shall periodically review General Orders to determine whether they should be formally incorporated into the Policy Manual and, as appropriate, will recommend necessary modifications to the Chief of Police and the Accreditation Program Manager.

#### 201.4.2 CHIEF OF POLICE

Only the Chief of Police or the authorized designee may approve and issue General Orders.

### 201.5 ACCEPTANCE OF DIRECTIVES

All members shall be provided access to the General Orders. Each member shall acknowledge that he/she has been provided access to and has had the opportunity to review the General Orders. General Orders will be distributed and acknowledged through Lexipol. Members shall seek clarification as needed from an appropriate supervisor for any provisions they do not fully understand.

# Comprehensive Emergency Management Plan

## 202.1 PURPOSE AND SCOPE

This policy clarifies the role of the Auburn Police Department and responsibilities of its members pertaining to large-scale emergencies and the New York Division of Homeland Security and Emergency Services (Executive Law § 20 et seq.).

This policy also recognizes the need to ensure the Auburn Police Department can continue to provide its essential functions and perform its primary mission during an emergency.

## 202.2 POLICY

The Auburn Police Department will prepare for large-scale emergencies within and outside its jurisdiction through planning and mutual cooperation with other agencies.

The City Comprehensive Emergency Management Plan complies with Executive Law, Article 2-B. This plan provides guidance for City emergency operations within and outside its borders as may be required.

[City of Auburn Emergency Management Plan](#)

[Emergency Management Plan Procedure](#)

[Continuity of Operations Plan](#)

## 202.3 DEPARTMENT RESPONSIBILITIES

In the event police assistance is needed during an emergency by another police agency, members of the Auburn Police Department may be assigned to provide services as stated in the Department's Mutual Aid Plan or in the Outside Agency Assistance Policy.

In the event the Auburn Police Department requires police assistance during an emergency, assistance may be requested as stated in the Mutual Aid Plan or in the Outside Agency Assistance Policy.

## 202.4 ACTIVATING THE COMPREHENSIVE EMERGENCY MANAGEMENT PLAN

The Comprehensive Emergency Management Plan can be activated in a number of ways. For the Auburn Police Department, the Chief of Police or the highest ranking on-duty supervisor may activate the Comprehensive Emergency Management Plan in response to a major emergency.

Upon activation of the plan, the Chief of Police or the authorized designee should contact the City Manager and the City emergency management director to assist with mutual aid response from local, state and federal law enforcement agencies (Executive Law § 29-b).

### 202.4.1 RECALL OF PERSONNEL

In the event that the Comprehensive Emergency Management Plan is activated, all employees of the Auburn Police Department are subject to immediate recall to service. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Chief of Police or the highest ranking on-duty supervisor.



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#### *Comprehensive Emergency Management Plan*

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

##### **202.4.2 EMERGENCY MOBILIZATION**

In the event of recall of personnel, the Chief of Police may implement an emergency mobilization plan. Dispatch /supervisors will be responsible for notifying members of the plan activation and where to report for assignment, as well as an alternative assembly area.

Alert stages may include recall of the previous shift or oncoming shift, call-in of all personnel, and/or the emergency cancellation of all time off.

An incident commander shall assign command staff in accordance with the Emergency Management Procedures, including provisions for equipment and distribution, transportation, and post-plan evaluation in the event it is utilized. The incident commander may activate any special task forces.

This plan will be reviewed at least once every five years.

##### **202.5 LOCATION OF THE COMPREHENSIVE EMERGENCY MANAGEMENT PLAN**

Copies of the Comprehensive Emergency Management Plan are available in Administration, the Shift Commander's office and Dispatch. All supervisors should familiarize themselves with the Comprehensive Emergency Management Plan and the roles members will play when the plan is implemented. The Administration Commander should ensure that department members are familiar with the roles they will play when the plan is implemented.

##### **202.6 COMPREHENSIVE EMERGENCY MANAGEMENT PLAN REVIEW**

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

The Comprehensive Emergency Management Plan shall be submitted to the disaster preparedness commission by December 31st of each year to facilitate state coordination of disaster operations (Executive Law § 23).

##### **202.7 TRAINING**

The Department may provide annual training on the Comprehensive Emergency Management Plan for all supervisors and other appropriate personnel. All supervisors should familiarize themselves with the Comprehensive Emergency Management Plan and personnel responsibilities when the plan is implemented. Training should incorporate a full or partial exercise, tabletop or command discussion.

# Training

## 203.1 PURPOSE AND SCOPE

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

## 203.2 POLICY

The Department shall administer a training program that will meet the standards of federal, state, local and the New York State Division of Criminal Justice Services (DCJS) training requirements. It is a priority of this department to provide continuing education and training for the professional growth and development of its members.

## 203.3 OBJECTIVES

The objectives of the training program are to:

- (a) Enhance the level of law enforcement service to the public.
- (b) Increase the technical expertise and overall effectiveness of department members.
- (c) Provide for continued professional development of department members.
- (d) Ensure compliance with DCJS rules and regulations concerning law enforcement training.

## 203.4 TRAINING PLAN

It is the responsibility of the Training and Planning Administrator to develop, review, update and maintain a training plan and to ensure that mandated basic, in-service and department-required training is completed by all members as needed or required. The training plan should include the anticipated costs associated with each type of training, including attendee salaries and backfill costs. The plan should include a systematic and detailed method for recording and logging of all training for all members.

While updates and revisions may be made to any portion of the training plan at any time it is deemed necessary, the Training and Planning Administrator shall review the entire training plan on an annual basis.

The plan will include information on curriculum, training material, training facilities and scheduling. The plan will address federal, state and department-required, minimum-mandated training of officers and other members.

### 203.4.1 MANDATED ANNUAL TRAINING

The annual training plan shall include a minimum of 21 hours of annual in-service training. At a minimum, the plan must include training in firearms, legal updates, and the use of force and deadly force. Firearms training must include actual range training. The Training and Planning

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Administrator should consider recommendations from department supervisory staff to supplement these topics.

Only officers who are certified as general topic or specific topic instructors, as the type of training necessitates, shall be utilized for the mandatory 21 hours of training within the annual training plan (9 NYCRR § 6023.1 et seq.; 9 NYCRR § 6024.1 et seq.).

The annual training plan should include training for all supervisors that is designed to enhance supervisory skills.

#### **203.4.2 SPECIALIZED TRAINING**

The Training and Planning Administrator shall identify the positions that require specialized training beyond that provided in the Municipal Police Training Council (MPTC) Basic Course for Police Officers or the annual training plan. Specialized training may include technical and job-specific subjects needed to provide skills, knowledge, and ability to adequately perform the tasks required for the specific position.

Examples of specialized training may include but are not limited to firearms, defensive tactics, canine, Special Weapons and Tactics (SWAT), crime scene technicians, and field training officer (FTO). Specialized training will be conducted as soon as possible after appointment and will be periodically evaluated to determine if supplemental training is necessary.

#### **203.5 GOVERNMENT-MANDATED TRAINING FOR POLICE OFFICERS**

The following lists, while not all inclusive, identify training that is required under state and federal laws and regulations.

(a) Federally mandated training:

1. National Incident Management System (NIMS) training

(b) State-mandated training (General Municipal Law § 209-q):

1. Newly appointed officers must successfully complete an MPTC-approved Basic Course for Police Officers. This training must be completed within the first year from the date of original appointment. Officers may not carry or use any firearm in the performance of their duties, except for department firearms training, until they have successfully completed the MPTC Basic Course for Police Officers, or a program that meets or exceeds the basic course requirements in use of firearms and instruction in deadly physical force.
  - (a) Officers are prohibited from performing regular law enforcement duties prior to completing a basic course for police officers, unless accompanied by and under the direct supervision of an officer with a valid basic course certificate.
2. A certificate achieved after successfully completing a basic course must remain valid throughout the officer's term of service.

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3. Newly appointed first-line police supervisors of any rank must successfully complete the MPTC Course in Police Supervision within a year of their appointment (9 NYCRR § 6021.7).

#### **203.6 SUPERVISORY STAFF RESPONSIBILITIES**

The Training and Planning Administrator may work with supervisory staff, on a temporary or as-needed basis, which will assist with identifying training needs.

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

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

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

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

#### **203.7 TRAINING ATTENDANCE**

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

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- (c) Any member who is assigned online training through the training office must complete the said training by the required due date. Supervisors will be responsible for monitoring the progress of those under their command to ensure compliance with this policy.

#### **203.8 DAILY TRAINING BULLETINS**

The Lexipol Daily Training Bulletins (DTBs) are contained in a Web-accessed system that provides training on the Auburn Police Department Policy Manual and other important topics. The number of DTBs will be assigned by the Training and Planning Administrator.

Members assigned to participate in DTBs shall only use the login credentials assigned to them by the Training and Planning Administrator. Members should not share their password with others and should frequently change their password to protect the security of the system. After each session, members should log off the system to prevent unauthorized access. The content of the DTBs is copyrighted material and shall not be shared with others outside of the Department.

Members who are assigned to participate in the DTB program should complete each DTB at the beginning of their shifts or as otherwise directed by their supervisor. Members should not allow uncompleted DTBs to build up over time, and may be required to complete DTBs missed during extended absences (e.g., vacation, medical leave) upon returning to duty. Although the DTB system can be accessed from any Internet-enabled computer, members shall only take DTBs as part of their on-duty assignments, unless directed otherwise by a supervisor.

Supervisors will be responsible for monitoring the progress of those under their command to ensure compliance with this policy.

#### **203.9 TRAINING RECORDS**

The Training and Planning Administrator is responsible for the creation, filing and storage of all training records. Training and counseling records shall be retained in the member's training file, located within the Office of the Planning and Training Administrator, and in accordance with the established records retention schedule. The Training and Planning Administrator will ensure that all employee training records are up-to-date and properly documented for all sworn personnel. Such records will include the dates attended, the total amount of hours and the name of the course. The Training and Planning Administrator will ensure that accurate records are on file for all training courses sponsored by the Auburn Police Department and/or attended by sworn personnel, including copies of lesson plans, curricula or course descriptions. Such records shall be retained indefinitely in the employees permanent training file.

##### **203.9.1 MPTC RECORDS**

In-service training conducted by the Department shall be reported to the DCJS within 10 days after the conclusion of the course (9 NYCRR § 6022.5).

## Electronic Mail

### 204.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for the creation, dissemination, and storage of all intranet and internet electronic mail messages and to set guidelines for their content.

### 204.2 POLICY

Auburn Police Department members shall use email in a professional manner in accordance with this policy and current law (e.g., New York State Freedom of Information Law (FOIL)).

### 204.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance). Users may not use the department computer system to invade the privacy of other department members by unnecessarily reviewing their e-mail and files.

Members need to be cognizant that when using department issued cell phones (text messages), instant messaging (IM) systems, email systems or any other departmental computer systems used to message, chat or otherwise communicate with others concerning the details of a specific case, these communications may be subject to Rosario and Brady rules and should be copied and made a part of the original case file which would later be subject to disclosure as would any case notes that are taken as part of your investigation.

### 204.4 MANAGEMENT OF EMAIL

Messages transmitted over the email system are restricted to official business activities, or shall only contain information that is essential for the accomplishment of business-related tasks or for communications that are directly related to the business, administration or practices of the Department.

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

Email messages addressed to the entire Department are only to be used for official business-related items that are of particular interest to all users. In the event that a member has questions about sending a particular email communication, the member should seek prior approval from a supervisor in his/her chain of command.

It is a violation of this policy to transmit a message under another member's name or email address or to use the password of another to log into the system unless directed to do so by a supervisor. Members are required to log off the network or secure the workstation when the computer is unattended. This added security measure will minimize the potential misuse of a member's email, name or password. Any member who believes his/her password has become known to another person shall change their password immediately.

#### [Departmental E-Mail Use Procedure](#)

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##### **204.5 EMAIL RECORD MANAGEMENT**

Email may, depending upon the individual content, be a public record under FOIL and must be managed in accordance with the established records retention schedule and in compliance with state law.

City of Auburn IT personnel shall ensure that email messages are retained and recoverable as outlined in the Records Maintenance and Release Policy (Public Officers Law § 87; 21 NYCRR § 1401.1 et seq.).

##### **204.6 ADMINISTRATIVE GUIDELINES**

Use of the departmental e-mail system by any member implies both understanding and compliance with this directive. Members using the e-mail system will do so in an appropriate and professional manner. Any member observing someone using the e-mail system inappropriately, or who receives unusual or inappropriate material, will notify his/her command officer. The command officer receiving such information will review it and take appropriate action.

All messages generated on or handled by the department e-mail system, including back-up copies, are considered property of the department, not the member.



## Administrative Communications

### 205.1 PURPOSE AND SCOPE

This policy sets forth the manner in which the Department communicates significant changes to its membership, such as promotions, transfers, hiring and appointment of new members, separations, individual and group awards and commendations, or other changes in status. This policy also provides guidelines for the professional handling of electronic and non-electronic administrative communications from the Department.

### 205.2 POLICY

The Auburn Police Department will appropriately communicate significant events within the organization to its members. Both electronic and non-electronic administrative communications will be professional in appearance and comply with the established letterhead, and signature guidelines.

### 205.3 INTRA-DEPARTMENTAL MEMOS

Intra-departmental memos may be issued periodically by the Chief of Police or the authorized designee to announce and document all promotions, transfers, hiring and appointment of new members, separations, individual and group awards and commendations, or other changes in status.

### 205.4 CORRESPONDENCE

To ensure that the letterhead and name of the Department are not misused, official external correspondence may be on department letterhead. Official correspondence and use of letterhead shall only be used by authorized personnel, or with the approval of a supervisor. Department letterhead may not be used for personal purposes.

Electronic correspondence shall contain the sender's department-approved signature and electronic communications disclaimer language. The approved signature shall contain name, rank, department address, phone number, and assignment.

### 205.5 SURVEYS

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

### 205.6 OTHER COMMUNICATIONS

General Orders and other communications necessary to ensure the effective operation of the Department shall be issued by the Chief of Police or the authorized designee (see the General Orders Policy).

### 205.7 EMPLOYEE SUGGESTIONS

All members are encouraged and requested to make suggestions that will improve the effectiveness, efficiency and quality of the Auburn Police Department. A member shall submit the suggestion in writing to his/her immediate supervisor. The supervisor shall indicate his/



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her concurrence or nonconcurrence with the member's suggestion and reasons for same. The supervisor shall then forward the suggestion through chain of command to the Chief of Police. The Chief's Office shall review any submitted suggestions.

## Supervision Staffing Levels

### **206.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish guidelines to ensure that proper supervision is available to meet the needs of the Department and members throughout all Bureaus.

### **206.2 POLICY**

The Auburn Police Department will ensure that proper supervision is available to meet the needs of its members and to achieve the goals of the Department. The needs of its members should be balanced with the needs of the Department for flexibility and discretion in assigning members to meet supervisory needs. While balance is desirable, the paramount concern is to meet the needs of the Department.

### **206.3 MINIMUM SUPERVISION STAFFING LEVELS**

## Retiree Concealed Firearms

### 207.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension or revocation of Auburn Police Department identification cards to qualified former or retired law enforcement officers under the Law Enforcement Officers' Safety Act (LEOSA) and New York law (18 USC § 926C).

The Auburn Police Department will offer handgun qualification courses for retired officers and officers separated from service in good standing. The course of fire is the law enforcement qualification course published by the New York State Department of Criminal Justice Services.

### 207.2 POLICY

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

For retired officers wishing to qualify, the below affidavit/waiver of liability must be completed, signed, and notarized PRIOR TO the retiree arriving at the range for their qualification test. This advisement to the retiree will be the responsibility of the range officer scheduling the qualification session.

#### [Range Qualification Affidavit and Waiver](#)

After firing a passing score, the former officer will make an appointment with the Auburn Police Department's Identification Bureau to obtain their HR 218 photo identification card. The card states that the eligible individual has passed the qualification course, the date, the type of firearm used (revolver or semi-automatic or both) and a phone number for the Auburn Police Department command desk which is manned 24/7 so that a call can be made to verify the information shown on the issued card.

Under HR 218, in order to be able to carry either a semi-automatic or revolver, you must qualify with same.

#### 207.2.1 DEFINITIONS

- (a) What is H.R. 218, the "Law Enforcement Officers' Safety Act" and S. 1132, the "Law Enforcement Officers' Safety Act Improvements Act"?
  - 1. The Law Enforcement Officers Safety Act (LEOSA) is a United States federal law, enacted in 2004, that allows two classes of persons-the "qualified law enforcement officer" and the "qualified retired law enforcement officer"-to carry a concealed firearm in any jurisdiction in the United States, regardless of state or local laws, with certain exceptions.
  - 2. The act was introduced during the 108th Congress as H.R. 218 and enacted as Public Law 108-277.[1] The law was later amended by the Law Enforcement Officers Safety Act Improvements Act of 2010 (S. 1132, Public Law 111-272), [2] and Section 1099C of the National Defense Authorization Act for Fiscal Year

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#### *Retiree Concealed Firearms*

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2013 (H.R. 4310, Public Law 112- 239).[3] It is primarily codified as 18 USC §§ 926B and 926C.

- (b) What the Law Enforcement Officer Safety Act (HR 218) allows:
  - 1. A qualified active or retired law enforcement officer who has photographic identification card issued by their current or former employing agency may carry a concealed firearm transported across state lines.
  - 2. HR 218 exempts officers from state and local laws concerning concealed carry but not Federal laws. HR 218 DOES NOT EXEMPT YOU FROM:
    - (a) Aircraft
    - (b) Federal Buildings
    - (c) Federal Property
    - (d) National Parks
  - 3. The law also grants states the authority to:
    - (a) Permit private property owners to restrict concealed firearms on their property
    - (b) Permit state and local governments to restrict concealed firearms on state or local government property.
    - (c) (Check with each specific state to see if their laws restrict carrying concealed firearms at these specific locations).
  - 4. HR 218 Is Only an Affirmative Defense; Permit Holders Can Still be Arrested:
    - (a) The ATF sent a letter to the Fraternal Order of Police clarifying that officers can still be arrested for carrying concealed handguns. HR 218 is only an affirmative defense that can be raised before the court after an arrest.
  - 5. Qualifying Firearms DO NOT include:
    - (a) Machine guns
    - (b) Silencers
    - (c) Explosive or destructive devices

#### **207.3 LEOSA**

The Chief of Police may issue an identification card for LEOSA purposes to any qualified officer of this department who (18 USC § 926C(c)):

- (a) Separated from service in good standing from this department as an officer.
- (b) Before such separation, had regular employment as an officer for an aggregate of 10 years or more or, if employed as an officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.
- (c) Has not been disqualified for reasons related to mental health.

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#### *Retiree Concealed Firearms*

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- (d) Has not entered into an agreement with this department where the officer acknowledges that he/she is not qualified to receive a firearms qualification certificate for reasons related to mental health.
- (e) Is not prohibited by federal law from receiving or possessing a firearm.

#### 207.3.1 LEOSA CARD FORMAT

The LEOSA identification card should contain a photograph of the former officer and identify him/her as having been employed as an officer.

If the Auburn Police Department qualifies the former officer, the LEOSA identification card or separate certification should indicate the date the former officer was tested or otherwise found by the Department to meet the active duty standards for qualification to carry a firearm.

#### [Sample HR218 Qualification Card](#)

#### 207.3.2 AUTHORIZATION

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

- (a) In possession of photographic identification that identifies him/her as having been employed as an officer and one of the following:
  - 1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement agency to meet agency-established active-duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.
  - 2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active-duty officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.
- (b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
- (c) Not prohibited by federal law from receiving a firearm.
- (d) Not in a location prohibited by New York law or by a private person or entity on his/her property if such prohibition is permitted by New York law.

#### 207.4 DENIAL, SUSPENSION OR REVOCATION

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

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#### *Retiree Concealed Firearms*

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

A former officer with a card issued under this policy shall immediately notify the Shift Commander of his/her arrest or conviction in any jurisdiction, or that he/she is the subject of a court order, in accordance with the Reporting of Arrests, Convictions and Court Orders Policy.

##### **207.5.1 RESPONSIBILITIES UNDER LEOSA**

In order to obtain or retain a LEOSA identification card, the former officer shall:

- (a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the Department.
- (b) Remain subject to all applicable department policies and federal, state and local laws.
- (c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.

##### **207.6 FIREARM QUALIFICATIONS**

The Range Instructor may provide former officers from this department an opportunity to qualify. Written evidence of the qualification and the weapons used will be provided and will contain the date of the qualification. The Range Instructor will maintain a record of the qualifications and weapons used.

[Obtaining a H.R. 218 Qualification Card Procedure](#)

## Video Recording System

### 208.1 PURPOSE AND SCOPE

This policy provides guidance for the use and retention of internal department security video, as well as the storage and release of the captured images. This policy only applies to digital recording system maintained by the department in areas within the police station for the purposes of monitoring officer safety. The Policy relative to the digital recording system used for the recording of interviews and interrogation will be outlined under P.P.M. section 316 "Electronic Recording of Custodial Interviews and Interrogations."

### 208.2 POLICY

The Auburn Police Department operates a digital recording system maintained for the purpose of monitoring officer safety within the police station. Cameras may be placed in locations throughout the police station to best accomplish this goal. These cameras are separate and distinct from any and all other cameras utilized by the Police Department, as the intent behind their implementation is not to gather or record evidence of a crime, but rather to allow members of the police department to remotely monitor police/civilian interaction within the police station; the entire purpose of this monitoring is to ensure safety in these interactions to the highest degree possible.

### 208.3 OPERATIONAL GUIDELINES

Only department-approved digital recording equipment shall be utilized. Members authorized to monitor digital recording equipment shall only monitor public areas within the police station where no reasonable expectation of privacy exists. The Chief of Police or the authorized designee shall approve all proposed locations for the use of digital recording equipment and should consult with and be guided by legal counsel as necessary in making such determinations.

### 208.4 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with overall Officer safety. Security cameras designated under this policy shall record video images only without sound. Recorded images may be used for a variety of purposes, including monitoring of areas within the police station where police/civilian interaction takes place. The public safety digital recording system may be useful for the following primary purposes:

- (a) To respond to critical incidents within the police station.
- (b) To document officer and public conduct during interactions to safeguard the rights of the public and officers.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera. Images should be transmitted to monitors installed in the Command Center as well as other locations as approved by the Chief of Police or his/her designee. When activity warranting further intervention is reported or detected at any camera location, the available information should be provided to responding officers in a timely manner. The Shift Commander

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#### *Video Recording System*

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or other authorized personnel shall be allowed to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

Unauthorized recording, viewing, reproduction, dissemination or retention of anything documented by the public safety digital recording system is prohibited.

#### **208.5 CAMERA MARKINGS**

All public areas within the police station monitored by public safety digital recording equipment shall be marked in a conspicuous manner with appropriate signs to inform the public that activities within the range of said camera are being recorded. Signs should be placed appropriately and without obstruction to ensure visibility.

#### **208.6 VIDEO SUPERVISION**

Supervisors should monitor digital recording access and usage to ensure members follow departmental policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

#### **208.7 PROHIBITED ACTIVITY**

Internal station digital recording systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists. Public safety digital recording equipment shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation. Digital recording equipment shall not be used to harass, intimidate or discriminate against any individual or group.

#### **208.8 STORAGE AND RETENTION OF MEDIA**

All downloaded media shall be stored in a secure area with access restricted to authorized personnel. A recording determined to be evidence of the commission of a crime which occurred in part or in full within the police station shall be copied to a suitable medium and logged into evidence in accordance with established evidence procedures if said recording is still in existence within the limited storage capacity of the video recording system. All actions taken with respect to retention of media shall be appropriately documented within a case report and the BEAST evidence system.

The type of digital recording technology employed and the manner in which recordings are used and stored will affect retention periods. The recordings should be stored and retained in accordance with the established records retention schedule. Because of the over 40 cameras deployed by the City of Auburn's public safety digital recording system all share the same recording server for storage of recorded data, the recording history is not infinite and tends to overwrite archived recording in about a two to three week time frame.

#### **208.9 EVIDENTIARY INTEGRITY**

All recordings determined to be evidence of the commission of a crime which occurred in part or in full within the police station or other City of Auburn property, shall be treated in the same manner as other evidence.



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Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

#### **208.10 RELEASE OF VIDEO IMAGES**

All recorded video images gathered by the public safety digital recording equipment are for the official use of the Auburn Police Department. Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records. Requests for recorded images from other law enforcement agencies shall be referred to the Chief of Police for release in accordance with a specific and legitimate law enforcement purpose. Recordings determined to be evidence of the commission of a crime which occurred in part or in full within the police station or other City of Auburn property, shall be transferred to another form of media and released in the same manner as other evidence. Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### **208.11 TRAINING**

All department members authorized to operate or access the public safety digital recording systems shall receive appropriate training. Training should include guidance on the use of cameras, interaction with dispatch and patrol operations and a review regarding relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of digital recording equipment and privacy.

## **Chapter 3 - General Operations**

## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Executive Law § 840).

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

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

**Deadly force** - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury. This includes force that, under the circumstances, is readily capable of causing death or serious physical injury (Executive Law § 840).

**De-escalation** - Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or to reduce the use of the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

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

**Force** - The application of physical techniques or tactics, chemical agents or weapons on another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

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

**Less than lethal force** - Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another.

**Objectively reasonable** - The determination that the necessity for using force and the level of force being used is based upon the officers evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force was used and upon what a reasonably prudent officer would use under the same or similar situation.

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**Serious Physical Injury** - Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.

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

### **300.2 POLICY**

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Auburn Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

The purpose of this policy is to establish policies and procedures for the use of physical force or deadly physical force by sworn officers of the Auburn Police Department and to establish procedures for reporting and evaluating the use of physical force or deadly physical force. Officers shall use only that level of physical force necessary in the performance of their duties within the limits established by Article 35 of the New York State Penal Law, and consistent with the training and policies of the Auburn Police Department. Officers shall use only the force that is objectively reasonable to effectively bring an incident under control, and shall use force when no reasonably effective alternative appears to exist. When an officer uses physical force, the officer must continuously assess the situation and select the most reasonable level of force available based on the circumstances perceived at that time by the officer.

Any use of force by officers must be consistent with the standard established by the United States Supreme Court in *Graham v. Connor*, which held that in order for an officer's use of force to be deemed objectively reasonable, that officer must consider: the severity of the crime at issue; whether the suspect poses an immediate threat to the safety of the officer or others; and whether the suspect is actively resisting arrest or attempting to evade arrest by flight. Accordingly, officers shall employ only that level of force that is objectively reasonable and necessary to achieve their lawful objectives. It is the responsibility of each officer to be aware of the requirements of Article 35 and to guide their actions based upon that law and Department policy and training.

The intentional discharge of a firearm is considered to be a use of deadly physical force. Deadly physical force can be expanded to include the use of other weapons and force if the force is readily capable of producing death or serious physical injury. This shall include, but is not limited to: impact weapons such as batons, flashlights, motor vehicles, and individual physical force.

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Only issued or approved equipment will be carried on duty and used when encountering resistance, except in emergency situations when an employee may use any justifiable resource at his disposal.

Members shall not unnecessarily or unreasonably endanger themselves or others in applying these guidelines to actual situations. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer at the scene, not with the twenty-twenty vision of hindsight. The question will be whether or not the officer's actions are 'objectively reasonable' in light of the facts and circumstances confronting them.

#### **300.2.1 DE-ESCALATION TECHNIQUES**

An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with training whenever possible and appropriate, without jeopardizing officer safety, before resorting to force and to reduce the need for force.

Whenever possible and when such delay will not compromise the safety of the officer or another person and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual a reasonable amount of time and opportunity to submit to verbal commands before using force on the individual.

#### **300.2.2 DUTY TO INTERVENE AND REPORT**

Any officer present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intervene to prevent the use of unreasonable force.

Any officer who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances should report these observations to a supervisor as soon as feasible.

#### **300.2.3 PERSPECTIVE**

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

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

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

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

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Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. The force applied must be reasonable in light of the totality of the circumstances known by the officer.

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

Officers are justified in removing firearms from holsters and/or gun mounts if he/she reasonably believes that the situation may pose an immediate threat of death or serious physical injury to themselves or another person.

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

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

A police officer or a peace officer may use reasonable physical force to effect an arrest, prevent escape of a person from custody, or in defense of self or others from imminent physical force (Penal Law § 35.30).

Force shall not be used by an officer to (Executive Law § 840):

- (a) Extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present.
- (b) Coerce a confession from a subject in custody.
- (c) Obtain blood, saliva, urine, or other bodily fluid or cells from an individual for scientific testing in lieu of a court order where required.

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

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

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.

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- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

#### 300.3.3 PAIN COMPLIANCE TECHNIQUES

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

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

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

#### 300.3.4 ALTERNATIVE TACTICS - DE-ESCALATION

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

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##### **300.3.5 USE OF FORCE TO SEIZE EVIDENCE**

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

##### **300.3.6 STATE RESTRICTIONS ON THE USE OF OTHER RESTRAINTS**

Any application of pressure to the throat, windpipe, neck, or blocking the mouth or nose of a person in a manner that may hinder breathing or reduce intake of air is prohibited unless deadly physical force is authorized (Exec. Law § 840).

This application is subject to the same guidelines and requirements as a carotid control hold.

##### **300.3.7 CAROTID CONTROL HOLD**

A carotid control hold is a technique designed to control an individual by temporarily restricting blood flow through the application of pressure to the side of the neck and, unlike a chokehold, does not restrict the airway. The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following (Executive Law § 840):

- (a) At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.
- (b) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until such examination occurs.
- (c) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the individual lost consciousness as a result.
- (d) Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- (e) The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

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

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify themselves as an officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.



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Use of deadly force is justified in the following circumstances involving imminent threat or imminent risk:

- (a) An officer may use deadly force to protect themselves or others from what the officer reasonably believes is an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible. Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:
  - 1. The individual has a weapon or is attempting to access one and intends to use it against the officer or another person.
  - 2. The individual is capable of causing serious bodily injury or death without a weapon and the officer believes the individual intends to do so.
  - 3. When feasible the officer shall identify themselves as a law enforcement officer and warn of their intentions to use deadly physical force.
  - 4. Officers are justified in removing firearms from holsters and/or gun mounts if they reasonably believe that the situation may pose an immediate threat of death or serious physical injury to themselves or another person.
  - 5. The use of deadly physical force shall not be utilized against a person whose actions are a threat to only them or to property.
  - 6. Officers must reasonably consider the risk of injury to innocent persons prior to discharging firearms.
- (c) However, an officer should not use deadly force against a person whose actions are a threat solely to themselves or property.

The officer is responsible for not discussing the incident with anyone except authorized personnel. Authorized personnel are as follows:

- (a) Chiefs of Police
- (b) All involved officer's command
- (c) Assigned investigative personnel
- (d) Corporation Counsel
- (e) District Attorney
- (f) Privately retained attorney
- (g) Department/private psychologist
- (h) Department/private physicians

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- (i) Chaplain
- (j) Union representatives/attorney
- (k) Immediate family

#### **300.4.1 MOVING VEHICLES**

Shots fired at or from a moving vehicle are rarely effective and involve considerations and risks in addition to the justification for the use of deadly force.

When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

#### **300.4.2 DEADLY FORCE AGAINST ANIMALS**

- (a) Deadly physical force may be employed against an animal when:
  - 1. The animal is attacking or presenting an imminent danger of substantial harm to the officer or another person.
  - 2. When an animal is badly injured, diseased, threatening, or destructive. The officer should make an effort to notify the owner of the animal, if known, prior to employing the use of deadly force.
- (b) Whenever deadly physical force is used to dispatch an animal, the officer should request the Department of Public Works respond to remove the animal unless it is being removed by the owner or their representative.
- (c) It shall be the responsibility of the involved officer's supervisor to:
  - 1. Investigate the use of deadly physical force against animals.
  - 2. Ensure that the incident is documented in a police report.
  - 3. Ensure that any firearm casings are recovered.

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

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. The report shall be submitted to the member's supervisor.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law. In the event that the officer using force is unable to complete the reports due to injuries, the supervisor shall prepare or cause them to be prepared. (Executive Law § 840).

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

#### **300.5.1 NOTIFICATIONS TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the TASER Energy Weapon or control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) Officers involved in use of force incidents, on or off-duty, shall immediately notify the officer in charge. If the member is off-duty and outside the City of Auburn when the use of force occurs, the officer shall also notify the police agency in such jurisdiction and notify the officer in charge at the Auburn Police Department.
- (j) An individual alleges unreasonable force was used or that any of the above has occurred.

#### **300.6 MEDICAL CONSIDERATIONS**

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

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

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would

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be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

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

See the Medical Aid and Response Policy for additional guidelines.

#### **300.6.1 ADDITIONAL STATE REQUIREMENTS**

An officer will take steps to obtain medical attention for a person who reasonably appears to be mentally ill and is behaving in a manner that is likely to result in serious harm to the person or to others.

Officers will document requests for medical or mental health treatment as well as efforts to arrange for such treatment.

#### **300.7 SUPERVISOR RESPONSIBILITIES**

When a supervisor is notified of a use of force and that use of force is applicable to the circumstances outlined in section 300.5.1, the supervisor will be required to make every effort to respond to the incident scene and will be expected to (Executive Law § 840):

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:
  - 1. The content of the interview should not be summarized or included in any related criminal charges.
  - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
  - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
  - 1. These photographs should be retained until all potential for civil litigation has expired.

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- (e) Identify any witnesses not already included in related reports, including any officers present at the incident.
- (f) Review and approve all related reports.
  - 1. Supervisors should require that officers who engaged in the use of force submit the appropriate report.
- (g) Determine if there is any indication that the individual may pursue civil litigation.
  - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.
  - 1. Disciplinary actions will be consistent with any applicable disciplinary guidelines and collective bargaining agreements.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

#### 300.7.1 SHIFT COMMANDER RESPONSIBILITIES

The Shift Commander shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

The Shift Commander should ensure that the Records Supervisor is provided with enough information to meet the use of force reporting requirements for the DCJS (Executive Law § 837-t; 9 NYCRR 6058.3).

#### 300.7.2 DEPUTY CHIEF AND CHIEF OF POLICE RESPONSIBILITIES

The Deputy Chief and Chief of Police shall review each use of force by all personnel under their command to ensure compliance with this policy and to address any training issues.

The Deputy Chief and Chief of Police shall ensure that the Records Supervisor is provided with enough information to meet the use of force reporting requirements for the DCJS (Executive Law § 837-t; 9 NYCRR 6058.3).

#### 300.7.3 RECORDS SUPERVISOR RESPONSIBILITIES

The Records Supervisor shall ensure that reports are submitted to the DCJS when an officer (Executive Law § 837-t; 9 NYCRR 6058.3):

- (a) Brandishes, uses, or discharges a firearm at or in the direction of another person.
- (b) Displays, uses, or deploys a chemical agent or control device, including but not limited to oleoresin capsicum (OC), pepper projectiles, tear gas, batons, or kinetic energy projectiles (see the Control Devices Policy).
- (c) Brandishes, uses, or deploys an impact weapon.

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- (d) Brandishes, uses, or deploys an electronic control weapon, including an electronic stun gun, flash bomb, or long-range acoustic device (see the Conducted Energy Device Policy).
- (e) Engages in conduct which results in the death or serious bodily injury of another person.

### **300.8 TRAINING**

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

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

#### **300.8.1 TRAINING REQUIREMENTS**

Required annual training shall include:

- (a) Legal updates.
- (b) De-escalation tactics, including alternatives to force.
- (c) The duty to intervene.
- (d) The duty to request and/or render medical aid.
- (e) Warning shots (see the Firearms Policy).
- (f) All other subjects covered in this policy (e.g., use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).
- (g) Applications of conflict prevention, conflict resolution and negotiation, and any other training required by the Municipal Police Training Council Use of Force Model Policy (Executive Law § 840).

### **300.9 POLICY AVAILABILITY**

This policy shall be readily available to the public upon request and shall be posted on the department website (Executive Law § 840).

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

At least annually, the Training and Planning Administrator will prepare a bi-annual report on use of force incidents. The report will be submitted to the Chief of Police. The report will include:

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

## Use of Force Review Boards

### 301.1 PURPOSE AND SCOPE

This policy establishes a process for the Auburn Police Department to review the use of force by its members.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or the evaluation of the use of force.

### 301.2 POLICY

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

### 301.3 REMOVAL FROM LINE DUTY ASSIGNMENT

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

### 301.4 REVIEW BOARD

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

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

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

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

#### 301.4.1 COMPOSITION OF THE BOARD

The Deputy Chief should staff the Use of Force Review Board with five individuals from the following, as appropriate:

- Representatives of each bureau
- Captain or lieutenant and a sergeant from the unit or shift
- Training and Planning Administrator



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- Non-administrative supervisor
- A peer officer/department member
- Department instructor for the type of weapon, device or technique used

The senior ranking command staff representative who is not in the same bureau as the involved member will serve as chairperson.

#### 301.4.2 RESPONSIBILITIES OF THE BOARD

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

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

The board does not have the authority to recommend discipline.

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

Absent an express waiver from the involved member, no more than two designated board members may ask questions of the involved member. Other board members may provide questions to the designated board members.

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

Any questioning of the involved member conducted by the board will be in accordance with Auburn Police Department disciplinary procedures, the Personnel Complaints Policy (including Garrity advisement), the current collective bargaining agreement and any applicable state or federal law.

The board shall make one of the following recommended findings:

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

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

The Chief of Police shall review the recommendation, make a final determination as to whether the member's actions were within policy and procedure, and determine whether any additional



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actions, investigations or reviews are appropriate. Those findings will be forwarded to the involved member's Commander for review and appropriate action. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated.

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

# Handcuffing and Restraints

## 302.1 PURPOSE AND SCOPE

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

## 302.2 POLICY

The Auburn Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

## 302.3 USE OF RESTRAINTS

Only members who have successfully completed police academy or Auburn Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include but are not limited to:

- The circumstances or offense leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

### 302.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain a person who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to ensure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

### 302.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. Leg irons, waist chains, or handcuffs behind the body should not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

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No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers, or others.

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

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

#### **302.3.4 NOTIFICATIONS**

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during, transportation to the jail.

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

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

The use of handcuffs is mandatory on all prisoners or persons taken into custody. Any person in custody will be handcuffed prior to being transported in any police vehicle.

The mere placing of handcuffs on a person will not be construed to be a use of force. If a member feels that the handcuffs provide safety to that person, the surrounding public, or the member, they are authorized to use handcuffs. However, when the handcuffs are applied to exert force necessary to further subdue a prisoner, a use of physical force incident has occurred and the member is required to complete appropriate reports and/or case report.

Although mandatory on all prisoners or persons taken into custody, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed regardless of the circumstances.

In most situations, handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the person or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility or other secure area.

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All members will be issued one set of metal handcuffs. If member would like to carry an additional set of metal handcuffs, they must be approved by the Chief of Police. Upon approval, the member will submit the make, model number and serial number to the Department's Firearms Training Division.

Flex cuffs are temporary and will be applied to a person's wrists per the manufacture's recommendations and training given by the Auburn Police Department.

Flex cuffs are only to be used for mass arrest, search warrant details, arrest warrant details, and under permissible circumstances where members have exhausted all efforts to use handcuffs.

#### **302.5 APPLICATION OF SPIT HOODS**

Spit hoods are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Officers should avoid comingling those wearing spit hoods with other detainees.

Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated, including hair, head and clothing, prior to application of a spit hood.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

#### **302.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES**

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons, emergency restraint chair, and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

#### [Emergency Restraint Chair Procedure](#)

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##### **302.7 APPLICATION OF LEG RESTRAINT DEVICES**

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the Department shall be used.

In determining whether to use the leg restraint, officers should consider:

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a person.
- (b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the patrol vehicle, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

##### **302.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS**

When applying leg restraints the following guidelines should be followed:

- (a) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (b) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (c) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (d) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (e) When transported by emergency medical services, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).
- (f) All leg irons/ankle cuffs will be double locked to prevent injury to the person in custody through the inadvertent or intentional tightening of same and checked for tightness with the member's fingertip/ first knuckle.
- (g) When the leg irons/ankle cuffs are applied to exert force to further subdue a person in custody or where the person in custody physically resists the application of the leg irons/ankle cuffs, a use of physical force incident has occurred. The involved member is required to complete the appropriate reports.

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##### **302.8 REQUIRED DOCUMENTATION**

If a person is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

If a person is arrested, the use of restraints other than handcuffs shall be documented in the appropriate report.

##### **302.9 TRAINING**

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

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

## Control Devices

### 303.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policies for the use of control devices by officers of the Auburn Police Department. This policy is to provide operational guidelines.

### 303.2 POLICY

Less lethal force means any use of physical force that has less potential for causing death or serious injury than deadly force; force that involves physical effort to control, restrain, or overcome the resistance of another person. Use of less lethal force can result in death or serious injury. Less lethal force is not meant to be replaced in situations where deadly physically force is necessary.

It is the policy of the Auburn Police Department that sworn officers shall carry and use only those control devices issued by the Department, and that the use of those weapons shall be within the limits established by Article 35 of the New York State Penal Law and consistent with the training and policies provided them by the Auburn Police Department. Any use of force must be consistent with *Graham v Connor* to in determining whether the force used is objectively reasonable. *Graham v Connor* established the following factors: the severity of the crime involved, does the subject pose an immediate threat to the safety of the officer or others, is the subject actively resisting or attempting to evade arrest by flight. The use of force or any less lethal weapon is considered a must be necessary to achieve a legitimate police objective.

Officers must always consider the totality of the circumstances when applying these guidelines. This policy recognizes that in certain situations, exigent circumstances may outweigh a specific guideline. In such situations, however, the officer must be able to articulate an objectively reasonable justification for acting outside of this policy and/or the officer's training.

### 303.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

Only those members who have successfully completed academy/departments-approved training in the use of any control device are authorized to carry and use the device.

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

### 303.4 RESPONSIBILITIES

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##### **303.4.1 SHIFT COMMANDER RESPONSIBILITIES**

The Shift Commander is authorized to consult the ERT Commander for the use of a control device(s) by selected department members who may not currently be issued or carrying the control device or those in specialized assignments who have successfully completed the required training.

##### **303.4.2 RANGE INSTRUCTOR RESPONSIBILITIES**

The Range Instructor and/or ERT Command Staff shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

Every control device will be periodically inspected by the Range Instructor and/or ERT Command Staff or the designated instructor for a particular control device. The inspection shall be documented and accessible for inspection by the Chief of Police or his/her designee.

##### **303.4.3 USER RESPONSIBILITIES**

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

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Range Instructor for disposition. Documentation shall also be forwarded through the chain of command, when appropriate, explaining the cause of damage.

#### **303.5 BATON / ASP GUIDELINES**

The baton / ASP is an impact weapon used to apply force against a resisting or assaultive subject, or to affect a blocking or defensive technique. The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to him/herself or others.

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

#### **303.6 CHEMICAL MUNITION GUIDELINES**

Chemical munitions may be used for crowd control, crowd dispersal or against barricaded suspects, based on the circumstances. The Incident Commander may request and authorize the use of chemical munitions. The ERT Commander may authorize the use and delivery of chemical munitions, after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

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



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

As with other control devices, OC spray or fogger may be considered for use to bring under control an individual or group of individuals who are engaging in, or are about to engage in, violent behavior. OC spray or fogger should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of department members or the public.

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

Uniformed members carrying OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field members may carry OC spray as authorized, in accordance with the needs of their assignments or at the direction of their supervisors.

###### **OC Spray Procedure**

###### **303.7.2 TREATMENT FOR OC EXPOSURE**

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those who complain of further severe effects shall be examined by appropriate medical personnel.

##### **303.8 KINETIC ENERGY / BEAN BAG PROJECTILE GUIDELINES**

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation. Kinetic energy rounds can be deployed from a 12 gauge shotgun, as well as a 37mm launchers or gas gun.

###### **303.8.1 DEPLOYMENT AND USE**

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

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of individuals engaged in criminal or suicidal behavior.

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

- (a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- (b) The suspect has made credible threats to harm him/herself or others.
- (c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at officers, other department members and/or other people.
- (d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

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##### **303.8.2 DEPLOYMENT CONSIDERATIONS**

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

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

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

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

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

##### **303.8.3 SAFETY PROCEDURES**

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

Officers will inspect shotguns and projectiles before each deployment to ensure that the shotguns are in proper working order and the projectiles are of the approved type and appear to be free from defects.

When they are not deployed, shotguns will be unloaded and properly and securely stored in police department the gun munitions cabinet in the ERT room. When deploying a kinetic energy projectile shotgun, officers shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

##### **303.9 TRAINING FOR CONTROL DEVICES**

The Training and Planning Administrator and/or ERT Commander shall ensure that those members who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

- (a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

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- (b) All training and proficiency for control devices will be documented in the member's training file.
- (c) Members who fail to demonstrate proficiency with the control device or knowledge of the Use of Force Policy will be provided remedial training. If a member cannot demonstrate proficiency with a control device or knowledge of the Use of Force Policy after remedial training, the member will be restricted from carrying the control device and may be subject to discipline.

#### **303.10 REPORTING USE OF CONTROL DEVICES**

Any application of a control device shall be documented in the appropriate reports and reported pursuant to the Use of Force Policy.

## TASER Energy Weapon

### 304.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the TASER Energy Weapon.

#### 304.1.1 DEFINITIONS

**TASER Energy Weapon** : A less-lethal weapon designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and override the subject's voluntary motor responses. Currently the TASER Energy Weapon by Axon is issued and carried by officers of the Auburn Police Department.

**Neuro-Muscular Incapacitation (NMI)**: Stimulation of a person's sensory nervous system and motor nervous system that results in uncontrolled muscle contractions by means of overriding their nervous system.

**Probe Delivery**: Pulling the trigger to release the probes from the cartridge to make contact with the subject and achieve neuromuscular incapacitation.

**Drive Stun**: Refers to the pressing of an active TASER Energy Weapon device onto the body of the subject with the probe cartridge attached or removed. The drive stun affects the sensory nervous system producing pain compliance. The driver stun may also be used as a follow up to a probe deployment when the probe deployment has not achieved neuromuscular incapacitation.

**Function Test**: A demonstration of the TASER Energy Weapon to ensure the device is in working condition.

**TASER Energy Weapon Deployment**: The intentional firing of the TASER Energy Weapon utilizing probe delivery or in the drive Stun mode making direct contact with a person. The purpose of the deployment is to gain compliance of the subject through NMI or pain compliance.

### 304.2 POLICY

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

The purpose of this policy is to establish policies and procedures for the use of TASER Energy Weapons by officers of the Auburn Police Department. These operational guidelines balance the recognition that TASER Energy Weapons are an appropriate tool for Officers who must resort to the use of force in carrying out their legitimate duties, while fostering a responsible and accountable use of TASER Energy Weapons.

It is the policy of the Auburn Police Department that sworn officers carry and use only the Axon TASER Energy Weapons, currently issued by the Department, and that the use of such TASER Energy Weapons shall be within the limits established by Article 35 of the New York State Penal Law and consistent with the training and policies provided them by the Auburn Police Department. Any use of force must be consistent with *Graham v Connor* in determining whether the force used is objectively reasonable. *Graham v Connor* established the following factors: the severity of the

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crime involved, does the subject pose an immediate threat to the safety of the officer or others, is the subject actively resisting or attempting to evade arrest by flight. The use of force or any less lethal weapon is considered and must be necessary to achieve a legitimate police objective.

Officers must always consider the totality of the circumstances when applying these guidelines. This policy recognizes that in certain situations, exigent circumstances may outweigh a specific guideline. In such situations, however, the officer must be able to articulate an objectively reasonable justification for acting outside of this policy and/or the officer's training.

It is the policy of the Auburn Police Department to use only that level of physical force which is reasonably necessary based on the totality of the circumstances, to control or otherwise subdue violent or potentially violent individuals.

#### **304.3 ISSUANCE AND CARRYING TASER ENERGY WEAPONS**

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

The TASER instructor should keep a log of issued TASER Energy Weapon devices and the serial numbers of cartridges/magazines issued to members.

TASER Energy Weapons are issued for use during a member's current assignment. All members of the Patrol Division will be issued a TASER Energy Weapon and they shall carry it while on duty. Those leaving a particular assignment may be required to return the device to the department inventory.

Officers shall only use the TASER Energy Weapon and cartridges that have been issued by the Department. Cartridges should not be used after the manufacturer's expiration date. Uniformed and non-uniformed officers who have been issued the TASER Energy Weapon shall wear the device in an approved holster.

Members carrying the TASER Energy Weapon should perform a function test prior to every shift.

When carried, officers who carry the TASER Energy Weapon while in uniform shall carry it in a holster on the side opposite the duty weapon.

- (a) All TASER Energy Weapons shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Officers shall be responsible for ensuring that the issued TASER Energy Weapon is properly maintained and in good working order.
- (c) Officers should not hold a firearm and the TASER Energy Weapon at the same time.

#### [Weapon Readiness](#)

#### [Care and Maintenance](#)

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##### **304.3.1 USER RESPONSIBILITIES**

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

TASER Energy Weapons that are damaged or inoperative, or cartridges that are expired or damaged, shall be returned to the TASER Instructor for disposition. Officers shall submit documentation stating the reason for the return and how the TASER Energy Weapon or cartridge was damaged or became inoperative, if known.

##### **304.4 VERBAL AND VISUAL WARNINGS**

A verbal warning of the intended use of the TASER Energy Weapons should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the TASER Energy Weapons may be deployed.

If, after a verbal warning, an individual fails to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, activate any warning on the device, which may include display of the electrical arc, an audible warning, or the laser in a further attempt to gain compliance prior to the application of the TASER Energy Weapon. The laser should not be intentionally directed into anyone's eyes.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the TASER Energy Weapons in the related report.

##### **304.5 USE OF THE TASER ENERGY WEAPON**

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

##### [Use of the TASER Energy Weapon](#)

##### [TASER Energy Weapon Prohibitions](#)

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

##### **304.5.1 APPLICATION OF THE TASER ENERGY WEAPON**

The TASER Energy Weapon 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:

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- (a) The subject is violent or is physically resisting.
- (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.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER Energy Weapon to apprehend an individual. The TASER Energy Weapon shall not be used to psychologically torment, to elicit statements or to punish any individual.

Members are not required to use the TASER Energy Weapon in situations where there is a use or threatened imminent use of deadly physical force against them or a third person. The TASER Energy Weapon does not replace the members firearm and should not be used alone in deadly physical force situations unless it is the only option available. In deadly physical force situations, the member should only utilize the TASER Energy Weapon if other members are present and provide lethal cover by means of the department issued handgun, shotgun or rifle. Factors that may be taken into account when considering use of the TASER Energy Weapon in deadly physical force situations with lethal cover include, but not limited to:

- (a) The amount of time the member has to react to a threat.
- (b) The member's relative proximity to the person posing the threat.
- (c) The member's ability to isolate the person posing the threat.
- (d) The limitations of the TASER Energy Weapon, and the manner in which it is being deployed.
- (e) The belief that the application is likely to be successful.

#### 304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER Energy Weapon on certain individuals should 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 with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

The device may also be used in the drive stun mode. This can be done when the cartridge is loaded, the unit is pressed firmly onto an appropriate area such as the abdominal region, hips or



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legs and the arc switch is pressed. Drive stuns shall only be used when the Officer feels, based on the totality of the circumstances, he/she is justified. It is important to note that when the device is used without deploying the probes, it is:

- (a) Primarily a pain compliance tool due to the lack of probe spread.
- (b) Minimally effective compared to conventional cartridge-type deployments.
- (c) More likely to leave marks on the subject's skin.
- (d) Subject to the same deployment (use) guidelines and restrictions as those of the cartridge deployments.

#### 304.5.3 TARGETING CONSIDERATIONS

The preferred targeting areas include the individual's back or front lower-center mass. The head, neck, chest and groin should be avoided when reasonably practicable. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the TASER Energy Weapon probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

#### 304.5.4 MULTIPLE APPLICATIONS OF THE TASER ENERGY WEAPON

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

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

#### 304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers should take appropriate actions to control and restrain the individual to minimize the need for longer or multiple exposures to the TASER Energy Weapon. As soon as practicable, officers shall notify a supervisor any time the TASER Energy Weapon has been discharged. AFID's tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

#### Post-Deployment and Aftercare

#### 304.5.6 DANGEROUS ANIMALS

The TASER Energy Weapon may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent



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threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

#### 304.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department TASER Energy Weapons while off-duty.

Officers shall ensure that TASER Energy Weapons are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

#### 304.6 DOCUMENTATION

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

##### 304.6.1 CASE/USE OF FORCE REPORT

Items that shall be included in the case/Use of Force report are:

- (a) The type and brand of TASER Energy Weapon and cartridge and cartridge serial number.
- (b) Date, time and location of the incident.
- (c) Whether any display, laser or arc deterred a subject and gained compliance.
- (d) The estimated number of TASER Energy Weapon activations, the estimated duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the TASER Energy Weapon was used.
- (f) The type of mode used (probe or drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Whether medical care was provided to the subject.
- (j) Whether the subject sustained any injuries.
- (k) Whether any officers sustained any injuries.
- (l) Identification of all personnel firing TASER Energy Weapons.
- (m) Identification of all witnesses.
- (n) Medical care provided to the subject.
- (o) Observations of the subject's physical and physiological actions.
- (p) Any known or suspected drug use, intoxication or other medical problems.

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The Training and Planning Administrator should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Taser training staff should also conduct audits of data downloads and reconcile case/Use of Force reports with recorded activations. TASER Energy Weapon information and statistics, with identifying information removed, should periodically be made available to the public.

#### **304.7 MEDICAL TREATMENT**

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel or officers trained in probe removal and handling should remove TASER Energy Weapon probes from a person's body. Used TASER Energy Weapon probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by TASER Energy Weapon probes or who have been subjected to the electric discharge of the device or who sustained direct exposure of the laser to the eyes shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The TASER Energy Weapon probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio/video recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER Energy Weapon (see the Medical Aid and Response Policy).

#### **304.8 SUPERVISOR RESPONSIBILITIES**

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

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A supervisor should review each incident where a person has been exposed to an activation of the TASER Energy Weapon. The supervisor will ensure that the officer who deployed the TASER Energy Weapon will immediately remove the battery from their TASER Energy Weapon and place it in the battery dock and place a fresh battery in their TASER Energy Weapon. Taser 7s will no longer be taken out of service following a deployment. Taser instructors will be responsible for pulling the Taser logs of this device from Evidence Sync and adding to the report. Photographs of probe sites should be taken and witnesses interviewed.

#### **304.9 TRAINING**

Personnel who are authorized to carry the TASER Energy Weapon shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the TASER Energy Weapon as a part of their assignments for a period of six months or more shall be recertified by a qualified TASER Energy Weapon instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued TASER Energy Weapons should occur every year. A reassessment of an officer's knowledge and/or practical skills may be required at any time, if deemed appropriate, by the Training and Planning Administrator. All training and proficiency for TASER Energy Weapons will be documented in the officer's training files.

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

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

The Training and Planning Administrator is responsible for ensuring that all members who carry TASER Energy Weapons have received initial and annual proficiency training. Periodic audits should be used for verification.

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

The Training and Planning Administrator should include the following training:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws until proficient to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes to the head, neck, area of the heart, and groin.
- (e) Scenario-based training, including virtual reality training when available.
- (f) Handcuffing a subject during the application of the TASER Energy Weapon and transitioning to other force options.
- (g) De-escalation techniques.

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- (h) Restraint techniques that do not impair respiration following the application of the TASER Energy Weapon.
- (i) Proper use of cover and concealment during deployment of the TASER Energy Weapon for purposes of officer safety.
- (j) Proper tactics and techniques related to multiple applications of TASER Energy Weapons.

## Officer-Involved Shootings and Deaths

### 305.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of another action of an officer.

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

### 305.2 POLICY

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

### 305.3 TYPES OF INVESTIGATIONS

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

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

### 305.4 CONTROL OF INVESTIGATIONS

The Auburn Police Department will facilitate the investigation of any officer-involved shootings or deaths within the City of Auburn by either requesting an outside law enforcement agency to investigate the incident or the Auburn Police Department may investigate the incident. This may include turning the investigation over to an outside law enforcement agency, such as the Cayuga County Sheriff or the New York State Police, or having investigators from another law enforcement agency assigned to assist with the investigation. The Cayuga County District Attorney's Office and the NYS Attorney General's Office may conduct their own investigations as well.

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

#### 305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Auburn Police Department would have jurisdiction over the control of the investigation if the incident occurred within the City of Auburn unless or until the investigation is turned over an outside law enforcement agency.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The

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investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief of Police and with concurrence from the other agency.

#### **305.4.2 CRIMINAL INVESTIGATIONS OF OFFICER ACTIONS**

In incidents involving a death, the criminal investigation into the involved officer's conduct during the incident will be conducted by the New York State Office of the Attorney General Office of Special Investigation. If the Office of Special Investigation does not assert jurisdiction, or in cases not involving a death, the criminal investigation will be handled according to the Criminal Investigation section from this policy when an officer of this department is involved.

#### **305.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION**

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

#### **305.4.4 COORDINATION WITH THE OFFICE OF SPECIAL INVESTIGATION**

Since there is the potential for overlap between investigations into alleged criminal conduct of involved officers and alleged criminal conduct involving suspects, and in situations where a suspect is seriously injured and death remains a possibility, the Commander is responsible for coordinating with the Office of Special Investigation before proceeding with the criminal investigation.

### **305.5 INVESTIGATION PROCESS**

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

#### **305.5.1 UNINVOLVED OFFICER RESPONSIBILITIES**

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

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

#### **305.5.2 SUPERVISOR RESPONSIBILITIES**

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

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.

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1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any APD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
  - (a) Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
  - (b) The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Shift Commander and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional APD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
  - (a) Each involved APD officer should be given an administrative order not to discuss the incident with other involved officers or APD members pending further direction from a supervisor.
  - (b) When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.
- (f) Assign an uninvolved officer to accompany the involved officer.
- (g) Once relieved from the scene, ensure that all applicable statements and reports are completed by all officers assigned to the incident. Use of Force Reports are required as instructed.
- (h) Arrange for family notifications and transportation as necessary.

#### 305.5.3 SHIFT COMMANDER RESPONSIBILITIES

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

All outside inquiries about the incident shall be directed to the Chief or Deputy Chief.

#### 305.5.4 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief of Police and Deputy Chief
- Detective Commander



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- Outside agency investigators (if appropriate)
- District Attorney's Office
- CISM
- Chaplain
- Coroner (if necessary)
- Involved officer's union representative (if requested)
- Public Information Officer
- The Office of Special Investigation

#### 305.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
  - 1. If there are more than one officer involved in the incident, APD officers shall not be permitted to meet with other involved members.
  - 2. Requests from involved non-APD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives will be privileged only as to the discussion of non-criminal information.
- (d) An Employee Assistance Program (EAP) representative shall be provided by the Department to each involved APD officer. An EAP representative may also be provided to any affected APD members, upon request.
  - 1. Interviews with an EAP representative will be considered privileged.
  - 2. An interview or session with an EAP representative may take place prior to the member providing a formal interview or report. However, the involved members shall not be permitted to consult or meet collectively or in a group with an EAP representative prior to providing a formal interview or report.
  - 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Although the Department will honor the sensitivity of communications with peer counselors (Critical Incident Stress Management Team), there is no legal privilege to such communications. Peer counselors (Critical Incident Stress Management Team) are cautioned against discussing the facts of any incident with an involved or witness officer.
- (f) Services of the department Chaplain will be made available to the involved officer(s) and his/her family to aid them with the after-effects of the incident.



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

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

#### **305.6 CRIMINAL INVESTIGATION**

The assigned law enforcement agency in coordination with the District Attorney's office will be responsible for the criminal investigation in to the circumstances of any officer-involved death.

Investigative personnel from this department may be assigned to partner with investigators from outside agencies or the prosecuting office with jurisdiction over the incident to avoid duplicating efforts in related criminal investigations.

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

- (a) APD Supervisors and Administration personnel should not participate directly in any voluntary interview of APD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, he/she shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

#### [Detective Bureau Supervisor Responsibilities / Procedure](#)

##### **305.6.1 REPORTS BY INVOLVED APD OFFICERS**

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

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While the involved APD officer may write the report, it is generally recommended that such reports be completed by assigned investigators, who should interview all involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved officers in other reports.

Nothing in this section shall be construed to deprive an involved APD officer of the right to consult with legal counsel prior to completing any such criminal report.

Reports related to the prosecution of criminal suspects will be processed according to normal procedures but should also be included for reference in the investigation of the officer-involved shooting or death.

Whenever deadly physical force is used, it will be documented in all applicable police reports, Use of Force reports, and sworn affidavits when:

- (a) The use of such force results in the injury or death of a person
- (b) The use of force involved the intentional discharge of a firearm, whether or not a person was struck or injured as a result of the discharge of such firearm.

#### 305.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-involved shooting or death may become unavailable or the integrity of their statements compromised with the passage of time, a supervisor should take reasonable steps to promptly coordinate with criminal investigators to utilize available law enforcement personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.
  - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
  - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, attempts to identify the witness prior to his/her departure should be made whenever feasible.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Department.
  - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

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- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

#### **305.6.3 INVESTIGATIVE PERSONNEL**

Once notified of an officer-involved shooting or death, it shall be the responsibility of the Detective Bureau supervisor to assign appropriate investigative personnel to investigate or assist an outside law enforcement agency to investigate these incidents. Department investigators will be assigned to work with investigators from the prosecuting office with jurisdiction over the incident and may be assigned to separately handle the investigation of any related crimes not being investigated by the prosecuting office with jurisdiction over the incident.

All related department reports, except administrative and/or privileged reports, will be forwarded to the designated Detective Bureau supervisor for approval. Privileged and administrative reports shall be forwarded and maintained by the Office of the Chief of Police.

#### **305.7 ADMINISTRATIVE INVESTIGATION**

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

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

- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood or urine sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
  - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
  - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
  - 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain

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the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative collectively or in groups prior to being interviewed.

3. Administrative interviews should be recorded by the investigator. The officer may also record the interview.
  4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
  5. The Administration shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
  6. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.
- (d) The assigned administrative investigator will inform the Chiefs of the status of the investigation.
1. The Chief of Police, or his/her designee will keep the involved officer and his/her command supervisor apprised of the status of the investigation.
- (e) The assigned administrative investigator will prepare a full report to the Chiefs regarding his/her investigation and conclusion.
- (f) The Chief of Police or designee shall review the investigations to ensure that the use of deadly physical force was justified, necessary, reasonable and in accordance with department policy.
- (g) At the conclusion of both the criminal and/or departmental investigation, the Chief of Police, or designee, will make the final determination of actions to be taken.

#### **305.8 CIVIL LIABILITY RESPONSE**

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

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

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

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-law enforcement witnesses who are able to verify their presence and their ability to contemporaneously perceive events at the scene of an incident may also be permitted

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to review available MAV, body-worn video, or other video or audio recordings with the approval of assigned investigators or a supervisor.

Any MAV, body-worn video, and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or Corporation Counsel's Office, as appropriate.

#### **305.10 DEBRIEFING**

Following an officer-involved shooting or death, the Auburn Police Department should conduct both a critical incident/stress debriefing and a tactical debriefing.

##### **305.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING**

A critical incident/stress debriefing should occur as soon as practicable. The Shift Commander Administration Commander is responsible for organizing the debriefing. Notes and recorded statements should not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a traumatic event.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law or a valid court order.

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel (e.g., dispatchers, civilian personnel). Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Administration personnel, unless otherwise requested.

##### **305.10.2 TACTICAL DEBRIEFING**

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

#### **305.11 MEDIA RELATIONS**

Any media release shall be prepared by the Office of the Chief of Police, or his designee. Releases will be available to the Shift Commander, Detective Commander and Public Information Officer in the event of inquiries from the media. The Chief of Police or their designee shall be responsible for press coverage of the incident, or assign such duty to the Public Information Officer. The Chief of Police or their designee will notify the City of Auburn Manager and Mayor/Council.

No involved APD officer shall make any comment to the media unless he/she is authorized by the Chief of Police or his designee.

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

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Department personnel shall not post, transmit, or otherwise disseminate any information to which they have access, as a result of their employment with the Auburn Police Department, without expressed authorization of the Chiefs of Police or designee.

All personnel must be sensitive to the psychological trauma that is associated with these types of incidents. Behavior such as blaming, ridiculing, teasing and isolating the involved officer will only increase the potential trauma and, therefore, will not be tolerated. Supervisors shall ensure that the officer is treated in a dignified manner.

## Firearms

### 306.1 PURPOSE AND SCOPE

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

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

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

#### 306.1.1 DEFINITIONS

**Accidental Discharge of a Firearm** - A firearm will be considered “accidentally discharged” for the following reasons only: mechanical failure and/or faulty ammunition.

**Unintentional Discharge of a Firearm** - A firearm will be considered ‘unintentionally Discharged’ when it is not an accidental discharge or when it is discharged without purpose or intent.

### 306.2 POLICY

The Auburn Police Department will equip its members with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons. The Department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow. Every sworn member of this department who is on active duty in a field assignment to include but not be limited to the following positions will carry their department issued firearm in the performance of their duties. (e.g., patrol, narcotics, detective, training, administrative, SRO, IDO) The carrying of the department issued firearm for light duty assignments will be determined by the Office of the Chief of Police or their designee.

### 306.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued by the Department and have been thoroughly inspected by the Range Instructor. Except in an emergency or as directed by a supervisor, no firearm shall be carried on duty by a member who has not qualified with that firearm at an authorized department range. All sworn members must carry a firearm while working in any field assignment while in the performance of their official duties.

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

#### 306.3.1 HANDGUNS

The authorized department-issued handgun is the Glock model 22 or model 27 .40 caliber, semi-automatic pistol. Offices will carry the weapon with a round chambered.



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##### Handgun Modification / Accessories

#### 306.3.2 SHOTGUNS

The authorized department-issued shotgun is the Remington 870P 12 gauge.

When not deployed, the shotgun shall be properly secured in a locking weapons rack in the patrol vehicle, with 5 rounds loaded in the tube, the action closed on an empty chamber, and the safety in the safe position.

When not deployed into service, the shotgun shall be secured in the patrol weapons safe, completely unloaded with the action closed and the safety in the safe position. Ammunition will be stored on the top shelf in the patrol weapons safe.

#### 306.3.3 PATROL RIFLES

The authorized department-issued patrol rifle is the Colt AR-15 .223. The following additional patrol rifles are approved for on-duty use:

MAKE	MODEL	CALIBER
Rock River	AR-15	.223
H&K	MP-5	.40
S&W	M&P	.223

Members may deploy the patrol rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:

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

When not deployed, the patrol rifle shall be properly secured in a locking weapons rack in the patrol vehicle, with the chamber empty, magazine loaded and inserted into the magazine well, the bolt forward with the dust cover closed, and the selector lever in the safe position. ERT members carrying their assigned weapons on patrol will be required to secure their weapons in their patrol lockers at the end of their shift.



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When not deployed into service, the patrol rifle will be stored in the patrol weapons safe with the chamber empty, magazine removed with the bolt forward, the dust cover closed and the selector level in the safe position. The magazine will be stored on the top shelf in the patrol weapons safe.

#### 306.3.4 ERT MEMBERS SPECIAL WEAPONS CARRIAGE

- (a) Only those officers who have shown a proficiency in the use of special department weapons will be authorized for their use. The Chief of Police, the Emergency Response Team Commander, and team firearms instructor shall determine which officers are authorized to use special weapons.
- (b) A Department Certified Firearms Instructor will furnish to the Chief of Police, annually, a list of department personnel authorized to use Department special weapons as well as the specific weapons issued to individual team members.

#### 306.3.5 AUTHORIZED OFF-DUTY FIREARMS

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

- (a) The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (c) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (d) When armed, unless the member has a NYS pistol permit, officers shall carry their badges and Auburn Police Department identification cards under circumstances requiring possession of such identification.

#### 306.3.6 AMMUNITION

On-duty members shall carry only department-authorized ammunition. Members shall be issued fresh duty ammunition in the specified quantity for all department-issued firearms during the member's firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Range Instructor when needed, in accordance with established policy.

If a member carries their issued firearm in an off-duty capacity the member will only utilize issued/authorized ammunition in their duty weapon.

#### [Department Issued / Authorized Ammunition](#)

### 306.4 EQUIPMENT

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

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##### **306.4.1 REPAIRS OR MODIFICATIONS**

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

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

##### **306.4.2 HOLSTERS**

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

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

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

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Range Instructor. Members shall not dry fire or practice quick draws except under Range Instructor supervision.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except before utilizing a clearing barrel which is located in the department ready room.
- (d) Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle with the muzzle pointed in a safe direction.
- (e) Members shall not place or store any firearm or other weapon on department premises except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing an arrestee, but shall place all firearms in a secured location. Members providing access to the jail section to persons from outside agencies are responsible for ensuring firearms are not brought into the jail section.
- (f) Members shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (g) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department or a Range Instructor approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Range Instructor will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

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##### **306.5.1 INSPECTION AND STORAGE**

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

Department-owned firearms shall be stored in the appropriate equipment storage room. Handguns may remain loaded if they are secured in an appropriate holster. Shotguns and rifles shall be unloaded in a safe manner outside the building and then stored in the appropriate equipment storage room.

##### **306.5.2 STORAGE AT HOME**

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles, or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Members should be aware that negligent storage of a firearm could result in civil liability.

##### **306.5.3 ALCOHOL AND DRUGS**

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

##### **306.6 POLICE OFFICER FIREARMS TRAINING AND QUALIFICATIONS**

All police officers will qualify at least annually with their duty firearms, unless more frequent standards are required by the Municipal Police Training Council (MPTC). Training and qualifications must be on an approved range course.

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

##### **306.7 NON-CERTIFICATION OR NON-QUALIFICATION**

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

Failure to Qualify:

- (a) If a member fails to qualify on his/her first attempt, he/she will be given a second attempt during that training session following remedial training. If the member fails to qualify after the second attempt, the member will:
  - 1. surrender his/her department issued weapon to the range officer;

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2. the members Shift Commander will be notified and assign the member to administrative duties; and
  3. be given the opportunity to take intensive, supervised training from a Range Officer, on the member's own time.
  4. After the intensive remedial training has been completed, the member will, within a reasonable time period, be afforded another opportunity to qualify.
- (b) If the member again fails to qualify after his/her first attempt of his/her second opportunity, the Certified Firearms Instructor will give the member a second attempt during that training session following remedial training. If the member fails to qualify after the second attempt, the Certified Firearms Instructor will again:
1. secure the members surrendered department issued weapon;
  2. notify the Chief of Police and the member's immediate supervisor without unnecessary delay; and the member will:
    - (a) be assigned to administrative duties; and
    - (b) be given the opportunity to take intensive, supervised training from a Certified Firearms Instructor, on the member's own time.
    - (c) After the intensive remedial training or other corrective action(s) has been completed, the member will, within a reasonable time period, be afforded a third opportunity to qualify.
- (c) If the member fails to qualify after the third opportunity, he/she shall be relieved of duty pending the outcome of an administrative finding and/or fitness for duty evaluation as determined by the Chief of Police or their designee.

#### **306.8 FIREARM DISCHARGE**

Except during training or recreational use, any member who discharges a firearm intentionally or unintentionally, on- or off-duty, under circumstances where a person could be struck by a bullet from the weapon shall make a verbal report to the member's supervisor as soon as circumstances permit, but no later than six hours after the incident (Executive Law § 837-v).

If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy.

In all other cases, the member shall file a written report with the member's Commander within 48 hours of the incident (Executive Law § 837-v).

##### **306.8.1 DESTRUCTION OF ANIMALS**

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

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

#### **306.8.2 INJURED ANIMALS**

When it is necessary to use a firearm to euthanize a badly injured animal or stop an animal that poses an imminent threat to human safety, the Firearms Policy shall be followed (Agriculture and Markets Law § 374). A badly injured animal that is euthanized will follow with an immediate notification to a supervisor via a radio dispatch advising that the animal has been euthanized. A report explaining the circumstances will be completed by the member who used the firearm.

A dog, cat or ferret may be destroyed if it is exhibiting the signs of rabies and cannot be safely captured, and the New York State Commissioner of Health has certified the existence of rabies in that county (Public Health Law § 2143).

#### **306.8.3 WARNING SHOTS**

Warning shots are prohibited.

#### **306.9 RANGE INSTRUCTOR DUTIES**

The range will be under the exclusive control of the Range Instructor. All members attending will follow the directions of the Range Instructor. The Range Instructor will maintain a roster of all members attending the range and will submit the roster to the Training and Planning Administrator. Failure of any member to be present on their scheduled range day may result in non-participation or non-qualification.

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

The Range Instructor has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this department to verify proper operation. The Range Instructor has the authority to deem any department-issued firearm unfit for service.

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

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

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As per 29 CFR1910.95 (g-1) The Auburn Police Department shall establish and maintain an audiometric testing program as provided in this paragraph by making audiometric testing available to all employees whose exposures equal or exceed an 8- hour time-weighted average of 85 decibels. Department Firearms Instructors will, at the City of Auburn's expense, have audiograms conducted prior to April 1 on an annual basis. Records of the performed audiograms will be maintained by the Office of the Chief of Police.

#### 306.9.1 INVENTORY

The Range Instructor shall conduct and maintain an inventory of department weapons and ammunition maintained in the department armory or secured setting. An inventory should be conducted on an annual basis.

#### **306.10 FLYING WHILE ARMED**

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to officers who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.
- (b) Officers must carry their Auburn Police Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature and the signature of the Chief of Police or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).
- (c) The Auburn Police Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Auburn Police Department an NLETS message containing a unique alphanumeric identifier. The officer must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief of Police authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail his/her itinerary, and include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.
- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.

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- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Officers should try to resolve any problems through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

#### **306.11 CARRYING FIREARMS OUT OF STATE**

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

- (a) The officer shall carry his/her Auburn Police Department identification card whenever carrying such firearm.
- (b) The officer may not be the subject of any current disciplinary action.
- (c) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (d) The officer will remain subject to this and all other department policies (including qualifying and training).

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

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



## Vehicle Pursuits

### 307.1 PURPOSE AND SCOPE

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

#### 307.1.1 DEFINITIONS

Definitions related to this policy include:

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

**Checkpoint** - A pre-planned traffic checkpoint(s), deployed on a designated roadway(s) for the purpose of detecting violations of the vehicle and traffic law.

**High-Speed Pursuit** - An attempt by a police officer operating an emergency equipped police vehicle to apprehend the occupant(s) of another motor vehicle when speed of the fleeing vehicle is such that it shows reckless disregard for speed limits, traffic control devices or existing conditions,

**Reckless Disregard** - An act of proceeding to do something with a conscious awareness of danger, while ignoring any potential consequences of so doing,

**Roadblock** - Barricades or other obstructions placed in a roadway to stop or prevent the escape of a suspect or fugitive who has committed a felony. This does not include the department authorized Stinger Spike System.

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

**Tire deflation device** - A device designed to puncture the tires of the pursued vehicle (e.g., Stinger Spike System).

**Trail** - Following the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing vehicle will maintain sufficient distance from the pursuit vehicles so as to clearly indicate an absence of participation in the pursuit.

**Vehicle pursuit** - An event involving one or more law enforcement officers attempting to apprehend a suspect, who is attempting to avoid arrest while operating a vehicle by using evasive tactics, such as driving off a highway, turning suddenly or driving in a legal manner but willfully failing to yield to an officer's emergency signal to stop.

### 307.2 POLICY

It is the policy of this department to weigh the importance of apprehending suspects who unlawfully flee from law enforcement against the risks associated with vehicle pursuits.

### 307.3 OFFICER RESPONSIBILITIES

Vehicle pursuits should only be conducted using authorized police department emergency vehicles that are equipped with emergency lighting and sirens.



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#### *Vehicle Pursuits*

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Officers shall drive with reasonable care for the safety of all persons and property. However, officers may, when in pursuit of a suspect and provided there is no unreasonable risk to persons and property (Vehicle and Traffic Law § 1104):

- (a) Stop, stand or park in violation of the rules of the road.
- (b) Proceed past a steady red signal, a flashing red signal or a stop sign, but only after slowing down as may be necessary for safe operation.
- (c) Exceed the maximum speed limits so long as life and property are not endangered.
- (d) Disregard regulations governing direction of movement or turning in specified directions

#### 307.3.1 WHEN TO INITIATE A PURSUIT

Police officers will not engage in high speed pursuits for V&T violations, misdemeanors, or felonies in which the perpetrator does not pose an immediate danger to other persons.

Police officers are authorized to initiate a pursuit when it is reasonable to believe that a suspect, who has been given an appropriate signal to stop by a law enforcement officer, is attempting to evade arrest or detention by fleeing in a vehicle.

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

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

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- (i) Vehicle speeds.
- (j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
- (k) The availability of other resources, such as air support assistance.
- (l) Whether the pursuing vehicle is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with an arrestee in the pursuit vehicle unless exigent circumstances exist, and then only after the need to apprehend the suspect is weighed against the safety of the arrestee in transport. A vehicle containing more than a single arrestee should not be involved in a pursuit.

#### 307.3.2 WHEN TO TERMINATE A PURSUIT

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

When a supervisor directs the pursuit to be terminated, officers will immediately terminate the pursuit.

The factors listed in this policy on when to initiate a pursuit will apply equally to the decision to terminate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, themselves and the public when electing to continue a pursuit.

In addition to the factors that govern when to initiate a pursuit, other factors should be considered in deciding whether to terminate a pursuit, including:

- (a) The distance between the pursuing vehicle and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.
- (b) The pursued vehicle's location is no longer definitely known.
- (c) The pursuing vehicle sustains damage or a mechanical failure that renders it unsafe to drive.
- (d) The pursuing vehicle's emergency lighting equipment or siren becomes partially or completely inoperable.
- (e) Hazards posed to uninvolved bystanders or motorists.
- (f) The danger that the continued pursuit poses to the public, the officers or the suspect, balanced against the risk of allowing the suspect to remain at large.
- (g) The identity of the suspect is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit.
- (h) Extended pursuits of violators for misdemeanors not involving violence or weapons (independent of the pursuit) are generally discouraged.

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### **307.4 PURSUIT VEHICLES**

When involved in a pursuit, unmarked police department emergency vehicles should be replaced by marked emergency vehicles whenever possible.

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

Asupervisor may request that additional vehicles join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely arrest the number of suspects. All other officers shall stay out of the pursuit but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the pursuit termination point at legal speeds, following the appropriate rules of the road.

#### **307.4.1 VEHICLES WITHOUT EMERGENCY EQUIPMENT**

Officers operating vehicles not equipped with emergency lights and siren are prohibited from initiating or joining in any pursuit. Officers in such vehicles may provide support to pursuing vehicles as long as the vehicle is operated in compliance with all traffic laws. Those officers should discontinue such support immediately upon arrival of a sufficient number of authorized emergency police department vehicles or any air support.

#### **307.4.2 PRIMARY PURSUIT VEHICLE RESPONSIBILITIES**

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

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

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

Until relieved by a supervisor or a secondary pursuing officer, the officer in the primary pursuit vehicle shall be responsible for broadcasting the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary pursuing officer should, as soon as practicable,

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relinquish the responsibility of broadcasting the progress of the pursuit to an officer in a secondary pursuit vehicle or to air support joining the pursuit to minimize distractions and allow the primary pursuing officer to concentrate foremost on safe pursuit tactics.

#### **307.4.3 SECONDARY PURSUIT VEHICLE RESPONSIBILITIES**

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

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

#### **307.5 PURSUIT DRIVING**

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

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to unusual maneuvers by the fleeing vehicle.
- (b) Because intersections can present increased risks, the following tactics should be considered:
  - 1. Available officers not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
  - 2. Pursuing officers should exercise due caution and slow down as may be necessary when proceeding through controlled intersections.
- (c) Officers should not pursue a vehicle driving the wrong direction on a roadway, highway or freeway. In the event the pursued vehicle does so, the following tactics should be considered:
  - 1. Request assistance from available air support.
  - 2. Maintain visual contact with the pursued vehicle by paralleling the vehicle while driving on the correct side of the roadway.
  - 3. Request other officers to observe exits available to the suspect.
- (d) Notify adjoining agencies if it appears that the pursuit may enter their jurisdiction.

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- (e) Officers involved in a pursuit should not attempt to pass other pursuing vehicles unless the situation indicates otherwise or they are requested to do so by the pursuing officer and with a clear understanding of the maneuver process between the involved officers.

##### **307.5.1 PURSUIT TRAILING**

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

##### **307.5.2 AIR SUPPORT ASSISTANCE**

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

The air support crew should coordinate the activities of resources on the ground, report progress of the pursuit, and provide officers and supervisors with details of upcoming traffic congestion, road hazards or other pertinent information to evaluate whether to continue the pursuit. If officers on the ground are not within visual contact of the pursued vehicle and the air support crew determines that it is unsafe to continue the pursuit, the air support crew should recommend terminating the pursuit.

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

Officers who are not involved in the pursuit should remain in their assigned areas, should not parallel the pursuit route and should not become involved with the pursuit unless directed otherwise by a supervisor. Uninvolved officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Those officers should attempt to place their vehicles in locations that provide some safety or an escape route in the event of an unintended collision or if the suspect intentionally tries to ram the police department vehicle.

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

#### **307.6 SUPERVISORY CONTROL AND RESPONSIBILITIES**

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

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

- (a) Immediately notifying involved officers and the dispatcher of supervisory presence and ascertaining all reasonably available information to continuously assess the situation

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and risk factors associated with the pursuit. This is to ensure that the pursuit is conducted within established department guidelines.

- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercising management and control of the pursuit even if not engaged in it.
- (d) Ensuring that no more than the required law enforcement vehicles are involved in the pursuit under the guidelines set forth in this policy.
- (e) Directing that the pursuit be terminated if, in his/her judgment, it is not justified to continue the pursuit under the guidelines of this policy.
- (f) Ensuring that assistance from air support, canines or additional resources is requested, if available and appropriate.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this department.
- (i) Controlling and managing Auburn Police Department officers when a pursuit enters another jurisdiction.
- (j) Preparing a post-pursuit review and documentation of the pursuit, as required, in the form of an intra-departmental memo.

#### **307.6.1 SHIFT COMMANDER RESPONSIBILITIES**

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

The Shift Commander shall review all pertinent reports (intra-department memo) for content and forward them to the Chief of Police or the authorized designee.

#### **307.7 RADIO COMMUNICATION**

If the pursuit is confined within the City limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or dispatcher. If the pursuit leaves the jurisdiction of this department or such is imminent, involved officers should, whenever available, switch radio communications to a tactical or emergency channel most accessible by participating agencies.

#### **307.8 LOSS OF PURSUED VEHICLE**

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

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### **307.9 INTERJURISDICTIONAL CONSIDERATIONS**

When a pursuit enters another agency's jurisdiction, the primary pursuing officer or supervisor, taking into consideration the distance traveled, unfamiliarity with the area and other pertinent facts, should determine whether to request the other agency to assume the pursuit.

Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary pursuing officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether the jurisdiction is expected to assist.

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

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

The roles and responsibilities of officers at the termination point of a pursuit initiated by this department shall be coordinated with appropriate consideration of the needs of the agency assuming the pursuit. Notification of a pursuit in progress should not be construed as a request to join the pursuit.

#### **307.9.2 PURSUITS EXTENDING INTO THIS JURISDICTION**

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

When a request is made for this department to assist with a pursuit that has entered the jurisdiction of the Auburn Police Department, the supervisor should consider:

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

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



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

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

#### **307.10 PURSUIT INTERVENTION**

Pursuit intervention is an attempt to stop the suspect's ability to continue to flee in a vehicle through tactical application of technology, tire deflation devices, blocking or vehicle intercept, or roadblock procedures.

##### **307.10.1 WHEN USE IS AUTHORIZED**

Whenever practicable, an officer shall seek approval from a supervisor before employing any intervention to stop the pursued vehicle. In deciding whether to use intervention tactics, officers/supervisors should balance the risk of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the officers and persons in or on the pursued vehicle. With this in mind, the decision to use any intervention tactic should be reasonable in light of the circumstances apparent to the officer at the time of the decision.

##### **307.10.2 USE OF FIREARMS**

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances meet the requirements authorizing the use of deadly force. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

##### **307.10.3 INTERVENTION STANDARDS**

Intervention tactics, such as Pursuit Intervention Techniques (PIT), ramming vehicles, and moving roadblocks are prohibited unless it is an authorized deadly physical force situation.

The technique of boxing in a stationary suspect vehicle in order to prevent this vehicle from fleeing by intentionally placing a law enforcement vehicle or other immovable object in the path of the suspect's vehicle is authorized.

- (a) Tire deflation devices should be deployed only after notification of pursuing and the supervisor of the intent and location of the intended deployment, and in a manner that:
  - 1. Should reasonably only affect the pursued vehicle.
  - 2. Provides the deploying adequate cover and escape from intentional or unintentional exposure to the approaching vehicle.
  - 3. Takes into account the limitations of such devices as well as the potential risk to, the public and occupants of the pursued vehicle.



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4. Takes into account whether the pursued vehicle is a vehicle transporting hazardous materials or a school bus transporting children.
5. Shall not be deployed on a motorcycle unless the use of deadly force can be legally justified.
6. Takes into account traffic, weather conditions, population density and the configuration of the roadway (e.g., steep embankments, sharp curves).

#### Stinger Spike System Procedure

##### 307.10.4 ROADBLOCKS

Roadblocks constitute a use of deadly physical force and create a risk to officers and the public. The use of roadblocks shall be prohibited unless the use of deadly physical force is authorized. Roadblocks shall be used as a last resort, or under exigent circumstances, to discover and apprehend a suspect or fugitive wanted in connection with the commission of a felony that is known to have been committed. Stationary or moving roadblocks shall not be established without the authorization of an on-duty supervisor.

A fixed, non-investigatory roadblock established solely to prevent vehicles from entering into, or to egress from, an area in which traffic cannot pass through shall not be applicable to this policy.

##### (a) General

1. All road check and roadblock sites must be in an area, which will minimize the risk to the public and/or police.
2. Adequate warning, including the use of flares, barricades, warning signs, police vehicles with flashing lights activated and/or traffic cones will be positioned to alert motorists of the road check and to direct traffic to the checkpoint area in a safe manner. The condition of the road surface, weather conditions, and volume of traffic will be considered in determining the site. A police vehicle shall proceed through the area to evaluate conditions prior to proceeding with implementation of the road check or roadblock site.
3. Officers assigned to a road check or roadblock shall be in uniform. Officers assigned to road checks are required to wear a traffic vest for high visibility.
4. When possible, officers assigned to a roadblock shall wear a traffic vest for high visibility.
5. Officers shall position themselves in a safe manner as vehicles approach the site.

##### (b) Roadblocks

1. Prior to authorizing the deployment of a fixed roadblock, supervisors shall consider:
  - (a) Time elapsed between the crime, its discovery and the likelihood of apprehending a suspect.
  - (b) Seriousness of the crime.

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- (c) The amount of descriptive information available relating to the suspect(s) and/or the vehicle(s).
  - (d) Appropriate roadblock locations, taking into account, terrain, road surface, weather conditions, volume of traffic, and available lighting that will minimize risk to the public and officers deployed.
  - (e) Probable or likely escape routes.
  - (f) The extent of manpower required and available to effectively maintain a roadblock(s) and the consequent demand of other police activity.
- 2. Prior to the deployment of a roadblock, E911 Communications will be notified of the location, the authorizing supervisor's identity (unit numbers), and the purpose or need for the roadblock.
  - 3. A supervisor shall be assigned to oversee fixed roadblock site(s). The responding supervisor will examine each roadblock site to determine the effectiveness and adherence to departmental policy.
  - 4. A minimum of two officers will be deployed to establish a fixed roadblock site.
  - 5. Officers assigned to a roadblock will be in uniform. When possible, officers will wear a traffic vest for high visibility. All efforts will be made to remove any civilian personnel from the area. No persons, either departmental officers or civilian personnel, will be allowed to remain in any vehicle at a roadblock site.
  - 6. Adequate visible warning will be established to alert motorists and to direct traffic in a safe manner. Officers may utilize flares, barricades, warning signs, traffic cones and police vehicles with flashing emergency lights on, to alert motorists.
  - 7. Commandeering or using a civilian vehicle(s) as a roadblock or barricade is strictly prohibited, unless it is a last resort to protect human life.
  - 8. E911-Communications will be notified when a roadblock is terminated.

#### **307.11 CAPTURE OF SUSPECTS**

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

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

#### **307.12 REPORTING REQUIREMENTS**

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

- (a) The primary pursuing officer shall complete the appropriate incident/arrest reports.

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- (b) The primary pursuing officer or supervisor shall complete the appropriate post-pursuit report.
- (c) After first obtaining the available information, the involved, or if unavailable, on-duty field supervisor shall promptly complete an intra-departmental memorandum, review of the pursuit, submitting it to the Office of the Chief of Police. This intra-departmental memorandum should include, at a minimum:
  - 1. Date and time of the pursuit.
  - 2. A request to the E-911 Administrator for a copy of all pursuit related radio transmissions.
  - 3. A request to the E-911 Administrator for a copy of all pursuit related AVL data.
  - 4. Initial reason and circumstances surrounding the pursuit.
  - 5. Length of pursuit in distance and time, including the starting and termination points.
  - 6. Involved vehicles and officers.
  - 7. Alleged offenses.
  - 8. Whether a suspect was apprehended, as well as the means and methods used.
    - (a) Any use of force shall be reported and documented in compliance with the Use of Force Policy.
  - 9. Arrestee information, if applicable.
  - 10. Any injuries and/or medical treatment.
  - 11. Any property or equipment damage.
  - 12. Name of supervisor at the scene or who handled the incident.
  - 13. A preliminary determination if the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.
- (d) After receiving copies of reports, logs and other pertinent information, the Office of the Chief of Police shall conduct or assign the completion of a post-pursuit review, as appropriate.
- (e) Annually, the Office of the Chief of Police should direct a documented review and analysis of department vehicle pursuits to minimally include policy suitability, policy compliance and training needs.

#### **307.13 REGULAR AND PERIODIC PURSUIT TRAINING**

In addition to initial and supplementary training on pursuits, all officers will participate in periodic training addressing this policy and the importance of vehicle safety and protecting the public. Training will include recognition of the need to balance the known offense and the need for immediate capture against the risks to officers and others.

## Foot Pursuits

### 308.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of suspects on foot.

### 308.2 POLICY

It is the policy of this department that officers, when deciding to initiate or continue a foot pursuit, continuously balance the objective of apprehending the suspect with the risk and potential for injury to department members, the public or the suspect.

Officers are expected to act reasonably, based on the totality of the circumstances.

### 308.3 DECISION TO PURSUE

The safety of department members and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department members.

Officers may be justified in initiating a foot pursuit when the officer has reasonable suspicion to believe an individual is about to engage in, is engaging in, or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity alone shall not serve as justification for engaging in a foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity or being wanted by law enforcement.

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits may place department members and the public at significant risk. Therefore, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an officer should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as:

- (a) Containment of the area.
- (b) Saturation of the area with law enforcement personnel, including assistance from other agencies.
- (c) A canine search.
- (d) Thermal imaging or other sensing technology.
- (e) Air support.

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- (f) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit.

#### **308.4 GENERAL GUIDELINES**

When reasonably practicable, officers should consider alternatives to engaging in or continuing a foot pursuit when:

- (a) The officer is acting alone.
- (b) Two or more officers become separated, lose visual contact with one another or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.
- (c) The officer is unsure of his/her location and direction of travel.
- (d) The officer is pursuing multiple suspects and it is not reasonable to believe that the officer would be able to control the suspects should a confrontation occur.
- (e) The physical condition of the officer renders him/her incapable of controlling the suspect if apprehended.
- (f) The officer loses radio contact with the dispatcher or with assisting or backup officers.
- (g) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.
- (h) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.
- (i) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.
- (j) The officer loses possession of his/her firearm or other essential equipment.
- (k) The officer or a third party is injured during the foot pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- (l) The suspect's location is no longer known.
- (m) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to department members or the public if the suspect is not immediately apprehended.
- (n) The officer's ability to safely continue the foot pursuit is impaired by inclement weather, darkness or other environmental conditions.

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When directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory.

### **308.5 RESPONSIBILITIES IN FOOT PURSUITS**

#### **308.5.1 INITIATING OFFICER RESPONSIBILITIES**

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit and containment. When acting alone and when practicable, the initiating officer should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers initiating a foot pursuit should, at a minimum, broadcast the following information as soon as it becomes practicable and available:

- (a) Location and direction of travel
- (b) Call sign identifier
- (c) Reason for the foot pursuit, such as the crime classification
- (d) Number of suspects and description, to include name if known
- (e) Whether the suspect is known or believed to be armed with a dangerous weapon

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the foot pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify the dispatcher of his/her location and the status of the foot pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary, to include requesting medical aid as needed for officers, suspects or members of the public.

#### **308.5.2 ASSISTING OFFICER RESPONSIBILITIES**

Whenever any officer announces that he/she is engaged in a foot pursuit, all other officers should minimize nonessential radio traffic to permit the involved officers maximum access to the radio frequency.

#### **308.5.3 SUPERVISOR RESPONSIBILITIES**

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible;

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the supervisor does not, however, need to be physically present to exercise control over the foot pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing officers or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-foot pursuit activity.

#### **308.6 REPORTING REQUIREMENTS**

The initiating officer shall complete appropriate crime/arrest reports documenting, at a minimum:

- (a) Date and time of the foot pursuit.
- (b) Initial reason and circumstances surrounding the foot pursuit.
- (c) Course and approximate distance of the foot pursuit.
- (d) Alleged offenses.
- (e) Involved vehicles and officers.
- (f) Whether a suspect was apprehended as well as the means and methods used.
  - 1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.
- (g) Arrestee information, if applicable.
- (h) Any injuries and/or medical treatment.
- (i) Any property or equipment damage.
- (j) Name of the supervisor at the scene or who handled the incident.

Assisting officers taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

In any case in which a suspect is not apprehended and there is insufficient information to support further investigation, a supervisor may authorize that the initiating officer need not complete a formal report.



# Officer Response to Calls

## 309.1 PURPOSE AND SCOPE

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

## 309.2 POLICY

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

## 309.3 RESPONSE TO CALLS

Officers responding to non-emergency calls shall proceed accordingly, unless they are sent or redirected to a higher priority call, and shall obey all traffic laws.

### 309.3.1 EMERGENCY CALLS

Officers responding to an emergency call shall proceed immediately as appropriate and should operate the emergency vehicle lighting and siren as required by law (Vehicle and Traffic Law § 114-b; Vehicle and Traffic Law § 1104).

Officers should only respond to a call as an emergency response when circumstances reasonably indicate an emergency response is required. This includes, but is not limited to:

- (a) When in pursuit or apprehending a violator or suspected violator.
- (b) When responding to a reported emergency involving possible personal injury, death or significant property damage.
- (c) When immediate assistance is requested by an officer or other law enforcement agency.

Officers not responding to a call as an emergency response shall observe all traffic laws and proceed without the use of emergency lights and siren.

### [Alarm Response Procedures](#)

### [Response to Panic/Hold Up Alarms at City Hall](#)

## 309.4 REQUESTING EMERGENCY ASSISTANCE

When requesting emergency assistance, the involved department member should reasonably believe there is an imminent threat to the safety of him/herself or another person, or that assistance is needed to prevent imminent serious harm to the public.

If circumstances permit, the requesting member should provide the following information:

- Identifying call sign
- Location of the emergency situation
- Suspect information, including weapons



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- Reason for the request and type of emergency
- Resources required
- Hazards and any known or potential dangers for responding officers

In any event where a situation has stabilized and emergency response is not required, the requesting member shall immediately notify the dispatcher.

#### **309.5 SAFETY CONSIDERATIONS**

Responding with emergency lights and siren does not relieve the operator of an emergency vehicle of the duty to continue to drive with due regard for the safety of all persons and property, and does not protect the operator from the consequences of reckless disregard for the safety of others. However the officer may, when responding to a call with an emergency response, and provided there is no endangerment or unnecessary risk to persons and property (Vehicle and Traffic Law § 1104):

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

When two or more emergency vehicles approach an intersection simultaneously, the emergency vehicle that otherwise would have had the right of way shall proceed first.

##### **309.5.1 NUMBER OF OFFICERS ASSIGNED**

The number of officers assigned to respond to an emergency call or request for assistance should be limited to that which is reasonably necessary.

The responding officer shall notify the Shift Commander or field supervisor, who will make a determination regarding the appropriateness of the response and reduce or enhance the response as warranted.

#### **309.6 EMERGENCY EQUIPMENT**

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

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the emergency response and continue accordingly. The officer shall notify the Shift Commander, field supervisor or the dispatcher of the equipment failure so that another officer may be assigned to the emergency response.

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##### **309.7 OFFICER RESPONSIBILITIES**

The decision to initiate or continue an emergency response is at the discretion of the officer. If, in the officer's judgment, the weather, traffic and road conditions do not permit such a response without unreasonable risk, the officer may elect to respond to the call without the use of emergency lights and siren at the legal speed limit. In such an event, the officer should immediately notify the supervisor. An officer shall also discontinue an emergency response when directed by a supervisor or as otherwise appropriate.

Upon receiving authorization or determining that an emergency response is appropriate, whenever practicable, an officer shall immediately give the location from which he/she is responding.

The first officer arriving at the emergency call should determine whether to increase or reduce the level of the response of additional officers and shall notify the dispatcher of his/her determination. Any subsequent change in the appropriate response level should be communicated to the dispatcher by the officer in charge of the scene unless a supervisor assumes this responsibility.

##### **309.8 DISPATCH**

When information reasonably indicates that the public is threatened with serious injury or death, or an officer requests emergency assistance and immediate law enforcement response is needed, the dispatcher shall assign an emergency response and ensure acknowledgement and response of handling and assisting officers. In all other circumstances, the dispatcher shall obtain authorization from the Shift Commander or a field supervisor prior to assigning an emergency response.

###### **309.8.1 RESPONSIBILITIES**

Upon notification or assignment of an emergency response, the dispatcher is responsible for:

- (a) Confirming the location from which the officer is responding or requesting assistance.
- (b) Attempting to assign the closest available assisting officers to the location of the emergency call.
- (c) Continuing to obtain and broadcast information as necessary concerning the response and monitoring the situation until it is stabilized or terminated.
- (d) Notifying and coordinating allied emergency services (e.g., fire, emergency medical services).
- (e) Notifying the Shift Commander as soon as practicable.
- (f) Controlling all radio communications during the emergency and coordinating assistance under the direction of the Shift Commander or field supervisor.

##### **309.9 SUPERVISOR RESPONSIBILITIES**

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

- (a) The proper response has been initiated.

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

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

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

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

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

#### **309.10 ESCORTS**

Any routine, planned escort (e.g., oversized vehicle, bank, funerals, dignitaries) shall be coordinated by the desk officer or traffic coordinator and in accordance with department policy.

## Canines

### 310.1 PURPOSE AND SCOPE

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

### 310.2 POLICY

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

### 310.3 ASSIGNMENT

Canine teams should be assigned to the patrol division and answer routine calls for service. They can be used to assist and supplement any division of the police department function primarily in assist or cover assignments.

### 310.4 CANINE OFFICER

The responsibilities of the canine officer include, but are not limited to:

- (a) Completing and maintaining accurate records to document canine activities and to identify training issues and other needs of the program.
- (b) Reports directly to the Training and Planning Administrator.
- (c) Maintaining a liaison with command staff and functional supervisors.
- (d) Maintaining a liaison with other agency canine coordinators.
- (e) Recommending and overseeing the procurement of equipment and services for the team(s).
- (f) Assist the Training and Planning Administrator in scheduling all canine-related activities.
- (g) Along with the Training and Planning Administrator, ensure the canine team(s) is scheduled for regular training to maximize their capabilities.
- (h) Submitting an annual budget and justification upon request by the Officer of the Chief of Police or his/her designee.

### 310.5 REQUESTS FOR CANINE ASSISTANCE

All members are encouraged to request the use of a canine.

#### 310.5.1 OUTSIDE AGENCY REQUEST

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

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.

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- (b) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.
- (c) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.
- (d) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.

#### **310.5.2 PUBLIC DEMONSTRATION**

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

#### **310.6 APPREHENSION GUIDELINES**

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

- (a) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any officer, or the handler.
- (b) The suspect is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.
- (c) The suspect is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

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

Absent a reasonable belief that a suspect has committed, is committing, or is threatening to commit a serious offense, mere flight from a pursuing officer, without any of the above conditions, shall not serve as the basis for the use of a canine to apprehend a suspect.

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

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

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

##### 310.6.1 PREPARATION FOR DEPLOYMENT

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

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

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

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

A supervisor who is sufficiently apprised of the situation may prohibit deploying the canine.

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

##### 310.6.2 WARNINGS AND ANNOUNCEMENTS

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

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

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##### **310.6.3 REPORTING DEPLOYMENTS, BITES, AND INJURIES**

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

Any unintended bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the Training and Planning Administrator. Unintended bites or injuries caused by a canine should be documented in a case report.

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

The Department should apply for a waiver from the local Department of Health regarding confinement and observation when a canine bites a person while engaged in official duties (Public Health Law § 2140).

##### **310.7 NON-APPREHENSION GUIDELINES**

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

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

##### **310.7.1 ARTICLE DETECTION**

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



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##### **310.7.2 NARCOTICS DETECTION**

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

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

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

##### **310.7.3 BOMB/EXPLOSIVE DETECTION**

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

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

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

##### **310.8 HANDLER SELECTION**

The minimum qualifications for the assignment of canine handler include:

- (a) An officer who is currently off probation and a minimum of three years of police experience.
- (b) Residing in a single-family residence with an adequately fenced-in yard (minimum 5-foot high fence with locking gates), or secured kennel with relieving area fenced.
- (c) Living within 30 minutes travel time from the Auburn City limits.
- (d) Agreeing to be assigned to the position for the useable career length of the selected dog.



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### **310.9 HANDLER RESPONSIBILITIES**

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

The canine handler will be responsible for the following:

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

#### **310.9.1 CANINE IN PUBLIC AREAS**

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

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

### **310.10 HANDLER COMPENSATION**

The canine handler shall be compensated for time spent in the care, feeding, grooming and other needs of the canine in accordance with the current Collective Negotiations Agreement by and between the City of Auburn, NY and the New York Finger Lakes Region Police Officers Local No. 195.

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##### **310.11 CANINE INJURY AND MEDICAL CARE**

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

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian.

##### **310.12 TRAINING**

Before assignment in the field, each canine team shall be trained and certified to meet current standards as established by the Municipal Police Training Council (MPTC) or other recognized and approved certification standards. Cross-trained canine teams or those canine teams trained exclusively for the detection of narcotics and/or explosives also shall be trained and certified to meet current nationally recognized standards or other recognized and approved certification standards established for their particular skills.

The Training and Planning Administrator shall be responsible for scheduling periodic training for all department members in order to familiarize them with how to conduct themselves in the presence of department canines.

All canine training shall be conducted while on-duty unless otherwise approved by the Training and Planning Administrator.

###### **310.12.1 CONTINUED TRAINING**

Each canine team shall thereafter be recertified to a current nationally recognized standard or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:

- (a) Canine teams should receive training as defined in the current contract with the Auburn Police Department canine training provider.
- (b) Canine handlers are encouraged to engage in additional training with approval of the Training and Planning Administrator.
- (c) To ensure that all training is consistent, no handler, trainer or outside vendor is authorized to train to a standard that is not reviewed and approved by the Department.

###### **310.12.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING**

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

###### **310.12.3 TRAINING RECORDS**

All canine training records shall be maintained in the canine handler's and the canine's training file which will be maintained in the Training and Planning Administrator's Office.

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##### 310.12.4 TRAINING AIDS

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

##### 310.12.5 CONTROLLED SUBSTANCE TRAINING AIDS

Officers acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics-detection canine training in compliance with state and federal laws (21 USC § 823(g); Public Health Law § 3305).

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

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

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

##### 310.12.6 CONTROLLED SUBSTANCE PROCEDURES

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

- (a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.
- (b) The weight and test results shall be recorded and maintained by this department.
- (c) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.
- (d) All controlled substance training samples will be inspected, weighed and tested quarterly. The results of the quarterly testing shall be recorded and maintained by the canine coordinator with a copy forwarded to the dispensing agency.
- (e) All controlled substance training samples will be stored in locked, airtight and watertight cases at all times, except during training. The locked cases shall be secured in the trunk of the canine handler's assigned patrol vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.
- (f) The canine officer shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.

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- (g) Any unusable controlled substance training samples shall be returned to the Identification Bureau or to the dispensing agency.
- (h) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.

#### 310.12.7 EXPLOSIVE TRAINING AIDS

Officers may possess, transport, store or use explosives or destructive devices in compliance with state and federal laws (18 USC § 842; 27 CFR 555.41; Labor Law § 458).

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

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

## Domestic Violence

### 311.1 PURPOSE AND SCOPE

#### 311.1.1 DEFINITIONS

Definitions related to this policy include:

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

**Domestic violence or domestic incident** - Includes, but is not limited to, physical, psychological, sexual or emotional abuse by one member of a family or household against another member of the family or household. The term includes criminal offenses and family offenses but it may also include a dispute or incident between family or household members that does not rise to the level of a criminal offense. For the purposes of this policy, domestic violence includes all designated family offenses identified in Family Court Act § 812 and CPL § 530.11(1).

**Family offense** - Those offenses specified in Family Court Act § 812 and CPL § 530.11 (see domestic violence definition).

**Member of the same family or household** - Includes (Family Court Act § 812; CPL § 530.11):

- (a) Persons related by blood or marriage.
- (b) Persons legally married to one another.
- (c) Persons formerly married to one another, regardless of whether they still reside in the same household.
- (d) Persons who have a child in common, regardless of whether such persons have been married or have lived together at any time.
- (e) Persons who are or who have been in an intimate relationship, regardless of whether they have lived together at any time. Factors to consider in determining whether a relationship is an "intimate" relationship include, but are not limited to:
  - 1. The nature or type of relationship, regardless of whether the relationship is sexual in nature.
  - 2. The frequency of interaction between the persons.
  - 3. The duration of the relationship.
  - 4. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an intimate relationship.

### 311.2 POLICY

The Auburn Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department

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to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

### **311.3 OFFICER SAFETY**

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

#### **311.3.1 ARRIVAL ON SCENE**

Arrival on scene is part of the investigation, therefore, officers should be alert to the sights and sounds coming from the location, and that anything or anyone present may serve as evidence. Officers should wait for backup to arrive, when appropriate, and should always put officer safety and scene safety as the top two initial priorities to be most helpful to the victim and most able to hold any offenders accountable by taking control of the scene.

The responding on-scene officer shall:

- (a) Take control of the situation by first separating the involved parties.
- (b) For the safety of the parties and all first responders, take control of all weapons used or threatened to be used in the incident.
- (c) Assess the immediate safety and welfare of all occupants of the location, including children, to verify their safety and well-being.
- (d) Assess for physical injuries, including inquiring about strangulation or possible internal, nonvisible injuries, and sexual violence; administer first aid and request medical services as necessary. If sexual violence is suspected or alleged, advise the victim about the availability of receiving a sexual assault forensic exam and the ability of law enforcement to assist victim in obtaining exam.
- (e) If the victim, children, or other witnesses do not speak English or require accommodations such as a sign language interpreter, seek other methods (i.e., Language Line) or follow protocols for providing language access. Do not use family members or other witnesses for interpretation services.
- (f) Determine the relationship of the victim to the suspect.
- (g) Assess the well-being and health of any domestic pets or companion animals and document the signs of potential animal abuse.

### **311.4 INVESTIGATIONS**

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

- (a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.

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1. If two officers have not been dispatched, responding officers should request an additional unit to respond to the location.
- (b) When practicable, officers should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.
- (c) Officers should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.
- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Detective Bureau in the event that the injuries later become visible.
- (f) Officers should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, officers should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence.
  1. Officers shall seize any firearms or weapons specified in CPL § 140.10 that are in the possession of any person arrested for or suspected of the commission of a family offense (as defined by Family Court Act § 812 and CPL § 530.11). Officers may seize all such weapons in plain sight or discovered in a lawful search (CPL § 140.10).
  2. Officers shall take custody of any license to carry, possess, repair, or dispose of any weapons seized (CPL § 140.10).
  3. Officers shall provide a receipt for any weapon or license seized as provided in CPL § 140.10.
- (i) When completing an incident or arrest report for violation of a court order, officers should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting officer should attach a copy of the order to the incident or arrest report.
- (j) Officers shall take appropriate enforcement action when there is probable cause to believe an offense has occurred (CPL § 140.10). Factors that should not be used as sole justification for declining to take enforcement action include:



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1. Whether the suspect lives on the premises with the victim.
  2. Claims by the suspect that the victim provoked or perpetuated the violence.
  3. The potential financial or child custody consequences of arrest.
  4. The physical or emotional state of either party.
  5. Use of drugs or alcohol by either party.
  6. Denial that the violence occurred where evidence indicates otherwise.
  7. A request by the victim not to arrest the suspect.
  8. Location of the incident (public/private).
  9. Speculation that the complainant may not follow through with the prosecution.
  10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
  11. The social status, community status, or professional position of the victim or suspect.
- (k) Officers shall not ask the victim if he/she wants the suspect arrested and shall not threaten the arrest of any person for the purpose of discouraging requests for police intervention (CPL § 140.10).

#### 311.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, officers should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.
- (d) The Victim Specialist will receive orders of protections (OOP) from CAP arraignments after hours through E-mail. The Victim Specialist will be responsible for distribution of the OOP to the victim. In her extended absence, the Captain of Detectives will be responsible for distribution.

#### 311.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

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



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##### **311.4.3 WEAPON SEIZURE OR SAFEKEEPING PROCEDURE**

Members seizing firearms or weapons at a domestic violence incident should:

- (a) Process any firearms and weapons collected as required by the Identification Bureau Policy.
- (b) Notify any agency issuing firearm permits of the arrestee's name and firearms confiscation.
- (c) Ensure that the court is notified of any licensed firearm.
- (d) Ensure that the court is notified that the arrestee was licensed and whether an arrest was made for a willful failure to obey an order of protection involving any behavior constituting menacing, reckless endangerment, stalking or any other violent behavior, or threatened violent behavior, against a person (Family Court Act § 842-a; Family Court Act § 846-a; CPL § 530.14).

##### **311.5 VICTIM ASSISTANCE**

Because victims may be traumatized or confused, officers should be aware that a victim's behavior and actions may be affected.

- (a) Victims shall be provided with the department domestic violence information handout, even if the incident may not rise to the level of a crime (Family Court Act § 812; CPL § 530.11).
- (b) Victims shall also be alerted to any available victim advocates, shelters and community resources (Family Court Act § 812; CPL § 530.11).
- (c) When an involved person requests law enforcement assistance while removing essential items of personal property, officers should stand by for a reasonable amount of time.
- (d) If the victim has sustained injury or complains of pain, officers should seek medical assistance for the victim as soon as practicable.
- (e) Officers should ask the victim whether he/she has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for his/her safety or if the officer determines that a need exists.
- (f) Officers should make reasonable efforts to ensure that any children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (g) If appropriate, officers should seek or assist the victim in obtaining an emergency order.

##### **311.6 FOREIGN COURT ORDERS**

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe or territory shall be enforced by officers as if it were the order of a court in this state. An order should be considered properly issued when it

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reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court order shall be enforced, regardless of whether the order has been properly registered with this state.

#### **311.7 VERIFICATION OF COURT ORDERS**

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

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

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

#### **311.8 STANDARDS FOR ARRESTS**

Officers investigating a domestic violence report should consider the following (CPL § 140.10):

- (a) Officers shall arrest a person when there is probable cause to believe that the person has committed one of the following against a family or household member:
  - 1. Any felony offense (other than certain grand larceny offenses)
  - 2. Any misdemeanor family offense unless the victim requests otherwise
- (b) Officers should make an arrest, unless a decision not to arrest has been made by a supervisor, when:
  - 1. A misdemeanor domestic violence incident occurs where the victim has requested that no arrest be made.
  - 2. In all other domestic violence incidents for offenses as permitted by CPL § 140.10. A decision not to make an arrest in these circumstances should be made by a supervisor but only when there is a clear and compelling reason not to make an arrest.
- (c) Officers shall make an arrest for certain violations of a duly served order of protection, an order of protection of which the defendant has actual knowledge of because he/

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she was present in court when such order was issued, or other court orders related to domestic violence found in the following provisions:

- (a) Domestic Relations Law § 240 (custody and child support)
- (b) Domestic Relations Law § 252 (actions for divorce)
- (c) Family Court Act Articles 4, 5, 6 or 8 (support, paternity, termination/adoption or family offenses proceedings)
- (d) CPL § 530.12 (protection for victims of family offenses)
- (e) CPL § 330.20 (procedure following verdict or plea of not responsible by reason of mental disease or defect)

- These arrests require that:

The arrest shall be made if the person violates a stay-away provision included in one of the above orders or if the person commits a family offense in violation of the court order.

The protected party in whose favor the order of protection or temporary order of protection is issued may not be held to violate an order issued in his/her favor nor may such protected party be arrested for violating such order.

- (d) In cases involving a misdemeanor family offense, if there is probable cause to believe that more than one family or household member committed such offense, an officer is not required to arrest both parties. The officer shall attempt to identify and arrest the primary aggressor using factors including but not limited to (CPL §140.10):
  - (a) The comparative extent of any injuries inflicted by and between the parties.
  - (b) Whether any party is threatening or has threatened future harm against another party or another family or household member.
  - (c) Whether any party has a prior history of domestic violence that the officer can reasonably ascertain.
  - (d) Whether any party acted defensively to protect him/herself from injury.
  - (e) The decision to arrest or not to arrest shall not be based on the willingness of a person to testify or otherwise participate in a judicial proceeding.
- (e) Officers should take a report from a victim of a family offense even if the offense did not occur in the jurisdiction of the Auburn Police Department, (Executive Law § 646), when the agency of the appropriate jurisdiction is not available for direct referral.

#### **311.9 REPORTS AND RECORDS**

If the domestic incident involves a crime or an offense between family or household members, officers shall complete a written report on the form provided by the New York State Division of Criminal Justice Services, regardless of whether an arrest is made (CPL § 140.10).

- (a) If it is determined that the suspect or arrestee is on probation or parole, the Records Bureau shall ensure that a copy of the written report is sent to the supervising probation or parole officer.

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- (b) If an offense is committed against a person who is 65 years of age or older, the Records Bureau shall ensure that a copy of the report is sent to the Committee for the Coordination of Police Services to Elderly Persons.
- (c) If the complaint stems from a victim of a family offense that occurred outside of the jurisdiction of the Auburn Police Department, the Records Bureau shall ensure that a copy of the written report is provided to the complainant and also promptly sent to the appropriate law enforcement agency (Executive Law § 646).

#### **311.10 SERVICE OF COURT ORDERS**

Officers who receive a copy of a temporary order of protection or an order of protection issued upon default shall make a reasonable effort to serve the named person with the order along with the summons, petition or any other associated papers (Domestic Relations Law § 240; Family Court Act § 153-b).

Upon service, the officer shall notify the issuing court that service was achieved and notify the statewide computer registry regarding the date and time of service (Domestic Relations Law § 240; Family Court Act § 153-b).

Officers may also assist in the service of a court order upon request of the protected person.

##### **311.10.1 ORDER OF PROTECTION REGISTRY**

When an officer receives a copy of an order of protection, special order of conditions, or warrant that pertains to an order of protection or special order of conditions, the required information shall be immediately entered into the order of protection registry (Executive Law § 221-a).

#### **311.11 POLICE OFFICER INVOLVED IN DOMESTIC VIOLENCE**

Where incidents of domestic violence involving a police officer are alleged to have occurred, the Auburn Police Department will act quickly to protect the victim(s), arrest the perpetrator, and conduct parallel administrative and criminal investigations. This policy delineates a position by the Auburn Police Department of absolute intolerance (i.e. zero tolerance) of domestic violence. An officer found guilty of domestic violence, either through criminal court or an administrative hearing, may have his/her police powers revoked.

##### [Police Officer Involved in Domestic Violence Procedure](#)

#### **311.12 DOMESTIC VIOLENCE HIGH RISK TEAM (DVHRT)**

The Auburn Police Department and its collaborative partners are committed to use of the NYS Domestic Incident Report (DIR) for referral of high-risk cases to the DVHRT Program. Auburn Police Department will share all DIRs with the Program Coordinator, who will screen and assess all cases to identify those deemed high-risk. All cases deemed high-risk by the Coordinator will be referred to the DVHRT. Partners may additionally identify and refer high-risk cases directly to the DVHRT. Victims who seek services who have not had any law enforcement involvement will also be screened for risk by CAP Domestic Violence Advocates within the Domestic Violence Intervention program, utilizing a form created by the DVHRT Coordinator.

##### [Domestic Violence High Risk Team \(DVHRT\) Procedure](#)

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##### **311.13 ROLE OF THE SUPERVISOR**

Supervisors shall:

- (a) Respond to the location when requested by an officer or victim, or if there is a reasonable belief that the incident involves a violent crime, a prominent community member, a public official, or a law enforcement officer as a victim, suspect, or witness.
- (b) Ensure that appropriate action is taken.
- (c) Review reports.
- (d) Assess for related crimes to include stalking, sexual violence, strangulation, firearms prohibitions, protection order violations, intimidation and threats, and abuse of children, elders, and animals.

##### **311.14 TRAINING**

Officers and dispatchers should receive periodic training on this policy. When practicable, victim advocates should be incorporated in the training. Training should include:

- (a) Understanding domestic violence, response, and assistance to victims in a manner that is mindful of trauma, centered around the survivor, and sensitive to cultural variations.
- (b) Applicable domestic violence statutes and legal updates pertaining to domestic violence as noted in the Municipal Police Training Council Law Enforcement Domestic Incident Model Policy.
- (c) Roles, responsibilities, and boundaries of law enforcement responding to and intervening in domestic violence matters.

## Search and Seizure

### 312.1 PURPOSE AND SCOPE

Both the federal and state constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Auburn Police Department personnel to consider when dealing with search and seizure issues.

### 312.2 POLICY

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

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

### 312.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions to the rule that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to:

- Valid consent.
  - [Consent To Search Form](#)
  - [Consent to Search \(Electronic Data\) Form](#)
- Incident to a lawful arrest.
- Legitimate community caretaking interests (e.g., vehicle and personal property inventory).
- Vehicle searches under certain circumstances.
- Exigent circumstances.

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law. Members should also be aware that New York court rulings are frequently more

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restrictive when interpreting the New York Constitution than the federal courts' interpretation of the United States Constitution.

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

#### CONSENT SEARCHES CONSIDERATIONS

##### **312.4 SEARCH PROTOCOL**

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

- (a) Members of this department will strive to conduct searches with dignity and courtesy.
- (b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- (e) Whenever practicable, a search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.
- (f) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, another officer or a supervisor should witness the search.

##### **312.5 DOCUMENTATION**

Officers are responsible for documenting any search and ensuring that any required reports are sufficient including, at minimum, documentation of:

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

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



## Child Abuse

### 313.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Auburn Police Department members are required to notify the New York State Office of Children and Family Services (OCFS), Child Protective Services (CPS) division of suspected child abuse.

#### 313.1.1 DEFINITIONS

Definitions related to this policy include:

**Child** - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

**Child abuse** - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency.

**Child Advocacy Center (CAC)** - Community-based, child-friendly, multidisciplinary services for children and families affected by sexual abuse or severe physical abuse. CACs bring together, in one location, child protective services investigators, law enforcement, prosecutors, and medical and mental health professionals to provide a coordinated, comprehensive response to victims and their caregivers.

**Maltreatment** - New York State's Social Services Law, Section 412, defines a maltreated child as a child less than 18 years of age who is defined as a neglected child by the Family Court Act or who has had serious physical injury inflicted upon him or her by other than accidental means. Maltreatment means that a child's physical, mental, or emotional condition has been impaired, or placed in imminent danger of impairment, by the failure of the child's parent or other person legally responsible to exercise a minimum degree of care by failing to provide sufficient food, clothing, shelter, education; or failing to provide proper supervision, guardianship, or medical care (including dental, optometric, or surgical care); or inflicting excessive corporal punishment, abandoning the child, or misusing alcohol or other drugs to the extent that the child was placed in imminent danger. poverty or other financial inability to provide the above is not maltreatment (NYS OCFS, 2012).

**Neglect** - Section 1012(f) of New York State's Family Court Act defines a neglected child as a child less than 18 years of age whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired, or his or her parent or other person legally responsible for his or her care failed to exercise a minimum degree of care in supplying adequate food, clothing, shelter, education, medical or dental care, though financially able to do so, or the parent failed to provide proper supervision or guardianship, inflicted excessive corporal punishment, or misused drugs or alcohol, and there is a causal connection between the child's condition and the subject's failure to exercise a minimum degree of care, or the parent has abandoned the child by demonstrating an intent to forgo his or her parental rights.



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##### TYPES OF NEGLECT

1. **PHYSICAL** - the failure to provide a child with adequate food, shelter, clothing, education, hygiene, medical care, and/or supervision needed for normal growth and development.
2. **EMOTIONAL** - includes parent or other caretaker behaviors that cause or have the potential to cause serious cognitive, affective, or other behavioral health problems. These behaviors may include chronic use of verbally abusive language, harsh criticism, denigration, confinement, or torture. The resulting emotional impairment must be clearly attributable to the unwillingness or inability of the parent or other person legally responsible for the child to exercise a minimum degree of care toward the child.

##### **313.2 POLICY**

It shall be the policy of the Auburn Police Department to conduct a complete and thorough investigation of any incident which may involve endangering the welfare of a child, child abuse, child neglect, or maltreatment and to cooperate with the Cayuga County District Attorney's Office and the Cayuga County Department of Social Services to protect the child or children from further abuse, neglect or maltreatment. Arrests will be made when there is reasonable cause to believe that an offense has been committed. The Auburn Police Department will ensure the local CPS division and the New York State Child Abuse and Maltreatment Register are notified as required by law.

##### **313.3 MANDATORY NOTIFICATION**

Members of the Auburn Police Department shall notify CPS when there is reasonable cause to suspect that a child has been abused or maltreated (Social Services Law § 413).

If there is reasonable cause to suspect that a child has died as a result of abuse or maltreatment, the appropriate Coroner shall also be notified (Social Services Law § 418).

For purposes of notification, abuse includes, but is not limited to, the infliction of physical injury by a parent or other person legally responsible for a child, by other than accidental means, which causes or creates a substantial risk of death, serious or protracted disfigurement, or impairment, as well as sexual conduct or abuse, and sex trafficking or other severe forms of trafficking. Maltreatment includes neglect of a child or inflicting serious physical injury on a child by other than accidental means (Social Services Law § 412; Family Court Act § 1012).

##### **313.3.1 NOTIFICATION PROCEDURE**

Notification should occur as follows (Social Services Law § 415):

- (a) Immediately contact the appropriate CPS division (1-800-635-1522) and complete NYS OCFS report of suspected child abuse or maltreatment.
- (b) Notification shall include the following information, if known:
  - (a) Names and addresses of the child and his/her parents or other person responsible for the child's care, and the family composition, where appropriate.

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- (b) If the child is receiving care from an authorized agency or OCFS, the name and address of the program in which the child is receiving care.
- (c) The child's age, sex, race and the nature and extent of the child's injuries, abuse or maltreatment, including any evidence of prior injuries, abuse or maltreatment to the child or any sibling.
- (d) The name of the person alleged to be responsible for the injury, abuse or maltreatment.
- (e) The source of the report or the person making the report, and where that source or person may be contacted.
- (f) The actions taken by the reporting source, including photographs taken, X-rays or notification to the Coroner.
- (g) Any other information that may be helpful in the investigation of the incident or that may be required by OCFS.
- (h) The name, title and contact information for the investigating officer (Social Services Law § 413).

#### **313.4 QUALIFIED DETECTIVES**

Qualified detectives should be available, when needed, for child abuse investigations. These detectives should:

- (a) Conduct interviews in child-appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.
- (d) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.
- (e) Participate in or coordinate with multidisciplinary investigative teams as applicable.

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

In all reported or suspected cases of child abuse, officers shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.
- (c) Any relevant statements the child may have made and to whom he/she made the statements.

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- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

#### **313.6 PROTECTIVE CUSTODY**

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

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

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

Children may only be removed from a parent or guardian:

- (a) With a court order.
- (b) With the written consent of the parent, guardian or other legally responsible person if the officer reasonably suspects that the child is being abused or neglected (Family Court Act § 1021).

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1. The removing officer shall provide a written notice to the parent, guardian or other legally responsible person of his/her right to apply to Family Court for the return of the child, of the right to be represented by counsel and the procedures for those who are indigent to obtain counsel.
  2. The notice shall also include the officer's name, title, agency, address and telephone number; the name, address and telephone number of the authorized agency to which the child will be taken, if available; and the telephone number of the person to be contacted to coordinate visits with the child.
- (c) Without the consent of the parent or other legally responsible person for the child if the officer has reasonable cause to believe that the circumstances or condition of the child are such that continuing in his/her place of residence or in the care and custody of the parent or other person responsible for the child's care presents an imminent danger to the child's life or health, and there is not enough time to apply for a court order (Social Services Law § 417; Family Court Act § 1024).

#### [NYS Social Services Law Section 417 - Taking a Child into Protective Custody](#)

##### 313.6.1 ABANDONED INFANT PROTECTION ACT

A person may relinquish an infant if the child is 30 days old or less, and is safe from physical injury and cared for in an appropriate manner if the person leaves the child with an appropriate person, or if the person leaves the child in a suitable location and promptly notifies the appropriate person of the child's location (Penal Law § 260.00).

#### **313.7 INTERVIEWS**

##### 313.7.1 PRELIMINARY INTERVIEWS

Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred. Interviews should be at the child advocacy center whenever possible.

##### 313.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

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

- (a) Exigent circumstances exist, such as:
1. A reasonable belief that medical issues of the child need to be addressed immediately.
  2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.

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3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.

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

#### **313.7.3 PRIVATE SETTING FOR THE INTERVIEW REQUIRED**

All victims of sex offenses and/or incest should be interviewed in a private setting that provides for sight and sound separation from outside of the room. Only those persons relevant to the investigation should be allowed in the room, as provided by law (Executive Law § 642(2-a)). Interviews should be at the child advocacy center whenever possible.

#### **313.8 MEDICAL EXAMINATIONS**

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility (Social Services Law § 416).

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination. Examinations should be coordinated through the child advocacy center whenever possible.

#### **313.9 DRUG-ENDANGERED CHILDREN**

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

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

The Detective Bureau supervisor should:

- (a) Work with professionals from the appropriate agencies, including CPS, other law enforcement agencies, medical service providers and local prosecutors, to develop community-specific procedures for responding to situations where there are children endangered by their exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the drug task force supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives at the scene.

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

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

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

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

New York requires or permits the following:

#### **313.10.1 PROCESSING REPORTS AND RECORDS**

A written report, on a form prescribed by the OCFS Commissioner, shall be processed and forwarded to the local CPS division within 48 hours after the initial report (Social Services Law § 415).

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

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Social Services Law § 422).

The Department shall release applicable information to a parent, guardian or custodian who was not present when the child was taken into custody by CPS (Social Services Law § 417).

#### **313.10.3 CHILD FATALITY REVIEW TEAMS**

Upon request, a local or regional fatality review team shall have access to all records, except those protected by statutory privilege, within 21 days (Social Services Law § 422-b).

#### **313.10.4 CHILD PROTECTIVE SERVICES ASSISTANCE**

The CPS investigator assigned to check on a child's welfare may request assistance when the parents or custodians refuse to allow access to the home or child. The responding officer shall stand by at the scene to prevent the child from being removed while the CPS investigator secures an immediate court order for access (Social Services Law § 424(6-a)).

### **313.11 TRAINING**

The Department should provide training on best practices in child abuse investigations. The training should include:

- (a) For members tasked with investigating these cases:
  - 1. Participating in multidisciplinary investigations, as appropriate.
  - 2. Conducting forensic interviews.
  - 3. Availability of therapy services for children and families.
  - 4. Availability of specialized forensic medical exams.
  - 5. Cultural competence (including interpretive services) related to child abuse investigations.
  - 6. Availability of victim advocate or guardian ad litem support.

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7. Recognizing abuse that requires mandatory notification to another agency.

## Adult Abuse

### 314.1 PURPOSE AND SCOPE

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

#### 314.1.1 DEFINITIONS

Definitions related to this policy include:

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

**Adult Protective Services** - Serves adults (age 18 and older) who, due to physical or mental impairments are unable to protect themselves from abuse, neglect, financial exploitation or other harm or have no one available who is willing and able to assist responsibly.

### 314.2 POLICY

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

### 314.3 MANDATORY NOTIFICATION

A police officer of the Auburn Police Department shall, and any other member should, notify the Vulnerable Persons Central Registry (VPCR) when the member has reasonable cause to believe that a vulnerable person is being abused. For purposes of notification, a vulnerable person means someone who, due to physical or cognitive disabilities, or the need for services or placement, is receiving services from a facility or provider agency, which may include a group or family care home (Social Services Law § 488; Social Services Law § 491; 18 NYCRR § 433.3).

Notification can be made via the New York State Justice Center Hotline (1-855-373-2122).

Members of the Auburn Police Department should notify Adult Protective Services (APS) when the member suspects that a person with a physical or mental impairment is the subject of adult abuse, which may include any physical abuse, neglect, sexual abuse, stalking, financial exploitation or emotional abuse.

#### 314.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows:

- (a) By calling the adult abuse hotline or contacting the local APS division.
- (b) In cases of abuse of a vulnerable person, by immediately calling the VPCR hotline. As mandated by: (Social Services Law § 491; Social Services Law § 492), the report shall include:
  1. The name and contact information of the abused vulnerable person.



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2. The name and contact information of the person suspected of inflicting the abuse.
3. The name, title and contact information of the member making the report.
4. The name of the personal representative for the vulnerable person, if known.
5. The name and address of the facility or provider agency.
6. The date, time, specific location and description of the incident.
7. The name, title and contact information of individuals who the reporting member reasonably believes have the same information about the abuse as the member.
8. Any other information or documentation that may be helpful to the investigation of the incident.

#### **314.4 INVESTIGATIONS AND REPORTING**

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

Investigations and reports related to suspected cases of adult abuse should address, as applicable:

- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected adult abuse victim is contacted.
- (b) Any statements the victim may have made and to whom he/she made the statements.
- (c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision.
- (d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.
- (e) Whether the victim was transported for medical treatment or a medical examination.
- (f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence or others who may have access to the victim.
- (g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
- (h) Previous addresses of the victim and suspect if known.
- (i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

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

#### **314.5 PROTECTIVE CUSTODY**

Before taking an adult abuse victim into protective custody when facts indicate the adult may not be able to care for him/herself, the officer should make reasonable attempts to contact APS.

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Generally, removal of an adult abuse victim from his/her family, guardian or other responsible adult should be left to the welfare authorities when they are present or have become involved in an investigation.

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

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

### **314.6 INTERVIEWS**

#### **314.6.1 PRELIMINARY INTERVIEWS**

Officers should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation.

#### **314.6.2 DETAINING VICTIMS FOR INTERVIEWS**

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

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

### **314.7 MEDICAL EXAMINATIONS**

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

In cases where the alleged offender is a family member, guardian, agency or entity having legal custody and is refusing to give consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide

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for officers to take the adult for a medical examination, the supervisor should consider other government agencies or services that may obtain a court order for such an examination.

#### **314.8 DRUG-ENDANGERED VICTIMS**

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

##### **314.8.1 SUPERVISOR RESPONSIBILITIES**

The Detective Bureau supervisor should:

- (a) Work with professionals from the appropriate agencies, including APS, other law enforcement agencies, medical service providers and local prosecutors, to develop community-specific procedures for responding to situations where there are adult abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Detective Bureau supervisor that he/she has responded to a drug lab or other narcotics crime scene where an adult abuse victim is present or where evidence indicates that an adult abuse victim lives at the scene.
- (c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the adult.

##### **314.8.2 OFFICER RESPONSIBILITIES**

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

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

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

New York requires or permits the following:

##### **314.9.1 RECORDS BUREAU RESPONSIBILITIES**

The Records Bureau is responsible for:

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

##### **314.9.2 RELEASE OF REPORTS**

Information related to incidents of adult abuse or suspected adult abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy.

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##### **314.10 TRAINING**

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

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

# Discriminatory Harassment

## 315.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation (Labor Law § 201-g). Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

## 315.2 POLICY

The Auburn Police Department is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation. The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits, and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights and privileges it is designed to protect.

The nondiscrimination policies of the Department may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

## 315.3 DEFINITIONS

Definitions related to this policy include:

### 315.3.1 DISCRIMINATION

The Department prohibits all forms of discrimination, including any employment-related action by a member that adversely affects an applicant or member and is based on actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and other classification or status protected by law (Executive Law § 296).

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes; stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or department equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

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##### 315.3.2 RETALIATION

Retaliation is treating a person differently or engaging in acts of reprisal or intimidation against the person because the person has engaged in protected activity, filed a charge of discrimination, participated in an investigation, or opposed a discriminatory practice. Retaliation will not be tolerated (Executive Law § 296; Labor Law § 201-g).

##### 315.3.3 DISCRIMINATORY HARASSMENT

The Department prohibits all forms of discrimination and discriminatory harassment, including sexual harassment (Executive Law § 296; Labor Law § 201-g). It is unlawful to harass an applicant or a member because of that person's sex.

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

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

Sexual harassment also includes any other act or conduct deemed sexual harassment under the state sexual harassment policy (Labor Law § 201-g).

##### 315.3.4 ADDITIONAL CONSIDERATIONS

Discrimination and discriminatory harassment do not include actions that are in accordance with established rules, principles or standards, including:

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission and the New York State Department of Labor, Division of Equal Opportunity Development guidelines.
- (b) Bona fide requests or demands by a supervisor that a member improve his/her work quality or output, that the member report to the job site on time, that the member comply with City or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

##### 315.3.5 UNLAWFUL DISCRIMINATORY PRACTICES AGAINST NON-EMPLOYEES

Unlawful discriminatory practices against non-employees in the workplace or while on-duty (including contractors and persons conducting business with the department) are prohibited (Executive Law § 296-d).

#### **315.4 RESPONSIBILITIES**

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

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

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

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

#### 315.4.1 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment or retaliation are encouraged to contact a supervisor, a manager, the Chief of Police, James Slayton, the Human Resources Benefits Coordinator, Jodie Fishb, or the City Manager. Jeffrey Dygert for further information, direction or clarification.

#### 315.4.2 SUPERVISOR RESPONSIBILITIES

The responsibilities of each supervisor and manager shall include but are not limited to (Labor Law § 201-g):

- (a) Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
- (b) Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
- (c) Ensuring that their subordinates understand their responsibilities under this policy.
- (d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
- (e) Making a timely determination regarding the substance of any allegation based upon all available facts.
- (f) Notifying the Chief of Police or the Human Resources Benefits Coordinator in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

#### 315.4.3 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

- (a) Behavior of supervisors and managers should represent the values of the Department and professional law enforcement standards.



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- (b) False or mistaken accusations of discrimination, harassment or retaliation can have negative effects on the careers of innocent members.

Nothing in this section shall be construed to prevent supervisors or managers from discharging supervisory or management responsibilities, such as determining duty assignments, evaluating or counseling members, or issuing discipline, in a manner that is consistent with established procedures.

#### 315.4.4 COMPLAINTS OF SEXUAL HARASSMENT

Members making a complaint of sexual harassment should be encouraged to use the state's standard complaint form. If a member making a complaint chooses not to use the form, supervisors or managers should document the complaint on the state's standard complaint form with the information provided by the complainant.

#### [Sexual Harassment Complaint Form](#)

#### 315.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination, retaliation or harassment shall be fully documented and promptly and thoroughly investigated.

##### 315.5.1 SUPERVISORY RESOLUTION

Members who believe they are experiencing discrimination, harassment or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

##### 315.5.2 FORMAL INVESTIGATION

If the complaint cannot be satisfactorily resolved through the supervisory resolution process, a formal investigation will be conducted.

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in any investigation.

Formal investigation of the complaint will be confidential to the extent possible and will include but is not limited to details of the specific incident, frequency and dates of occurrences, and names of any witnesses. Witnesses will be advised regarding the prohibition against retaliation, and that a disciplinary process, up to and including termination, may result if retaliation occurs.



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Members who believe they have been discriminated against, or harassed or retaliated against because of their protected status, are encouraged to follow the chain of command but may also file a complaint directly with the Chief of Police, Payroll Administrator, or the City Manager.

#### **315.5.3 ALTERNATIVE COMPLAINT PROCESS**

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. Members who believe that they have been harassed, discriminated, or retaliated against are entitled to bring complaints of employment discrimination to federal, state, and/or local agencies responsible for investigating such allegations. Specific time limitations apply to the filing of such charges. Members are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

Complaints at the state level may be filed with the New York State Division of Human Rights (DHR) or the New York State Supreme Court pursuant to the requirements of Executive Law § 290 et seq. Complaints at the federal level may be filed with the Equal Employment Opportunity Commission (EEOC) pursuant to the requirements of Title VII of the Civil Rights Act of 1964, 42 USC § 2000e et seq. More information regarding filing complaints under state and federal law can be found at the websites for DHR and the EEOC.

#### **315.5.4 INVESTIGATING COMPLAINTS OF SEXUAL HARASSMENT**

All complaints of or information indicating sexual harassment, including those by or against non-employees, should be thoroughly investigated pursuant to the requirements of the State Sexual Harassment Policy for All Employers in New York State (Labor Law § 201-g).

#### **315.6 DOCUMENTATION OF COMPLAINTS**

All complaints or allegations shall be thoroughly documented on the appropriate forms and in a manner designated by the Chief of Police. The outcome of all reports shall be:

- (a) Approved by the Chief of Police, the City Manager or the Human Resources Benefits Coordinator, depending on the ranks of the involved parties.
- (b) Maintained in accordance with the established records retention schedule.

#### **315.6.1 NOTIFICATION OF DISPOSITION**

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

#### **315.7 TRAINING**

All new members shall be provided with a copy of this policy as part of their orientation (Labor Law § 201-g). The policy shall be reviewed with each new member. The member shall certify by signing the prescribed form that the member has been advised of this policy, is aware of, and understands its contents, and agrees to abide by its provisions during the member's term with the Department.

All members shall receive annual training on the requirements of this policy and shall certify by signing the prescribed form that they have reviewed the policy, understand its contents, and agree that they will continue to abide by its provisions.

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##### **315.7.1 SEXUAL HARASSMENT PREVENTION TRAINING**

All members should also participate annually in sexual harassment prevention training. The Training and Planning Administrator should develop this training consistent with the sexual harassment prevention training program established by the Department of Labor and the Division of Human Rights (Labor Law § 201-g).

Each member should receive an additional written copy of this policy at each annual sexual harassment prevention training as well as information presented at the training in writing. The policy and information should be provided in English and in any primary language identified by each member (Labor Law § 201-g).

##### **315.8 POSTING OF POLICY**

This policy and the standard complaint form should be available in all work locations (Labor Law § 201-g).

# Missing Persons

## 316.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

### 316.1.1 DEFINITIONS

Definitions related to this policy include:

**Acquaintance Abduction** - Child who is taken or abducted against their will by a known person to the child or family.

**Adult Federally Required Entry** - Title 42, United States code (USC), Section 5779 (a), states that agencies are required to enter records into the NCIC Missing Person File for missing individuals under the age of 21. In order to comply with this federal law (Suzanne's Law) the Missing Person Circumstance of Adult Federally Required Entry is used.

**Alzheimer's Disease** - A progressive, degenerative disease of the brain in which brain cells die and are not replaced. It results in impaired memory, thinking, and behavior.

**AMBER Alert System** - A cooperative effort between law enforcement and the broadcast media in the event of child abduction. Activation of the system provides immediate emergency broadcasts of descriptive information to the public through a multitude of media outlets.

**At risk** - Persons identified by the New York model policy and data collection guide for missing persons as high-risk or endangered, including persons who:

- (a) Are 13 years of age or younger.
- (b) Regardless of age, are believed or determined to be experiencing one or more of the following circumstances (Executive Law § 837-f-2):
  - 1. Out of the zone of safety for his/her chronological age and developmental stage.
  - 2. Mentally or behaviorally disabled.
  - 3. Drug dependent, including prescribed medication and/or illegal substances, and the dependency is potentially life-threatening.
  - 4. Absent from home for more than 24 hours before being reported to law enforcement as missing.
  - 5. In a life-threatening situation.
  - 6. In the company of others who could endanger his/her welfare.
  - 7. Absent in a way that is inconsistent with established patterns of behavior and cannot be readily explained. Most children have an established and reasonably predictable routine.
  - 8. Involved in a situation that would cause a reasonable person to conclude the person should be considered at risk.
  - 9. Physically disabled.

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10. Missing for any length of time after a catastrophe.
- (c) Qualify for a state AMBER Alert™ (under 18 years of age, abducted and at risk for harm).
- (d) Are college students of any age, when there is reason to believe their well-being may be in jeopardy.
- (e) Are determined to be vulnerable adults (Executive Law § 837-f-1).

**Child Is Missing (ACIM)** (Contact at: 888-875-2246) - A service devoted to assisting law enforcement in the search and early safe recovery efforts of children, the elderly (often with Alzheimer's), disabled persons, and college students via a rapid-response neighborhood alert program utilizing high-tech telephone systems. ACIM will make alert calls (when requested by law enforcement) to the last seen areas, to help find these individuals who can't make rational decisions for themselves. Factors for determining the use of ACIM:

- (a) Juveniles:
  1. The juvenile should be seventeen (17) years old or younger.
  2. The reporting person must be an adult family member, teacher, or another adult who is responsible for the individual.
  3. If the juvenile is a habitual runaway, ACIM will be used if foul play is suspected.
- (b) Senior Citizens:
  1. The person must be sixty-five (65) years of age or older.
  2. ACIM can be used even if an elderly person is a frequent walk-away from a nursing facility.
  3. ACIM can be used for known Alzheimer's patients.
- (c) Disabled Person
  1. There is no age stipulation for a disabled person.
  2. Caution must be used when determining whether a person is truly disabled because there are many definitions of a disabled person. For purposes of ACIM, a disabled person will fall into one of the following categories:
    - (a) The person has a physical or mental impairment that severely limits self-care.
    - (b) The person is disoriented or unable to respond to simple questions.
    - (c) The person is dependent upon life sustaining medication or unconscious.

**Circumstances Unknown** - A child who is reported missing but there are insufficient facts to determine the circumstances.

**Cognitive Disorder** - A mental disability or brain disorder which may include, but are not limited to: Dementia, Alzheimer's, Autism, Down-Syndrome, or a person with Schizophrenia who is suicidal or has another life-threatening illness.

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**Dementia** - A loss of mental ability severe enough to interfere with normal activities of daily living, lasting more than six months, not present since birth, and not associated with a loss or alteration of consciousness.

**Disabled** - A person of any age who is missing and under proven physical disability subjecting himself/herself to personal and immediate danger.

**Disaster Victim** - A person of any age who is missing after a catastrophe.

**Endangered** - A person of any age who is missing under circumstances indicating that his/her physical safety may be in danger.

**Familial Abduction** - A child who is taken, detained, concealed, enticed away, or retained by a parent/family member or person at the request of the parent.

**Family Reference Sample Collection Kit** - A standardized collection kit that provides a safe and effective, noninvasive means for obtaining DNA reference samples from appropriate family members of a missing person. Family reference samples are entered into the FBI's Missing Persons DNA Database Program for comparative purposes. To obtain kit, send request via email: [HUforensics@dcjs.ny.gov](mailto:HUforensics@dcjs.ny.gov)UH.

**Foul Play/Life Threatening** - Child or adult is reported missing and the circumstances give rise to believe the following;

- (a) Foul play may be involved
- (b) The person is a danger to self or others (due to mental, physical or emotional conditions)
- (c) The disappearance is out of character for the person and no known reason can be determined

**High Risk Missing Person** - Refers to a missing child who is 13 years of age or younger, or believed to be one or more of the items noted below:

- (a) Out of the zone of safety for his or her age, developmental stage, and/or physical condition.
- (b) Mentally diminished.
- (c) Drug dependent, including both prescription and illicit substances.
- (d) A potential victim of foul play or sexual exploitation.
- (e) In a life-threatening situation.
- (f) Absent from home for more than 24 hours before being reported to law enforcement as missing.
- (g) Believed to be with others who could endanger his or her welfare.
- (h) Is absent under circumstances inconsistent with established patterns of behavior. or -
- (i) Whose disappearance involves circumstances that would cause a reasonable person to conclude that the child should be considered at risk.

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- (j) Whose disappearance involves circumstances that would cause a reasonable person to conclude that the missing person is considered endangered;
- (k) Any other factor that may indicate, in the judgment of the department, that the missing person may be at risk.

**Involuntary** - A person of any age who is missing under circumstances indicating that the disappearance may not have been voluntary, i.e., abduction or kidnapping.

**Juvenile** - A person under the age of 18 who is missing and not declared emancipated by the law and does not meet the entry criteria set forth in above listed condition types.

**Lead Law Enforcement Agency** -The law enforcement agency with primary responsibility for investigating a missing or unidentified person case.

**LOCATER** - Lost Child Alert Technology Resource - A web-based poster-creation program that provides law enforcement agencies with access to create and distribute their own posters to include Missing Children, Missing Adults, AMBER Alert, Wanted, Crime Alert, and other additional titles. The program allows agencies to distribute posters electronically and transmit the information to other agencies, media outlets, and the general public via Email distribution. Law enforcement agencies are also provided access to LOCATER WebMail to use to communicate with all LOCATER users nationwide.

**Long Term Missing Person** - Any person that has remained the subject of a missing person investigation for over thirty (30) days.

**Long Term Unidentified Person** - Any person, living or deceased that has not been identified through investigation for over thirty (30) days. All human remains that have been recovered and not identified are included in this definition.

**Lost/Wandered Away** - A child who is reported to have strayed or wandered away and whose whereabouts is unknown.

**Missing Adult** - A person who is 18 years of age or older and whose absence is contrary to their normal patterns of behavior.

**Missing Child**- Any person under the age of eighteen years missing from his or her normal and ordinary place of residence and whose whereabouts cannot be determined by a person responsible for the child's care and any child known to have been taken, enticed or concealed from the custody of his or her lawful guardian by a person who has no legal right to do so.

**Missing Child/College Student Alert** - When a missing child or college student is deemed to be endangered, but the case does not meet AMBER Alert activation criteria, an alternative alert system is available. Missing Child/College Student Alert is a cooperative effort between law enforcement and the broadcast media in the event of child abduction. Activation of the system provides immediate emergency broadcasts of descriptive information to the public through a multitude of media outlets.

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**Missing College Student** - Any person under 21 or a college student of any age who is a “student of an institution (college or university) who resides in a facility owned or operated by such institution and who is reported as missing from his or her residence.”

**Missing person** - Any person who is reported missing to law enforcement when that person’s location is unknown. This includes missing children (under the age of 18), whether due to a stranger, familial or acquaintance abduction, as well as runaways and children who are lost or missing under unknown circumstances; college students of any age when there is suspicion that their well-being is in jeopardy; and vulnerable adults or any adult when there is suspicion that their well-being is in jeopardy.

**Missing person networks** - Databases or computer networks that are available to law enforcement and are suitable for obtaining information related to missing person investigations. This includes the National Crime Information Center (NCIC), the New York State Division of Criminal Justice Services (DCJS), New York eJusticeNY Integrated Justice Portal and the New York State Missing Person Clearinghouse (MPC). Requests for a Missing Adult Alert are made by contacting the Missing Persons Clearinghouse at 1-800-346-3543, or [missingpersons@dcjs.ny.gov](mailto:missingpersons@dcjs.ny.gov).

**Missing vulnerable adult** - A person 18 years or older who is missing and has a cognitive impairment, mental disability or brain disorder, and is believed to be at a credible risk of harm (Executive Law § 837-f-1).

**Missing Vulnerable Adult Alert** - Modeled after the AMBER Alert program, a Missing Vulnerable Adult Alert is an emergency system in which law enforcement can broadcast regional or statewide alerts for missing adults 18 years or older who have a cognitive disorder, mental disability or brain disorder and law enforcement has deemed there is a credible risk of harm to such missing individual. Activation of the system provides immediate emergency broadcasts of descriptive information to the public through a multitude of media outlets, including activation of highway signs when there is known vehicle information.

**Other** - Child or adult who is reported missing but there are insufficient facts to determine the circumstances.

**Runaway** - A child under 18 years of age who is reported missing but has left of their own free will or has been rejected or “thrown away” by their family.

**Stranger Abduction** - A child who is taken or abducted against their will by an unknown person or a known person who is not a family member.

**Vulnerable Adult** - A person 18 years or older who is missing and has a cognitive impairment, mental disability or brain disorder and there it is believed the missing individual is at a credible risk of harm. \*Because this Missing Person Condition exists only in the eJusticeNY IJ Portal, the record will default to Disabled when uploaded to NCIC.



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##### **316.2 POLICY**

The Auburn Police Department does not consider any report of a missing person to be routine and assumes that the missing person is in need of immediate assistance until an investigation reveals otherwise. Priority shall be given to missing person cases over property-related cases. Members will initiate an investigation into all reports of missing persons, regardless of the length of time the person has been missing (Executive Law § 838).

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

The Detective Bureau supervisor shall ensure the following forms and kits are developed and available:

- Missing person report forms, including those developed by DCJS
- Missing person investigation checklist that provides investigation guidelines and resources that could be helpful in the early hours of a missing person investigation
- Missing person school notification form
- Medical and dental records release forms
- Biological sample collection kits

##### **316.4 ACCEPTANCE OF REPORTS**

Any member encountering an individual who wishes to report a missing person or runaway shall render assistance without delay. This can be accomplished by accepting the report via telephone or in-person and initiating the investigation. There is no required waiting period for reporting a missing person. A person may be declared "missing" when his/her whereabouts are unknown and unexplainable for a period of time that is regarded by knowledgeable persons as highly unusual or suspicious in consideration of the subject's behavior, pattern, plans, or routines.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any question of jurisdiction.

Questions concerning parental custody occasionally arise in relation to missing children/adolescent incidents. Even under circumstances where custody issues have not been formally established or resolved, this department will accept and investigate all reports of missing children/adolescents, including cases where it can be shown that the child/children/adolescent(s) have (has) been removed, without explanation, from his/her/their usual place of residence. Reporting persons shall be encouraged to obtain clarification of legal custody as soon as possible to assist in the investigation.

##### **316.5 GENERAL INVESTIGATIVE STANDARDS**

- (a) Due to the potential complexity and diverse nature of missing and unidentified person investigations, this type of incident demands swift and effective action by this department.
  1. The key to success is the rapid development of information to disclose the circumstances under which the person is missing or unidentified to determine



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whether foul play or suspicions are in evidence. This facilitates an efficient, logical approach to the investigation.

2. The potential for tragedy demands that supervisors continually monitor the progress of these investigations and be ever vigilant to take command of the situation if the need arises.
- (b) Immediately upon receiving a report of a missing person or unidentified person, a patrol unit shall be assigned and a preliminary investigation shall be conducted.
1. There is no requirement that the reporting person wait for any period of time to report the missing/unidentified person.
  2. Missing persons can be reported in any municipality, regardless of where the missing person permanently resides or where the missing person was last confirmed to have been.
- (c) No missing person report will be denied on the basis that:
1. The missing person is an adult;
  2. The circumstances do not indicate foul play;
  3. The circumstances suggest that the disappearance may be voluntary;
  4. The person reporting the missing person does not have personal knowledge of the facts;
  5. The missing person is a visitor to this jurisdiction;
  6. The reporting person cannot provide all of the information requested;
  7. The reporting person lacks a familial or other relationship with the missing person; or
  8. For any other reason, except where there is direct knowledge that the person is in fact not missing and the exact whereabouts and welfare of the missing person are known at the time the report is being made.
- (d) Communications personnel shall ensure that the following minimum steps are taken:
1. Obtain basic facts, details, and a brief description of the missing person/child and abductor, if applicable;
  2. If possible, ascertain what type of footwear the subject was wearing. This can aid in identifying shoe prints that might belong to the missing subject.
  3. Dispatch a patrol unit to the caller's location to conduct a preliminary investigation;
    - (a) If the caller is at a place other than the location from which the subject is missing, an additional patrol unit shall be dispatched to the place last seen. After dispatching the appropriate units, communications personnel should continue to collect additional information for relay to responding units.
  4. Search past history logs for previous incidents related to activity in the area, paying special attention to reports of prowlers, lewdness, attempted abduction, etc. Make responding units aware of this information;

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5. Broadcast all known detail to patrol units. Expand the notification to surrounding communities, counties, or states as the need arises including, but not limited to possible abductor information, where applicable;
  - (a) If the missing person is considered an at risk or emergency situation, a critical responsibility of the call-taker is to obtain sufficient information from the reporting party when the initial call is received and to broadcast a radio message that:
    1. Alerts other officers about the circumstances of the person's disappearance; and
    2. Includes information as to the person's height, weight, hair and eye color and clothing, as well as the location where the person was last seen.
6. Make the necessary, timely notifications;
7. Run a Computerized Criminal History (CCH), and a Department of Motor Vehicle (DMV) Inquiry on the Missing Person, and attach all results to the NCIC Missing Person's Entry;
8. Enter the Missing Person into the DCJS/NCIC via the eJusticeNY IJ Portal system as quickly as possible. If the complete personal details are not known, make the initial NCIC entry and then modify the entry as additional details are developed. Update computer and database entries as needed;
9. Depending on the circumstances of the investigation, consider notification to the media through the designated Public Information Officer;
10. Depending on the circumstances of the investigation, disseminate a LOCATER poster
11. Depending on the circumstances of the investigation, contact the NYSP for an AMBER Alert or DCJS for a Missing Child/College Student Alert or a Vulnerable Adult Alert.

#### [Additional Investigative Standards](#)

#### [Ancillary Procedures - Missing Persons](#)

#### [Missing Person Search Procedures](#)

### **316.6 INITIAL INVESTIGATION**

Officers or other members conducting the initial investigation of a missing person should take the following investigative actions, as applicable:

- (a) Respond to a dispatched call as soon as practicable.
- (b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.

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- (c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).
- (d) Broadcast an alert if the person is under 21 years of age and deemed to be endangered or there is evidence that the missing person is at risk (see the Public Alerts Policy). The alert should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 21 years of age and endangered or may otherwise be at risk (Executive Law § 221).
- (e) Ensure that entries are made into the appropriate missing person networks:
  - 1. Immediately, when the missing person is at risk.
  - 2. Without delay, when it involves a missing child (9 NYCRR § 6055.3).
  - 3. In all other cases, as soon as practicable, but not later than two hours from the time of the initial report (34 USC § 41308).
- (f) Complete the appropriate report forms accurately and completely and initiate a search as applicable under the facts.
- (g) Collect and/or review:
  - 1. A photograph and fingerprint card of the missing person, if available.
  - 2. A voluntarily provided biological sample of the missing person, if available and necessary (e.g., toothbrush, hairbrush).
  - 3. Any documents that may assist in the investigation, such as court orders regarding custody.
  - 4. Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).
- (h) When circumstances permit and if appropriate, attempt to determine the missing person's location through their telecommunications carrier.
- (i) Contact the appropriate agency if the report relates to a missing person report previously made to another agency and that agency is actively investigating the report. When this is not practicable, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.

#### **316.7 FAMILY ABDUCTIONS**

In the case of a family abduction, investigators must consider the complexity of the circumstances of the reported abduction (e.g., the manner in which it was committed and whether violence, threat of violence, a deadly weapon, or other dangerous behavior or circumstance was involved), as well as any available background information about the abductor and his/her relationship to the child and any history of prior abductions, custody disputes, domestic violence or child abuse. Furthermore, when assessing the totality of the known circumstances, law enforcement officials responding to a report of a family abduction may need to consider the possibility that the person reporting the abduction has a motive to overstate the risk of physical harm posed to the child

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in order, for example, to gain an advantage in ongoing or contemplated matrimonial or custody rights litigation.

In family abduction cases, investigators should consider the following specific circumstances, when information about these circumstances is available:

- (a) Whether any threats of harm to the child were made by the abductor at any time before the abduction, or during the course of the abduction (including implied threats such as "if I can't have custody, then no one will");
- (b) Any past history of violence by the abductor directed against the child, or abuse or neglect of the child, or any other child;
- (c) Whether violence or threat of violence was used in committing the abduction, and whether force was used or directed against the child (e.g., the child resisted or tried to escape), or put the child at immediate risk of harm, even if the force was directed against another (e.g., the use or threatened use of a firearm or other weapon; assault by auto, motor vehicle eluding or reckless driving, etc.);
- (d) Whether there is a family history of domestic violence or child abuse, or a history of custody disputes or past abductions;
- (e) Whether the abductor has a past history of violence or weapons offenses;
- (f) Whether the abductor is believed to be armed;
- (g) Whether the abductor is believed to be under the influence of alcohol or drugs;
- (h) Whether the abductor has a history of alcohol or other substance abuse;
- (i) Whether the abductor has a history of mental illness;
- (j) Whether the abductor was acting irrationally (e.g., uncontrolled rage, desperation, or panic);
- (k) Whether the child and/or abductor have pre-existing medical and/or health conditions, which, if unmonitored and/or untreated, could impact on the welfare of the child;
- (l) Any other facts or circumstances that suggest that the abductor might intentionally or unintentionally harm the child, or expose the child to a dangerous situation.

#### Parental Abduction out of the United States Procedure

### **316.8 REPORT PROCEDURES AND ROUTING**

Members should complete all missing person reports and forms promptly and advise the appropriate supervisor as soon as a missing person report is ready for review.

#### **316.8.1 OFFICER REPORTING PROCEDURES**

Without delay, the investigating officer shall prepare the necessary reports and complete appropriate forms made necessary by the investigation. These reports and forms include, but are not limited to:

- (a) Missing Persons Report
- (b) Initial Investigative Report

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- (c) Missing Person Report Form for DCJS/NCIC Record entry
  - 1. Complete this form, including determination of the applicable DCJS/NCIC Missing Person file category (i.e. endangered, involuntary, disability, juvenile, vulnerable adult, non-specific) and ensure that entry into the DCJS / NCIC database is promptly completed.
  - 2. A missing person must meet appropriate criteria for entry into DCJS/NCIC and written authorization is required from a person with appropriate authority in order to authorize the entry into DCJS/NCIC.
- (d) Appropriate supplemental investigative reports.

#### 316.8.2 SUPERVISOR RESPONSIBILITIES

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

- (a) Reviewing and approving missing person reports upon receipt.
  - 1. The reports should be promptly sent to the Records Bureau and Detective Bureau for possible follow-up.
- (b) Ensuring resources are deployed as appropriate.
- (c) Initiating a command post as needed.
- (d) Ensuring applicable notifications and public alerts are made and documented (see the Public Alerts Policy).
- (e) Ensuring that records have been entered into the appropriate missing person networks.
- (f) Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.
  - 1. If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

#### 316.8.3 RECORDS BUREAU RESPONSIBILITIES

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

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

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- (f) Ensuring that a list of closed missing person cases is submitted to the DCJS twice a year (Executive Law § 837-m).
- (g) Ensuring that regulations and policies required by missing person networks are followed (9 NYCRR § 6055.2).
- (h) Forwarding reports to the New York State Violent Crimes Analysis Program (VICAP) as required by Executive Law § 221-b.

#### **316.9 DETECTIVE BUREAU FOLLOW-UP**

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

- (a) Should ensure that the missing person's school is notified within 10 days if the missing person is a juvenile.
  - 1. The notice shall be in writing and should also include a photograph.
  - 2. The detective should meet with school officials as appropriate to stress the importance of including the notice in the child's student file, along with the investigator's contact information, if the school receives a call requesting the transfer of the missing child's files to another school (Education Law § 3222).
- (b) Should recontact the reporting party and/or other witnesses within 30 days of the initial report and within 30 days thereafter to keep them informed, as appropriate, and to determine if any additional information has become available.
- (c) Should consider contacting other agencies involved in the case to determine if any additional information is available.
- (d) Shall verify and update DCJS, NCIC, and any other applicable missing person networks within 30 days of the original entry into the networks and every 30 days thereafter until the missing person is located (34 USC § 41308).
- (e) Should continue to make reasonable efforts to locate the missing person and document these efforts at least every 30 days.
- (f) Shall maintain a close liaison with state and local child welfare systems and the National Center for Missing and Exploited Children (NCMEC) if the missing person is under the age of 21 and shall promptly notify NCMEC when the person is missing from a foster care family home or childcare institution (34 USC § 41308).
- (g) Should make appropriate inquiry with the Coroner.
- (h) Shall obtain and forward medical records, dental records, photos, X-rays, and biological samples, as applicable (Executive Law § 838).
- (i) Shall attempt to obtain the most recent photograph for persons under 18 years of age if it has not been obtained previously and forward the photograph to any other agency that is a stakeholder or requires them, including DCJS, and enter the photograph into applicable missing person networks (34 USC § 41308).
- (j) Shall consider making appropriate entries and searches in the National Missing and Unidentified Persons System (NamUs).

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- (k) In the case of an at-risk missing person or a person who has been missing for an extended time, should consult with a supervisor regarding seeking federal assistance from the FBI and the U.S. Marshals Service (28 USC § 566).
- (l) Shall prepare a written report, in the form prescribed by VICAP, where circumstances indicate a strong possibility of foul play, within 30 days of beginning the missing person investigation (Executive Law § 221-b).

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

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

The command officer should ensure that, upon receipt of information that a missing person has been located, the following occurs:

- (a) Notification is made to the agency or the agencies that are stakeholders in missing person cases, including DCJS.
- (b) The missing child's school is notified.
- (c) Entries are made in the applicable missing person networks.
- (d) When a person is at risk, the fact that the person has been found should be reported to DCJS as soon as possible.
- (e) Notification shall be made to any other law enforcement agency that took the initial report or participated in the investigation.
- (f) Appropriate missing person files are purged and destroyed as required (Executive Law § 837-e; Executive Law § 838).

#### [Returned / Located Missing Persons Procedure](#)

##### **316.10.1 UNIDENTIFIED PERSONS**

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

- (a) Obtain a complete description of the person.
- (b) Enter the unidentified person's description into the NCIC Unidentified Person File.
- (c) Use available resources, such as those related to missing persons, to identify the person.

#### [Unidentified / Deceased Investigative Guidelines](#)

##### **316.11 CASE CLOSURE**

The supervisor may authorize the closure of a missing person case after considering the following:

- (a) Closure is appropriate when the missing person is confirmed returned or evidence matches an unidentified person or body.



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

#### **316.12 TRAINING**

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

- (a) The initial investigation:
  - 1. Assessments and interviews
  - 2. Use of current resources, such as Mobile Audio/Video (MAV)
  - 3. Confirming missing status and custody status of minors
  - 4. Evaluating the need for a heightened response
  - 5. Identifying the zone of safety based on chronological age and developmental stage
- (b) Briefing of department members at the scene.
- (c) Identifying NCIC Missing Person File categories (e.g., disability, endangered, involuntary, juvenile and catastrophe).
- (d) Verifying the accuracy of all descriptive information.
- (e) Initiating a neighborhood investigation.
- (f) Investigating any relevant recent family dynamics.
- (g) Addressing conflicting information.
- (h) Key investigative and coordination steps.
- (i) Managing a missing person case.
- (j) Additional resources and specialized services.
- (k) Update procedures for case information and descriptions.
- (l) Preserving scenes.
- (m) Internet and technology issues (e.g., internet use, cell phone use).
- (n) Media relations.



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### **316.13 PARTNER AGENCY CONTACT**

[Partner Agency References / Contact Information](#)

## Public Alerts

### 317.1 PURPOSE AND SCOPE

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

### 317.2 POLICY

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

### 317.3 RESPONSIBILITIES

#### 317.3.1 MEMBER RESPONSIBILITIES

Members of the Auburn Police Department should notify their supervisors, Shift Commander or Detective Bureau supervisor as soon as practicable upon learning of a situation where public notification, a warning or enlisting the help of the media and the public could assist in locating a missing person, apprehending a dangerous person, providing sheltering information or gathering information.

#### 317.3.2 SUPERVISOR RESPONSIBILITIES

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

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

- (a) Updating alerts.
- (b) Canceling alerts.
- (c) Ensuring all appropriate reports are completed.

### 317.4 AMBER ALERTS™

AMBER Alerts™ are used to provide a statewide system for the rapid dissemination of information regarding abducted children.

The New York State AMBER Alert Plan can be activated when an investigating law enforcement agency has reasonable cause to believe that:

- (a) An abduction of a child (under the age of 18) has occurred, and
- (b) the child is believed to be in danger of serious bodily harm or death, either due to the actions of another or due to a proven mental or physical condition.

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- (c) Even if formal activation criteria have been met, activation may be impractical if available information is not specific enough and/or an extended period of time passed since the disappearance.
- (d) For example, an AMBER Alert specifying involvement of a white van (without a license plate number) could actually hinder an investigation by causing the public to inundate police agencies with possible sightings.
- (e) Note that "Reasonable Cause to Believe" means that from eyewitness accounts, OR by eliminating other possibilities, your investigation leads you to believe that a child has been abducted.
- (f) Familial abductions qualify only if a child is endangered by the actions of the abducting family member.
- (g) Contact the NYSP Communications Section (COMSEC) 518-457-6811 if a case may qualify for an AMBER Alert.
- (h) Whenever an AMBER Alert request does not meet activation criteria, requesting agencies are referred to other NYSP investigative resources and to the NYS DCJS Missing Persons Clearinghouse (MPC) for possible issuance of a Missing Child/ College Student Alert.

#### [Amber Alert Procedure](#)

#### [AMBER Alert Informational Booklet](#)

#### [AMBER Alert Submission Form](#)

#### 317.4.1 CRITERIA

The following criteria are utilized to determine if an AMBER Alert should be issued:

- (a) The person is under 18 years of age.
- (b) The person is reported as abducted.
- (c) The person is in danger of serious bodily harm or death as a result of another person, or due to a health condition.

#### 317.4.2 PROCEDURE

The following is the procedure for initiating an AMBER Alert:

- (a) Enter the victim and abductor into the New York State Division of Criminal Justice Services/National Crime Information Center (DCJS/NCIC) or eJusticeNY Integrated Justice Portal.

#### **317.5 MISSING CHILD**

Missing Child Alerts are used for missing children under the age of 21 who do not meet the AMBER Alert criteria.

#### 317.5.1 CRITERIA

The following criteria are utilized to determine if a Missing Child Alert should be issued:

- (a) The missing child is under the age of 21 (42 USC § 5779).

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- (b) The missing child is deemed to be endangered.
- (c) The missing child does not meet AMBER Alert criteria.

#### 317.5.2 PROCEDURE

The following is the procedure for initiating a Missing Child Alert:

- (a) Obtain descriptive information for a Missing Child Alert.
- (b) Contact the DCJS Missing Persons Clearinghouse (MPC) at 1-800-346-3543, or [missingpersons@dcjs.ny.gov](mailto:missingpersons@dcjs.ny.gov), and request to activate an alert.
- (c) Obtain a photograph of the missing child and email a copy to the MPC.
- (d) Enter the missing child into DCJS/NCIC via eJusticeNY.

#### 317.6 MISSING VULNERABLE ADULTS

Missing Vulnerable Adult Alerts are used to provide a statewide system for the rapid dissemination of information regarding a missing adult who suffers from mental impairment, disability or disorder and is believed to be at risk of harm (Executive Law § 837-f-1).

**Missing Vulnerable Adult** - A person 18 years or older who has a cognitive impairment, mental disability, or brain disorder and whose disappearance has been determined by law enforcement to pose a credible threat of harm to such a missing individual.

**Missing Vulnerable Adult Alert** - Modeled after the AMBER Alert program, a Missing Vulnerable Adult Alert is an emergency system in which law enforcement can broadcast regional or statewide alerts for missing adults 18 years or older who have a cognitive disorder, mental disability or brain disorder and law enforcement has deemed there is a credible risk of harm to such missing individual. Activation of the system provides immediate emergency broadcasts of descriptive information to the public through a multitude of media outlets, including activation of highway signs when there is known vehicle information.

Requests for a Missing Adult Alert are made by contacting the Missing Persons Clearinghouse at 1-800-346-3543, or [missingpersons@dcjs.ny.gov](mailto:missingpersons@dcjs.ny.gov).

#### [Vulnerable Adult Alert Plan](#)

#### 317.6.1 CRITERIA

The following criteria are utilized to determine if a Missing Vulnerable Adult Alert should be issued:

- (a) The missing person is 18 years of age or older.
- (b) The missing person suffers from a cognitive impairment, mental disability or a brain disorder.
- (c) The person's disappearance is believed to pose a credible threat of harm to the individual.

#### 317.6.2 PROCEDURE

The following is the procedure for initiating a Missing Vulnerable Adult Alert:

- (a) Obtain descriptive information for a Missing Vulnerable Adult Alert.

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- (b) Contact the MPC at 1-800-346-3543 or [missingpersons@dcjs.ny.gov](mailto:missingpersons@dcjs.ny.gov), and request to activate an alert.
- (c) Obtain a photograph of the missing adult and email a copy to the MPC.
- (d) Enter the missing adult into DCJS/NCIC via eJusticeNY.

#### **317.7 MISSING COLLEGE STUDENT**

Missing College Student Alerts are used for missing college students of any age who do not meet the AMBER Alert criteria.

##### **317.7.1 CRITERIA**

The following criteria are utilized to determine if a Missing College Student Alert should be issued:

- (a) The missing person is a college student of any age.
- (b) The missing student is deemed to be endangered.
- (c) The missing student does not meet AMBER Alert criteria.

##### **317.7.2 PROCEDURE**

The following is the procedure for initiating a Missing College Student Alert:

- (a) Obtain descriptive information for a Missing College Student Alert.
- (b) Contact the MPC at 1-800-346-3543 or [missingpersons@dcjs.ny.gov](mailto:missingpersons@dcjs.ny.gov), and request to activate an alert.
- (c) Obtain a photograph of the missing student and email a copy to the MPC.
- (d) Enter the missing student into DCJS/NCIC via eJusticeNY.

#### **317.8 NEW YORK ALERT SYSTEM**

NY-Alert is used to provide a statewide system for the rapid dissemination of information to the public of any of the above alerts as well as severe weather warnings, transportation hazards, consumer hazards, public health issues, earthquake hazards, sex offender notifications, terrorism advisories and other public safety concerns. The system allows recipients to receive the alerts by way of email, text, phone (landline and cell), fax, Twitter accounts and pager. Details, use protocols and procedures are available online.

#### **317.9 PARTNER AGENCY CONTACT**

[Partner Agency References / Contact Information](#)

#### **317.10 BLUE ALERTS**

Blue Alerts are used to provide a regional or statewide system for the rapid dissemination of information to aid in the identification, location, and apprehension of individuals suspected of killing or seriously wounding an officer, or who pose an imminent threat to an officer (Executive Law § 837-w).

##### **317.10.1 CRITERIA**

The following criteria are utilized to determine if a Blue Alert should be issued:

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- (a) An officer has been seriously injured or died in the line of duty and the suspect has fled the scene.
- (b) An officer is missing in connection with the officer's official duties.
- (c) There is an imminent and credible threat that an individual intends to cause serious injury or death of an officer.

#### 317.10.2 PROCEDURE

If a member believes a case meets the criteria for a Blue Alert, if applicable, they must:

- (a) Enter a Missing Persons Message (File 6) in the EJustice Portal and follow the prompts for requesting additional assistance.
- (b) Contact the New York State Police Communications Section (COMSEC) at (518) 457-6811 to report the incident to a member of the Investigative Support Unit.
  - 1. Non-emergency inquiries regarding any of their alerts (AMBER, Abducted Adult, or Blue Alert) programs may be directed to the NYSP Investigative Support Unit at (518) 786-2100.

## Victim and Witness Assistance

### 318.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that crime victims and witnesses receive appropriate assistance, that they are provided with information from government and private resources, and that the agency meets all related legal mandates.

### 318.2 POLICY

The Auburn Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the Auburn Police Department will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy. See also related policy, Law Enforcement-Based Victim Specialist.

### 318.3 CRIME VICTIM LIAISON

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

#### 318.3.1 CRIME VICTIM LIAISON DUTIES

As of February 19th, 2020 the Auburn Police Department in partnership with Cayuga Counseling Services has embarked on a three year partnership through a grant by the Office of Justice Assistance creating a Victim Specialist position. This position will be the primary crime victim liaison while the grant funding supports the position. When the grant funding expires and/or if the position is no longer funded by the City of Auburn or Cayuga Counseling Services then the primary crime victim assistant will revert back to the Detective Bureau supervisor in coordination with the Cayuga County District Attorney's Office Victim and Witness Coordinator as the department's primary crime victim liaison.

The crime victim liaison shall maintain an appropriate supply of the crime victim publications offered by the New York State Office of Victim Services and the Department of Health. The crime victim liaison shall also ensure that the crime victim information posters required by Executive Law § 625-a are prominently displayed at public access locations within the Department.

The crime victim liaison shall also be responsible for ensuring that department investigation report forms are current and include a space to designate whether a person received information on victim's rights (Executive Law § 625-b).

The crime victim liaison shall be responsible for receiving and coordinating a response to inquiries from victims concerning the status of testing sexual offense evidence kits (Executive Law § 838-a; Executive Law § 838-b).



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### **318.4 CRIME VICTIMS**

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

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

#### **318.4.1 SPECIFIC REQUIREMENTS REGARDING VICTIMS**

Officers are required to provide crime victim rights and assistance information when receiving any report of a crime (Executive Law § 625-a; Public Health Law § 2805-i; Executive Law § 838-a).

When encountering a person who appears to be or identifies as a human trafficking victim, officers shall (Social Services Law § 483-cc; 9 NYCRR § 6174.3):

- (a) Notify the Office of Temporary and Disability Assistance and the Division of Criminal Justice Services, on a form and in a manner prescribed by the Division as soon as practicable.
- (b) Promptly provide the victim with information about available social and legal service providers from the list provided by the local department of social services.
- (c) Make reasonable efforts to communicate with the victim by providing written material in a language understood by the person or by using an interpreter.
- (d) Offer to contact a social or legal service provider and facilitate a connection unless the victim declines the offer for a representative.

### **318.5 VICTIM INFORMATION**

The Training and Planning Administrator shall ensure that victim information handouts are available and current. These should include as appropriate:

- (a) Shelters and other community resources for victims of domestic violence which may be satisfied by the New York State Standardized Domestic Incident Report (Family Court Act § 812; CPL § 530.11).
  - 1. This should include services that may be available to a victim of domestic violence under the Domestic Violence Prevention Act (Social Services Law 459-a et seq.).
- (b) Community resources for victims of sexual assault, including the name, address and phone number of the nearest rape crisis center (Executive Law § 642).
  - (a) If the victim is a juvenile, this information should also be provided to a parent or other person responsible for the juvenile's care, if appropriate.
- (c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Executive Law § 631).

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- (d) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
- (e) A clear explanation of relevant court orders and how they can be obtained.
- (f) Information regarding available compensation for qualifying victims of crime (Executive Law § 624; Executive Law § 625-a).
- (g) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.
- (h) Notice regarding U visa and T visa application processes.
- (i) Resources available for victims of identity theft.
- (j) A place for the officer's name, badge number and any applicable case or incident number.
- (k) Information regarding the rights the victim has under the Fair Treatment Standards for Crime Victims provisions (Executive Law § 641 et seq.; 9 NYCRR § 6170.4).
- (l) Information regarding the crime witness protection program (9 NYCRR § 6171.2).
- (m) Sexual assault victim bill of rights handout published by the Department of Health (Public Health Law § 2805-i)

#### **318.6 WITNESSES**

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

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

#### **318.7 WITNESS INFORMATION**

The Training and Planning Administrator shall ensure that witness information handouts are available and current. These should include as appropriate:

- (a) A place for the officer's name, badge number and any applicable case or incident number.
- (b) Information regarding the rights the witness has under the Fair Treatment Standards for Crime Victims provisions (Executive Law § 641 et seq.; 9 NYCRR § 6170.4).
- (c) Information regarding the crime witness protection program (9 NYCRR § 6171.2).

#### **318.8 TRAINING**

The Training and Planning Administrator shall ensure that the Crime Victim Liaison receives training in trauma and victim response through a program meeting minimum standards established by the Division of Criminal Justice Services (Executive Law § 838-a).

## Hate Crimes

### 319.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

#### 319.1.1 DEFINITIONS

Definitions related to this policy include (Penal Law § 485.05):

**Hate crime** - A crime motivated by prejudice based on actual or perceived race, color, religion, religious practice, age, national origin, ethnicity, gender, sexual orientation, gender identity or expression, ancestry, or disability of the victim.

### 319.2 POLICY

The Auburn Police Department recognizes and places a high priority on the rights of all individuals guaranteed under the state and federal constitution and incorporated in state and federal law.

### 319.3 PREVENTION AND PREPARATION

Hate crimes are viewed in the community not only as a crime against the targeted victim(s), but also as a crime against the victim's identification group as a whole. Working constructively with segments of this larger community after such crimes is essential to help reduce fears, stem possible retaliation, prevent additional hate crimes, and encourage any other previously victimized individuals to step forward and report those crimes. This is particularly important if an upward trend has been identified in these crimes. Towards this end, this agency's community relations function, or officers so assigned, shall perform the following:

- (a) Provide victim(s) with a point of contact in the department to whom they can direct questions or concerns, and keep them informed of the case progress including the end result of the investigation or prosecution.
- (b) Protect the privacy of the victim and their families as much as possible.
- (c) Provide any direct assistance reasonably possible and referral assistance to the victim and the family of the victim.
- (d) Meet with neighborhood groups, residents in target communities and other identified groups, to allay fears, emphasize the agency's concern over this and related incidents, reduce the potential for counter-violence and reprisals, and provide safety, security, and crime prevention information.
- (e) Engage the media as partners in restoring victimized communities through sensitive and accurate reporting. Information regarding hate crimes should be prepared for the media in an accurate and timely manner.
- (f) Conduct public meetings or forums designed to address the community-wide impact of hate crime and violence in general.

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#### *Hate Crimes*

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- (g) Establish liaisons with formal community-based organizations and leaders to mobilize resources that can be used to assist victims and prevent future hate incidents and crimes.
- (h) Expand, where appropriate, preventive programs such as hate, bias, and crime reduction seminars for school children.

While it is recognized that not all crime can be prevented, this department is committed to taking a proactive approach to preventing and preparing for likely hate crimes by:

- (a) Making an affirmative effort to establish contact with persons and groups within the community who are likely targets of hate crimes, and forming networks that address prevention and response.
- (b) Providing victim assistance and community follow-up or identifying available resources to do so.
- (c) Educating community and civic groups about hate crime laws.

#### **319.4 INVESTIGATIONS**

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

- (a) Assigned officers and/or detectives should promptly contact the victim, witness or reporting party to investigate the matter further, as circumstances may dictate.
- (b) A supervisor should be notified of the circumstances as soon as practicable.
- (c) Once the in-progress aspect of any such situation has been stabilized (e.g., treatment of victims or arrest of suspects at the scene), the assigned officers and/or detectives should take reasonable steps to preserve evidence that establishes a possible hate crime.
- (d) Based upon available information, officers and/or detectives should take appropriate action to mitigate further injury or damage to potential victims or the community.
- (e) Depending on the situation, the assigned officers or supervisor may request assistance from investigators or other resources.
- (f) The assigned officers and/or detectives should interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate crime.
- (g) The assigned officers and/or detectives should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as required by the Victim and Witness Assistance Policy.
- (h) The assigned officers and/or detectives should include all available evidence indicating the likelihood of a hate crime in the relevant reports. All related reports should be clearly marked "Hate Crime."
- (i) The assigned officers and/or detectives and supervisor should take reasonable steps to ensure that any such situation does not escalate further and should provide information to the victim regarding legal aid.

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#### Hate Crime Investigation Considerations

#### Incident Reports - Hate Crimes

##### 319.4.1 RECOMMENDED STEPS WHEN SUSPECT NOT IN CUSTODY OR HAS NOT BEEN IDENTIFIED

- (a) Coordinate investigation with other department units
- (b) work with analyst or Regional Crime Analysis Center to research leads and prepare bulletin
- (c) Conduct extensive canvass and distribute bulletins in areas of the incident
- (d) Debrief individuals arrested in the area
- (e) Work with media to attempt to garner witnesses and investigative leads
- (f) Follow-up leads in a timely manner.

##### 319.4.2 SUPERVISOR RESPONSIBILITIES

The supervisor shall confer with the initial responding officer(s), take measures to ensure that necessary preliminary actions have been taken, and make appropriate departmental notifications as necessary. The supervisor shall request any appropriate additional personnel necessary to accomplish the following:

- (a) Provide immediate assistance to the crime victim.
  - 1. Express the law enforcement agency's official position on the importance of these cases, and describe the measures that will be taken to apprehend the perpetrators.
  - 2. Express the department's interest in protecting victims' anonymity whenever possible.
  - 3. Allow the victim a period in which to express his or her immediate concerns and express his or her feelings.
  - 4. Communicate with concerned community-based organizations, civic groups, and religious institutions regarding the suspected or confirmed bias incident.
  - 5. Identify individuals or agencies that may provide support and assistance. These may include family members or close acquaintances, a family clergyman or departmental chaplain, as well as community service agencies that provide victim assistance, shelter, food, clothing, child care, or other related services. Provide information regarding New York State Crime Victims Board (Pages 8-9 of this PPM).
  - 6. Tell the victim about the probable sequence of events in the investigation and prosecution.
  - 7. Explain security measures and precautions to the victim.
- (b) Ensure that officers and investigator conduct a thorough preliminary investigation.

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- (c) Ensure that all relevant facts are documented on an incident or arrest report or both and make an initial determination as to whether the incident should be classified as a hate crime.
- (d) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
- (e) Take preventive measures to ensure the safety of the victim.

#### 319.4.3 DETECTIVE BUREAU RESPONSIBILITIES

If a hate crime case is assigned to the Detective Bureau, the assigned investigator will be responsible for:

- (a) Coordinating further investigation with the District Attorney and other appropriate law enforcement agencies.
- (b) Maintaining contact with the victim and other involved individuals, as needed.
- (c) Maintaining statistical data and tracking of suspected hate crimes, as indicated or required by state law (Executive Law § 837).

#### 319.4.4 RECORDS DEPARTMENT RESPONSIBILITIES

- (a) Assist department in complying with state hate crime reporting requirements
  1. Submit all incidents of reported hate crimes to DCJS each month using the E-Justice portal.
    - (a) If no hate crimes were reported, the "Nothing to Report" (NTR) box is checked.

#### 319.4.5 SPECIFIC NOTATIONS

When a person is convicted of a hate crime and the specified offense is a misdemeanor or class C, D or E felony, the hate crime will be deemed to be one category higher than the offense actually committed (Penal Law § 485.10). Notice that the crime charged is a hate crime must be indicated on the accusatory instrument. The factual part of the instrument should contain facts supporting the determination the crime is a hate crime. The accusatory part of the instrument should give notice to the court by using an "H" designation at the end of the statute citation. For example, an accusatory instrument for criminal mischief in the fourth degree determined to be a hate crime would appear as Penal Law § 145.00(1 H) and cited as "Criminal mischief in the fourth degree as a Hate Crime."

As the Legislature made clear in the language of Penal Law section 485.00, the victim of a hate crime is society as a whole. It is apparently for that reason that the hate crime statute does not require specification of any particular person, only "a person." It is the attribute of the protected class (i.e., sex, race, sexual orientation, etc.), not the name of any particular individual member or members of that class which is of importance. Accordingly, the manner in which to allege a hate crime is to set forth the particular attribute of the protected class which is claimed to have motivated the defendant, and not name any particular person or persons. The indictment can simply allege

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that the defendant committed the underlying crime in whole or in substantial part because of a belief or perception of the race, or sex, or sexual orientation, etc, of "a person." Likewise, when alleging aggravated harassment in the first degree, the accusatory instrument need only allege prohibited conduct directed toward a class of individuals.

The accusatory paperwork filed with the court should also list the "H" designator. The narrative portion of the accusatory incident must include the elements and facts of the crime that demonstrate that the victim was intentionally selected or the act was intentionally committed because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation.

#### 319.4.6 ESTABLISHING MOTIVE

During an investigation, members should look for possible signs that the incident may be a hate crime:

- (a) The motivation of the perpetrator or lack of motive.
- (b) Statements made by the perpetrator.
- (c) The presence of multiple perpetrators.
- (d) The display of offensive symbols, words, or acts.
- (e) Was any hate literature found in the possession of the suspect?
- (f) Social media activity that shows evidence of bias motivation.
- (g) Tattoos, clothing, paraphernalia, or jewelry suggesting identification by the perpetrators with an organized hate group.
- (h) Was the victim the only person of a particular group at a park or facility?
- (i) Was the victim from a different racial, ethnic, or religious group from the perpetrator?
- (j) The absence of any motive. The brutal nature of a particular incident could denote a hate crime, particularly when the perpetrator and victim don't know each other.
- (k) The perpetrator's perception of the victim, whether accurate or not.
- (l) The date, time, or circumstances of the occurrence, such as on a religious holiday or at a gathering of a group of people affiliated by ethnicity, religion, or sexual orientation.
- (m) Multiple incidents occurring in a short time period with all the victims from the same identifiable group.
- (n) Were the real intentions of the perpetrator racial, color, religious, or ethnic oriented, or were there other reasons such as pranks, unrelated vandalism, or a dispute arising out of a non-bias-related disagreement?
- (o) The incident occurred in proximity to an establishment that could be associated with one of the protected classes.
- (p) The perpetrator targeted a particular portion of the victim's body (e.g., Sikh victims forcibly having their hair cut, a victim targeted for their sexual orientation being attacked near or around their genitalia).



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- (q) The victim's perception that they were selected because they are a member of an identifiable group.

#### **319.5 TRAINING**

All members of this department should receive training on hate crime recognition and investigation.

Training should include:

- (a) Guidance for the investigation of hate crimes available through the New York State Division of Criminal Justice Services.
- (b) The components of Penal Law § 485.05 and Penal Law § 485.10 and related case law, including:
  - 1. Notice that the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, or sexual orientation of the suspect, the victim, or both the suspect and the victim does not, by itself, constitute legally sufficient evidence of a hate crime.
  - 2. Notice that the mere mention of a bias remark does not make an incident bias-motivated, just as the absence of a remark does not make an incident without bias.
  - 3. An explanation of how enhanced sentences relate to the specified offenses on which they are based.
  - 4. Related definitions, including age, disability, and gender identity or expression.
- (c) Supervisor notification.
- (d) Processing an arrest for a hate crime.



## Standards of Conduct

### 320.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Auburn Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

### 320.2 POLICY

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

### 320.3 DIRECTIVES AND ORDERS

Members shall comply with lawful directives and orders from any department supervisor or person in a position of authority, absent a reasonable and bona fide justification.

#### 320.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict will not be held accountable for disobedience of the lawful order or directive that was initially issued.

The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

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##### **320.3.2 SUPERVISOR RESPONSIBILITIES**

Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiescing to such a violation, or exhibiting indifference to such a violation.
- (d) Exercising unequal or disparate authority toward any member for malicious or other improper purpose.

##### **320.4 GENERAL STANDARDS**

Members shall conduct themselves, whether on or off-duty, in accordance with the United States and New York Constitutions and all applicable laws, ordinances and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

##### **320.5 CAUSES FOR DISCIPLINE**

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service.

##### **320.5.1 LAWS, RULES AND ORDERS**

- (a) Violation of, or ordering or instructing a subordinate to violate, any policy, procedure, rule, order, directive or requirement, or failure to follow instructions contained in department or City manuals.
- (b) Disobedience of any legal directive or order issued by any department member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

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##### 320.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Auburn Police Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance or solicitation of fees, gifts or money contrary to the rules of this department and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.
- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

##### 320.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

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

##### 320.5.4 RELATIONSHIPS

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

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##### 320.5.5 ATTENDANCE

- (a) Leaving the job to which the member is assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness.
- (c) Excessive absenteeism or abuse of leave privileges.
- (d) Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

##### 320.5.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

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

##### 320.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors.
- (c) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department within 24 hours of any change in residence address, home contact telephone numbers or emergency contacts.

##### 320.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work related investigation.

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

#### 320.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on the member's part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful police officer or peace officer powers by unreasonable, unlawful or excessive conduct.

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- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.
- (g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- (h) Criminal, dishonest or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any collective bargaining agreement or contract, including fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief of Police of such action.
- (m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.
- (n) Officers shall respectfully furnish their name and badge/employee number to any person requesting that information when they are on duty or presenting themselves as police officers. Exceptions may be made for employees on special duties and assignments (e.g., undercover, vice assignments). Non-sworn employees shall respectfully furnish their names to any person requesting that information when they are on duty or presenting themselves as an Auburn Police Department employee.
- (o) Employees shall address supervisors by title, unless otherwise specifically directed by the specific supervisor. Employees shall conduct department business through the established chain of command. This will not restrict an employee from reporting improper conduct beyond their immediate supervisor when the need arises.
- (p) Employees shall not contact members of the City Council, the City Manager or any other public officials outside the department directly, on police matters. This must be communicated via the chain of command, exceptions for union officials as required by law.

#### 320.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).

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- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling including loading or unloading firearms in an unsafe manner, either on- or off-duty.
- (e) Carrying, while on the premises of the work site, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic accident.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

#### 320.5.11 INTOXICANTS

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

#### 320.5.12 LEGISLATIVE RESTRICTIONS

Officers are prohibited from the following activities by New York statute:

- (a) Having an interest in the manufacture or sale of alcoholic beverages (Alcoholic Beverage Control Law § 128).
- (b) Using one's position or authority to aid or oppose any political party (Election Law § 17-110).
- (c) Holding an office in, being employed by, owning or conducting business at a pari-mutuel race track (Racing, Pari-Mutuel Wagering and Breeding Law § 107).
- (d) Violating any applicable provisions of Article 4 of the Public Officers Law and Article 18 of the General Municipal Law including:
  - (a) Accepting gifts of \$75 or more in value (General Municipal Law § 805-A)
  - (b) Disclosing confidential information obtained in the course of official duties (Public Officers Law § 96)
  - (c) Receiving payment for official acts except as authorized by law (Public Officers Law § 67)



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- (d) Failing to disclose an interest in any contract or business with the employing governmental entity (General Municipal Law § 801)
- (e) Failing to disclose an interest in property for which a variance is requested (General Municipal Law § 809)
- (f) Effective January 1, 1991, annual filing of financial disclosure forms is required of certain employees

#### 320.5.13 OTHER RESTRICTIONS

Officers are also prohibited from working in the following capacity:

- (a) As a bill collector
- (b) As a process server
- (c) As a reposessor
- (d) As a credit investigator
- (e) As a pre-employment investigator
- (f) As a private investigator
- (g) As a tow truck operator
- (h) For a bail bondsman
- (i) For a company affected by a strike or lockout
- (j) For any interests in sale or manufacture of alcoholic beverages (ABC 128)
- (k) For any office or employment with any firm that is licensed to conduct its business at a racetrack or that owns, leases, or manages a racetrack (re: racing, wagering and breeding law section # 107)
- (l) In case preparation for a criminal defense
- (m) In any other capacity which tends to create a conflict of interest
- (n) If the employment presents a threat to the status or dignity of the police department as determined by the Chief of Police
- (o) If the employment presents an unacceptable risk of injury that would disable an officer for regular duty
- (p) If the outside employer declines to assume responsibility for workers compensation and liability insurance
- (q) Disclosure of the fact that a municipal or state employee has any interest in any real property for which an application for any sort of variance is made

# Information Technology Use

## 321.1 PURPOSE AND SCOPE

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

### 321.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

## 321.2 POLICY

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

## 321.3 PRIVACY EXPECTATION

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

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

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##### **321.4 RESTRICTED USE**

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors or Shift Commanders (Penal Law § 156.05).

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

##### **321.4.1 SOFTWARE**

Members shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes, in accordance with the software company's copyright and license agreement.

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

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

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

Introduction of software by members should only occur as a part of the automated maintenance or update process of department- or City-approved or installed programs by the original manufacturer, producer or developer of the software. Any other introduction of software requires prior authorization from IT staff and a full scan for malicious attachments.

Members will not interfere with or disrupt any department computer system, internet user, program, or equipment. Disruptions include but are not limited to propagation of computer worms, viruses, or other debilitating programs, and using the department computer system to make unauthorized entry to any other machine accessible via the computer system or Internet.

Viruses can cause substantial damage to the department computer systems. Each user is responsible for taking reasonable precautions to avoid introducing viruses to department computer systems. Any intentional or malicious attempt to damage departmental computers can result in both departmental and criminal action.

- (a) Files obtained from any source outside the department, including computers or floppy/compact disks brought from home; files downloaded from the internet, newsgroups, bulletin boards, or other online services; files attached to e-mail; and files provided by vendors, may contain dangerous computer viruses.

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- (b) Users should never use disks from non-department sources or download internet files or accept e-mail attachments from unknown sources without first scanning the material with Department installed virus software. If a user suspects that a virus has been introduced into the department network, he/she should notify their supervisor and the Information Technology Bureau personnel immediately.

Members, who become aware of any computer system security breach, whether internal or external, will immediately notify their supervisor and the Information Technology Bureau system administrator.

Any member observing someone using the department computer system inappropriately will notify his/her command officer. The command officer receiving such information will review it and take appropriate action.

#### **321.4.2 HARDWARE**

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

#### **321.4.3 INTERNET USE**

Internet access provided by or through the Department shall be strictly limited to department-related activities. Internet sites containing information that is not appropriate or applicable to department use and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, gambling, chat rooms, and similar or related Internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

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

#### **321.4.4 OFF-DUTY USE**

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

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

#### **321.5 PROTECTION OF SYSTEMS AND FILES**

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

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

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

Users may not alter or copy a file belonging to another user without first obtaining permission from the owner of the file, unless otherwise granted this authority by the Chief of Police or his/her designee. The ability to read, alter, or copy a file belonging to another user does not imply permission to read, alter, or copy the file,

#### **321.6 INSPECTION AND REVIEW**

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

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

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

## Department Use of Social Media

### 322.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Department is consistent with the department mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by department members (see the Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of this department (see the Investigation and Prosecution Policy).

#### 322.1.1 DEFINITIONS

Definitions related to this policy include:

**Social media** - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the department website or social networking services.

### 322.2 POLICY

It is the policy of the Auburn Police Department to use social media as a method of effectively informing the public about department services, issues, investigations, recruitment and other relevant events.

Department members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all people.

### 322.3 AUTHORIZED USERS

Only members authorized by the Chief of Police or the authorized designee may utilize social media on behalf of the Department. Authorized members shall use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief of Police may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by the Chief of Police or the authorized designee prior to posting.

Requests to post information over department social media by members who are not authorized to post should be made through the member's chain of command.

### 322.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the department mission and conforms to all department policies regarding the release of information may be posted.

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Examples of appropriate content include, but are not limited to:

- (a) Announcements.
- (b) Tips and information related to crime prevention.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the department mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
- (f) Traffic information.
- (g) Media releases.
- (h) Recruitment of personnel.

#### **322.4.1 INCIDENT-SPECIFIC USE**

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Public Information Officer or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Commander or the Chief of Police.

#### **322.5 PROHIBITED CONTENT**

Content that is prohibited from posting includes but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory, or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal, or local laws.
- (c) Any department-sensitive information that could damage investigations or undercover operations.
- (d) Any information that could tend to compromise or damage the mission, function, reputation, or professionalism of the Auburn Police Department or its members.
- (e) Any information that could compromise the safety and security of department operations, members of the Department, victims, suspects, or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a supervisor.
- (h) Any content using a fictitious name or identity without prior approval of the appropriate supervisor.

Any member who becomes aware of content on this Department's social media site that the member believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure that any unauthorized or inappropriate content is removed from public view and investigate the cause of the entry.



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##### **322.5.1 PUBLIC POSTING PROHIBITED**

Department social media sites shall be designed and maintained to prevent posting of content by the public.

The Department may provide a method for members of the public to contact department members directly.

##### **322.6 MONITORING CONTENT**

The Chief of Police will appoint a supervisor to review, at least annually, the use of department social media and report back on its usage.

##### **322.7 TRAINING**

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, and dissemination and retention of information posted on department sites.

## Report Preparation

### 323.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to those members of the Department who complete investigations and reports as a part of their duties.

### 323.2 POLICY

It is the policy of the Auburn Police Department that members shall act with promptness and efficiency in the preparation and processing of all reports. Reports shall document sufficient information to refresh the member's memory and shall provide enough detail for follow-up investigation by other department members and successful prosecution.

### 323.3 EXPEDITIOUS REPORTING

Incomplete reports, unorganized reports or reports that are delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or to a special priority made necessary under exceptional circumstances.

### 323.4 REPORT PREPARATION

Reports should be sufficiently detailed for their purpose and free from errors prior to submission and approval. It is the responsibility of the member to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads or arrest reports should not be held.

All reports shall accurately reflect the identity of the persons involved; all pertinent information seen, heard or assimilated by any other sense; and any actions taken. Members shall not suppress, conceal or distort the facts of any reported incident, nor shall any member make a false report orally or in writing. Generally, the reporting member's opinions should not be included in reports unless specifically identified as such.

#### 323.4.1 HANDWRITTEN OR TYPED REPORTS

Supervisors may require block printing or typing of reports of any nature for department consistency.

Hand writing reports or statements should only occur when circumstances dictate. Handwritten reports must be prepared legibly. If the report is not legible, the submitting member will be required by the reviewing supervisor to promptly make corrections and resubmit the report.

Members who generate reports on computers are subject to all requirements of this policy.

#### 323.4.2 ELECTRONIC SIGNATURES

The Auburn Police Department has established an electronic signature procedure for use by all members of the Auburn Police Department.

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- (a) Members may only use their electronic signatures for official reports or other official communications.
- (b) Each member shall be responsible for the security and use of his/her electronic signature and shall promptly notify a supervisor if the electronic signature has or may have been compromised or misused.

#### **323.5 REQUIRED REPORTING**

In all of the following situations, members shall complete reports using the appropriate department-approved forms and reporting methods, unless otherwise approved by a supervisor.

The reporting requirements are not intended to be all-inclusive. A member may complete a report if he/she deems it necessary or as directed by a supervisor.

##### **323.5.1 CRIMINAL ACTIVITY**

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution.

Activity to be documented in a written report includes:

- (a) All arrests.
- (b) All felony crimes.
- (c) All offenses involving threats or stalking behavior.
- (d) Situations covered by separate policy. These include:
  - (a) Use of Force Policy
  - (b) Domestic Violence Policy
  - (c) Child Abuse Policy
  - (d) Adult Abuse Policy
  - (e) Hate Crimes Policy
  - (f) Suspicious Activity Reporting Policy
- (e) All misdemeanor crimes where the victim desires an investigation and/or a report.

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

#### **Stolen Motor Vehicle Investigations Procedure**

##### **323.5.2 NON-CRIMINAL ACTIVITY**

Non-criminal activity to be documented includes:

- (a) Any found property or found evidence.
- (b) All protective custody, investigative, and welfare detentions.

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- (c) Any time a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy).
- (d) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy.
- (e) Suspicious incidents that may place the public or others at risk.
- (f) Any use of force by members of this department against any person (see the Use of Force Policy).
- (g) Any firearm discharge (see the Firearms Policy).
- (h) Any traffic accidents above the minimum reporting level (see the Traffic Accidents Policy).
- (i) Whenever the member believes the circumstances should be documented or at the direction of a supervisor.
- (j) Any contact with a person or persons claiming diplomatic privilege or immunity.
  - (a) A copy of the report should be forwarded to the U.S. Department of State.
- (k) Custody disputes

#### Report Preparation Exceptions Procedure

#### Found Bicycle Procedure

#### 323.5.3 MISCELLANEOUS INJURIES

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

- (a) The injury is a result of drug overdose.
- (b) There is an attempted suicide.
- (c) The injury is major or serious, potentially fatal, and is part of a criminal matter.
- (d) The circumstances surrounding the incident are suspicious in nature and it is desirable to document the event.
- (e) The wound or injury is from a dog bite.
- (f) A member of the Auburn Police Department is injured on-duty.
- (g) The wound results from a gunshot, powder burn or puncture (such as from a knife, icepick or other sharp object) and may result in death (Penal Law § 265.25).
- (h) The wound or injury is from a burn (Penal Law § 265.26).

#### 323.5.4 DEATHS

Death investigations require specific investigation methods, depending on the circumstances. They should be handled in accordance with the Death Investigation Policy. The handling member should notify and apprise a supervisor of the circumstances surrounding the incident to determine how to proceed. The following incidents shall be appropriately investigated and documented:

- (a) Unattended deaths

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- (b) Sudden, accidental or suspicious deaths
- (c) Suicides
- (d) Homicides or suspected homicides
- (e) Found dead bodies or body parts

#### **323.5.5 CITY PERSONNEL OR PROPERTY**

Incidents involving City personnel or property shall require a report when:

- (a) An injury occurs as the result of an act of a City employee or on City property.
- (b) There is damage to City property or equipment.

#### **Mishaps / Accidents Involving Potential City Liability Procedure**

#### **323.7 REVIEW AND CORRECTIONS**

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should return report for correction with specific issues to be addressed.

The original report and the corrections required should be returned to the reporting member for correction as soon as practicable. It shall be the responsibility of the originating member to ensure that any report returned for correction is processed in a timely manner.

#### **323.7.1 CHANGES AND ALTERATIONS**

Reports that have been approved by a supervisor, submitted to the Records Bureau, and merged into the Records Management System for filing and distribution shall not be modified or altered except by way of a supplemental report.

Reviewed reports that have not yet been merged by the Records Bureau staff into the Records Management System may be corrected or modified by the authoring member only with the knowledge and authorization of the reviewing supervisor.

## Media Relations

### 324.1 PURPOSE AND SCOPE

This policy provides guidelines for the release of official department information to the media. It also addresses coordinating media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

### 324.2 POLICY

It is the policy of the Auburn Police Department to protect the privacy rights of individuals, while releasing non-confidential information to the media regarding topics of public concern. Information that has the potential to negatively affect investigations will not be released.

### 324.3 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief of Police. In situations not warranting immediate notice to the Chief of Police and in situations where the Chief of Police has given prior approval, Commanders, Shift Commanders, detectives and designated Public Information Officers (PIOs) may prepare and release information to the media in accordance with this policy and applicable laws regarding confidentiality.

### 324.4 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of department members and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police. This includes deliberate exposure of a person in custody to members of the media for purposes of photography or video.

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the Chief of Police will consider, at a minimum, whether the release of information or the presence of the media would unreasonably endanger any individual or prejudice the rights of any person or is otherwise prohibited by law.

### 324.5 MEDIA REQUESTS

Any media request for information or access to a law enforcement incident shall be referred to the first available supervisor. Prior to releasing any information to the media, members shall consider the following:

- (a) At no time shall any member of this department make any comment or release any official information to the media without prior approval from a supervisor.
- (b) In situations involving multiple agencies or government departments, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.

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- (c) Under no circumstance should any member of this department make any comment to the media regarding any law enforcement incident not involving this department without prior approval of the Chief of Police. Under these circumstances the member should direct the media to the agency handling the incident.

#### **324.6 ACCESS**

Authorized media representatives shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities as required by law.

Access by the media is subject to the following conditions:

- (a) The media representative shall produce valid media credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives should be prevented from interfering and may be removed for interfering with emergency operations and criminal investigations.
  - 1. Based upon available resources, reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the PIO or other designated spokesperson.
- (c) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief of Police and the express written consent of the person in custody.
- (d) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved member.

##### **324.6.1 CRITICAL OPERATIONS**

A critical incident or tactical operation should be handled in the same manner as a crime scene, except the media should not be permitted within the inner perimeter of the incident, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a critical incident or tactical operation in order to accommodate the media. All comments to the media shall be coordinated through a supervisor or the PIO.

#### **324.7 CONFIDENTIAL OR RESTRICTED INFORMATION**

It shall be the responsibility of the appropriate Command Officer to ensure that confidential or restricted information is not inappropriately released to the media (see the Records Maintenance and Release and Personnel Records policies). When in doubt, authorized and available legal counsel should be consulted prior to releasing any information.

Restricted information includes, but is not limited to:

- (a) 1. Information that identifies or relates to the arrest and disposition of a juvenile delinquent (Family Court Act § 301.2; Family Court Act § 381.3).



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2. Information concerning the arrest and disposition of a youthful offender, or a youth apparently eligible for youthful offender status, shall not be released without written consent of the Family Court (CPL § 720.15).
3. Information concerning incidents involving persons whose identities are classified as private or confidential under state law (i.e., sex crime victims).
4. Identifying information concerning deceased individuals.
  - (a) Information may be released upon verification of the decedent's identity when notification has been made to the decedent's family, and the release is approved by a supervisor.
5. Information contained in the personnel record of any member, unless otherwise specifically allowed by law.
6. Criminal history information.
7. Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.
8. Information pertaining to pending litigation involving this department unless authorized by the Chief of Police.
9. Information obtained in confidence.
10. Any information that is otherwise privileged or restricted under state or federal law.

#### **324.7.1 EMPLOYEE INFORMATION**

The identities of officers involved in shootings or other critical incidents may only be released to the media upon the consent of the involved officer or upon a formal request filed with, and approved by, the Chief of Police or authorized designee.

Any requests for copies of related reports or additional information not contained in the information log (see the Information Log section in this policy), including the identity of officers involved in shootings or other critical incidents, shall be referred to the Office of Chief of Police.

All such requests must be processed in accordance with the Records Maintenance and Release Policy. Requests should be reviewed and fulfilled by the Records Access Officer, or if unavailable, the Shift Commander or the authorized designee. Such requests will be processed in accordance with the provisions of the Records Maintenance and Release Policy, public records laws, and the New York State Freedom of Information Law (Public Officers Law § 87).

#### **324.8 RELEASE OF INFORMATION**

The Department may routinely release information to the media without receiving a specific request. This may include media releases regarding critical incidents, information of public concern, updates regarding significant incidents or requests for public assistance in solving crimes or identifying suspects. This information may also be released through the department website or other electronic data sources.

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##### 324.8.1 INFORMATION LOG

The Department will maintain a daily information log of significant law enforcement activities. Log entries shall only contain information that is deemed public information and not restricted or confidential by this policy or applicable law. Upon request, the log entries shall be made available to media representatives through the Shift Commander.

The daily information log will generally include:

- (a) The date, time, location, case number and type of incident within this jurisdiction, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation, or the information is confidential (e.g., juveniles or certain victims).
- (b) The date, time, location, case number, name, age and charges for each person arrested by this department, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation or the information is confidential (e.g., juveniles).
- (c) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident.

##### 324.8.2 INFORMATION GUIDELINES

Any information released pertaining to an ongoing criminal investigation should conform to the New York State Fair Trial/Free Press Guidelines, which are available at <https://www.ncjrs.gov/pdffiles1/Digitization/112880NCJRS.pdf> and specify the type of information that may and may not be released.

## Subpoenas and Court Appearances

### 325.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Auburn Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

### 325.2 POLICY

Auburn Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances (CPLR § 2305).

### 325.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so.

#### [Subpoenas / Summons Procedure](#)

#### 325.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf or at the request of any party other than the Corporation Counsel or the District Attorney's Office shall notify his/her immediate supervisor without delay regarding:

- (a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Auburn Police Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Auburn Police Department.

The supervisor will then notify the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police should determine if additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

#### 325.3.2 CIVIL SUBPOENA

The Department will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current collective bargaining agreement.

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##### **325.3.3 OFF-DUTY RELATED SUBPOENAS**

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance by the Auburn Police Department. Arrangements for time off shall be coordinated through their immediate supervisors.

##### **325.4 FAILURE TO APPEAR**

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

##### **325.5 STANDBY**

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

##### **325.6 COURTROOM PROTOCOL**

Members must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are scheduled to appear.

Members shall dress in the department uniform of the day.

Members shall observe all rules of the court in which they are appearing and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

##### **325.6.1 TESTIMONY**

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court.

##### **325.7 OVERTIME APPEARANCES**

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current collective bargaining agreement.

## Outside Agency Assistance

### 326.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

### 326.2 POLICY

It is the policy of the Auburn Police Department to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

### 326.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the officer's immediate supervisor for approval.

When another law enforcement agency requests assistance from this department, the immediate supervisor may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this department.

Officers may respond to a request for emergency assistance; however, they shall notify a supervisor of their activity immediately.

Arrestees may be temporarily detained by this department until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by the department will not ordinarily be booked by this department. Only in exceptional circumstances, and subject to supervisor approval, will this department provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling member, if directed by a supervisor, or if extenuating circumstances exist.

#### [Emergency / Death Notifications Procedure](#)

#### 326.3.1 INITIATED ACTIVITY

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Auburn Police Department shall be aware of the statutory limitations of his/her authority and shall notify his/her supervisor or the Shift Commander and Dispatch immediately (CPL § 140.10; CPL § 140.25). This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

### 326.4 REQUESTING OUTSIDE ASSISTANCE

The chief executive officer of a local government may request the assistance of another local government chief executive officer when needed. The ability to request or grant such assistance may be delegated to the Chief of Police by local law (General Municipal Law § 209-m).

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If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. The supervisor should then notify the appropriate official to request assistance from another agency. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

[Central New York Crime Analysis Center MOU DCJS Auburn City PD Info Sharing 8-5-20](#)

[DCJS / Onondaga Crime Analysis Center MOU 2008](#)

[Onondaga Crime Analysis Center MOU renewal no expiration 2018](#)

[APD-CCSheriff Mutual Aid 2019](#)

#### **326.5 REPORTING REQUIREMENTS**

Incidents of outside assistance or law enforcement activities shall be documented in a case report if directed by an immediate supervisor.

## Registered Sex Offender Information

### 327.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Auburn Police Department will address issues associated with certain offenders who are residing in the jurisdiction, and how the Department will disseminate information and respond to public inquiries for information about registered sex offenders.

### 327.2 POLICY

It is the policy of the Auburn Police Department to identify and monitor registered sex offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

### 327.3 REGISTRATION

The Identification Officer shall establish a process to reasonably accommodate registration of offenders. The process should rebut any allegation on the part of the offender that the registration process was too confusing, burdensome or difficult for compliance. If it is reasonable to do so, an officer assigned to related investigations should conduct the registration in order to best evaluate any threat the person may pose to the community. Those assigned to register offenders should receive appropriate training regarding the registration process.

Upon conclusion of the registration process, the officer shall ensure that the registration information is promptly provided to the New York State Division of Criminal Justice Services (DCJS) in accordance with the Sex Offender Registration Act (SORA) (Correction Law § 168 et seq.).

The refusal of a registrant to provide any of the required information or complete the process should initiate a criminal investigation for failure to register and the officer should secure a warrant when appropriate (Correction Law § 168-t).

#### 327.3.1 CONTENTS OF REGISTRATION

The Department shall obtain updated photographs for level one and level two offenders every three years and, for level three offenders or those designated as sexual predators, sexually violent offenders or predicate sex offenders, every year. If the appearance of a level three offender or sexual predator has changed, a photograph may be taken when he/she is required to verify his/her address every 90 days. The photographs shall be promptly forwarded to DCJS (Correction Law § 168-f).

### 327.4 MONITORING OF REGISTERED OFFENDERS

The Identification Officer should establish a system to periodically, and at least once annually, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:



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- (a) Efforts to confirm residence using an unobtrusive method, such as an Internet search or drive-by of the declared residence.
- (b) Review of information on the DCJS SORA website.
- (c) Contact with a registrant's parole or probation officer.
- (d) Home visits and offender visits to Auburn Police Department Identification Bureau.

Any discrepancies should be reported to DCJS.

The Identification Officer should also establish a procedure to routinely disseminate information regarding registered offenders to Auburn Police Department members, including timely updates regarding new or relocated registrants.

#### **327.5 DISSEMINATION OF PUBLIC INFORMATION**

Members will not unilaterally make a public notification advising the community of a particular registrant's presence in the community. Members who identify a significant risk or other public safety issue associated with a registrant should promptly advise their supervisor. The supervisor should evaluate the request and forward the information to the Chief of Police if warranted. A determination will be made by the Chief of Police, with the assistance of legal counsel as necessary, whether such a public alert should be made.

Members of the public requesting information on registrants should be directed to the DCJS SORA or the Auburn Police Department's website.

The Identification Officer may release local registered offender information to residents in accordance with Correction Law § 168-I and in compliance with a New York State Freedom of Information Law request.

##### **327.5.1 RELEASE NOTIFICATIONS**

Registrant information that is released should include notification that:

- (a) The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.
- (b) The information is provided as a public service and may not be current or accurate.
- (c) Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.
- (d) The crime for which a person is convicted may not accurately reflect the level of risk.
- (e) Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.

##### **327.5.2 DISSEMINATION**

The Department shall compile, maintain, and update a listing of vulnerable organizational entities or vulnerable populations (e.g., schools, day care facilities, nursing homes) within this jurisdiction.

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Such listing shall be utilized for proper notification and dissemination of appropriate information (Correction Law § 168-l).

The information released shall be as follows:

- (a) A photograph and description of the offender
- (b) Name and aliases used
- (c) Home address of the offender
- (d) Crimes of which the offender has been convicted
- (e) Method of operation of the offender
- (f) Types of victims preferred
- (g) Any schools of higher education where the offender is enrolled, attends, or is employed
- (h) Any special conditions imposed on the offender

## Major Incident Notification

### 328.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Auburn Police Department in determining when, how and to whom notification of major incidents should be made.

### 328.2 POLICY

The Auburn Police Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

### 328.3 CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police, the affected Commander and the City. The following list of incident types is provided as a guide for notification and is not intended to be all inclusive:

- Officer-involved shooting, whether on- or off-duty (see the Officer-Involved Shooting and Deaths Policy for special notification)
- Homicides, suspicious deaths or deaths related to law enforcement activity
- Crimes of unusual violence or circumstances that may include hostages, barricaded persons, home invasions, armed robbery or sexual assaults
- At-risk missing children or vulnerable missing adults
- In-custody deaths
- Aircraft, train, boat or other transportation accidents with major damage and/or injury or death
- Traffic accidents with fatalities or severe injuries
- Death of a prominent Auburn official
- Significant injury or death to a member of the Department, whether on- or off-duty
- Arrest of a member of the Department, prominent Auburn official or other prominent person
- Equipment failures, utility failures and incidents that may affect staffing or pose a threat to basic police services
- Any other incident that has attracted or is likely to attract significant media attention

### 328.4 SHIFT COMMANDER RESPONSIBILITIES

The Shift Commander is responsible for making the appropriate notifications. The Shift Commander shall make reasonable attempts to obtain as much information on the incident as possible before notification, and shall attempt to make the notifications as soon as practicable.

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##### 328.4.1 COMMAND STAFF NOTIFICATION

In the event an incident occurs as identified in the Criteria for Notification section above, the Deputy Chief, Chief of Police, or his designee shall be notified along with the affected Commander and the Detective Commander if that bureau is affected.

##### 328.4.2 DETECTIVE NOTIFICATION

If the incident requires that a detective respond from home, the immediate supervisor of the appropriate detail shall be notified, who will then contact the appropriate detective via the current on-call list..

##### 328.4.3 PUBLIC INFORMATION OFFICER

After members of the command staff have been notified, the designated Public Information Officer, or appropriate supervisor shall be called if it appears the media may have a significant interest in the incident.

## Death Investigation

### 329.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers initially respond to and investigate the circumstances of a deceased person.

Some causes of death may not be readily apparent and some cases differ substantially from what they appear to be initially. The thoroughness of death investigations and use of appropriate resources and evidence gathering techniques is critical.

### 329.2 POLICY

It is the policy of the Auburn Police Department to respond, document and investigate incidents where a person is deceased. Investigations involving the death of a person, including those from natural causes, accidents, workplace incidents, suicide and homicide, as well as found human remains, shall be initiated, conducted and properly documented.

### 329.3 INVESTIGATION CONSIDERATIONS

Crucial to death investigations is the initial protection of the scene and the prompt start of an investigation. Upon the arrival at any scene wherein a death is involved, likely, or imminent, members of the Auburn Police Department shall initially:

- (a) Secure and preserve the scene
- (b) Locate, identify and isolate witnesses

EXCEPT when life saving measures are necessary and appropriate, EMS personnel should not be permitted to enter and thereby contaminate scenes where the victim is apparently dead. However, a single EMS person may, at the investigating Officer's discretion, enter the scene in concert with the Officer for the purposes of verifying that death has occurred. Weapons at any crime scene should not be moved or affected in any way, unless it poses an immediate hazard. Otherwise, leave weapons in place (firearms can be 'secured' by simply keeping persons out of the scene).

Emergency medical services will be called on all suspected death cases unless death is obvious (e.g., decapitated, decomposed).

A supervisor will be notified as soon as possible to assist and provide appropriate personnel and resources. A patrol supervisor will respond to the scene and make the final determination if a Detective and/or Evidence Technician is required to further investigate and document the scene. A Detective and Evidence Technician will be called to the scene on instances where the death is unexpected; the decedent had no history of health problems or are of a particularly young age. If it is determined that a Detective and/or Evidence Technician is not required due to the fact that there is no criminal activity involved or there are no suspicious or unusual circumstances, the responsibility for the final and complete investigation rests with the Patrol Division and will be documented fully in the form of a case report. The on-scene supervisor will determine if photographs are necessary.

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The Shift Commander will make notification to command staff in accordance with the Major Incident Notification Policy.

#### Preservation of Decedent's Body Procedure

##### 329.3.1 REPORTING

All incidents involving a death shall be documented in a case report.

##### 329.3.2 CORONER REQUEST

A coroner is an elected Official who has the jurisdiction and authority to investigate the death of every person dying within his county, or whose body is found within the county.

Officers are not authorized to pronounce death. The Coroner/ Coroner Investigator shall be called in all sudden or unexpected deaths or deaths due to other than natural causes. State law requires that the Coroner be notified in any of the following cases (County Law § 671; County Law § 673):

- (a) Violent death, whether by criminal violence, suicide or casualty
- (b) Death caused by unlawful act or criminal neglect
- (c) Death occurring in a suspicious, unusual or unexplained manner
- (d) Death while unattended by a physician or where no physician is able to certify the cause of death
- (e) Death, whether natural or unnatural, of a person confined to our lockup facility.

##### 329.3.3 SEARCHING DEAD BODIES

- (a) The Coroner, his/her assistant and authorized investigators are generally the only persons permitted to move, handle or search a dead body.
- (b) An officer may make a reasonable search of an individual who it is reasonable to believe is dead, or near death, for the purpose of identification or for information identifying the individual as an anatomical donor. If a donor document is located, the Coroner or his/her assistant shall be promptly notified.
- (c) The Coroner, with the permission of the Department, may take property, objects or articles found on the deceased or in the immediate vicinity of the deceased that may be necessary for conducting an investigation to determine the identity of the deceased or the cause or manner of death. An officer at the scene shall witness the search and, at the request of the Coroner, sign the property forms listing the items found on the body. The Coroner will retain the property and forms. The Coroner does not take or retain evidence.
- (d) Should exigent circumstances indicate to an officer that any other search of a known dead body is warranted prior to the arrival of the or his/her assistant, the investigating officer should first obtain verbal consent from the Coroner or his/her assistant when practicable.
- (e) Whenever reasonably possible, a witness, preferably a relative to the deceased or a member of the household, should be requested to remain nearby the scene and

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available to the officer pending the arrival of the Coroner or his/her assistant. The name and address of this person shall be included in the narrative of the death report.

- (f) Whenever personal effects are removed from the body of the deceased by the Coroner or his/her assistant, a receipt shall be obtained. This receipt shall be attached to the death report.

#### 329.3.4 SUSPECTED HOMICIDE

If the initially assigned officer suspects that the death involves a homicide or other suspicious circumstances, the officer shall take steps to protect the scene. The shift supervisor will determine the possible need for a detective to respond to the scene.

If the on-scene supervisor, through consultation with the Shift Commander or Detective Bureau supervisor, is unable to determine the manner of death, the investigation shall proceed as though it is a homicide.

The detective assigned to investigate a homicide or death that occurred under suspicious circumstances may, with the approval of his/her supervisor, and in consultation with the coroner/coroner investigator, request a Medical Examiner to conduct physical examinations and tests, and to provide a report.

#### 329.3.5 SUICIDES & ACCIDENTAL DEATHS

Members of this department investigating deaths as a result of suicide, or accident (including industrial and motor vehicle involved) shall secure and preserve the scene and:

- (a) Request a Supervisor to respond to the scene, and a Supervisor shall respond in all cases.
- (b) The Supervisor on scene shall then request a Detective and Evidence Technician to the scene.
- (c) Perform any additional requests made at the direction of the investigating Detective in order to facilitate the investigation.

#### 329.3.6 SUSPECTED OVERDOSE DEATHS

To ensure we are thoroughly and efficiently investigating the potential criminality involved with drug overdose deaths, these calls will not be deemed as simple unattended deaths. They will be treated and investigated with the same tenacity as other criminal death investigations. The following additional steps will be followed with the overall goal of identifying and prosecuting the supplier of the narcotics that resulted in the death of an individual(s)

- (a) An evidence technician will respond to the scene and photographs will be taken to document the scene and location of all evidence prior to collection. The evidence technician or identification officer will consider documenting the scene with the Oscr360 device as well prior to collecting evidence or moving the decedent.
- (b) Physical and electronic evidence like drug packaging, cell phones and other materials commonly linked to the usage, sale and purchase of narcotics will be collected and logged as evidence if and when located at the scene of an overdose.



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- (c) On all fatal overdose deaths the on-call detective will respond to further the investigation.
- (d) A shift supervisor will respond to the scene.
- (e) The responding detective will contact the NARCO Sergeant to collaborate and decide if a joint response to the scene will occur. The patrol shift supervisor will be advised of the decision made.
- (f) If a narcotics investigator members response to the scene is deemed unwarranted at the time of the incident the assigned detective will coordinate a joint follow-up investigation with the Narcotics Bureau Sergeant no later than 24hours following the initial death investigation. This coordination will be made in conjunction with the detective bureau supervisor.

#### **329.3.7 EMPLOYMENT-RELATED DEATHS OR INJURIES**

Any member of this department who responds to and determines that a death, serious illness or serious injury has occurred as a result of an accident at or in connection with the victim's employment should ensure that the regional Occupational Safety and Health Administration (OSHA) office is promptly notified of all pertinent information.

#### **329.4 UNIDENTIFIED DEAD BODY**

If the identity of a dead body cannot be established, the handling officer will request from the Coroner a unique identifying number for the body. The number shall be included in any report. The investigating officer shall enter a description of the unidentified body into the eJusticeNY Integrated Justice Portal.

#### **329.5 DEATH NOTIFICATION**

When reasonably practicable, and if not handled by the Coroner's Office, notification shall be made consistent with the Municipal Police Training Council In-Person Death Notifications Model Policy. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification.

If a deceased person has been identified as a missing person, this department shall attempt to locate family members and inform them of the death and location of the deceased missing person's remains. All efforts to locate and notify family members shall be recorded in appropriate reports.

##### **329.5.1 STATE REQUIREMENTS**

Death notifications should be made within 24 hours following the identification of the deceased person. Any delay past 24 hours should be documented and reasonable steps should be taken to make the death notification as soon as practicable thereafter (Executive Law § 840).

##### **329.5.2 IN-PERSON DEATH NOTIFICATION PROCEDURES**

[Emergency / Death Notification Procedure](#)

## Private Person's Arrest

### 330.1 PURPOSE AND SCOPE

This policy provides guidance for the handling and acceptance of a private person's arrest.

### 330.2 POLICY

It is the policy of the Auburn Police Department to accept a private person's arrest only when legal and appropriate.

### 330.3 ARRESTS BY PRIVATE PERSON

A private person may arrest another under the following circumstances:

- (a) For a felony and for any other offense committed in the person's presence (CPL § 140.30).
  - 1. The arrest for a felony may be made anywhere in the state, and an arrest for an offense may be made only in the county where the offense was committed.
  - 2. The private person's arrest may occur at any hour of the day or night (CPL § 140.35).
- (b) A juvenile under the age of 18 may be arrested for an act that would be a crime if committed by an adult if the arrest would be valid for an adult (Family Court Act § 305.1).
- (c) When the accused is charged in another state with a crime punishable by death or imprisonment for a term exceeding one year (CPL § 570.34).

### 330.4 OFFICER RESPONSIBILITIES

An officer confronted with a person claiming to have made a private person's arrest should determine whether such an arrest is lawful.

If the officer determines that the private person's arrest is unlawful, the officer should:

- (a) Take no action to further detain or restrain the arrested individual, unless there is independent justification for continuing a detention.
- (b) Advise the parties that the arrest will not be accepted but the circumstances will be documented in a report.
- (c) Document the incident, including the basis for refusing to accept custody of the individual.

Whenever an officer determines that a private person's arrest is justified, the officer shall take the individual into custody and bring the person before a local criminal court or issue and serve an appearance ticket as provided in CPL § 140.40 or CPL § 570.34.

If an officer takes an arrested juvenile into custody, the officer shall immediately notify the parent or other person legally responsible for the juvenile's care or the person with whom the juvenile is domiciled that the juvenile has been arrested and the location where he/she is being detained.

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The officer shall then proceed as required by the Temporary Custody of Juveniles Policy (CPL § 140.40).

#### **330.5 PRIVATE PERSON'S ARREST FORM**

The arresting person should be asked to complete and sign the accusatory instrument or a supporting deposition and the officer will complete a case and arrest report. If the person fails or refuses to do so, the arrested individual should be released, unless the officer has a lawful reason, independent of the private person's arrest, to take the individual into custody and determines an arrest is appropriate.

## Limited English Proficiency Services

### 331.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

#### 331.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

**Interpret or interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

**Limited English proficiency (LEP) individual** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still exhibit LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

**Qualified bilingual member** - A member of the Auburn Police Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

### 331.2 POLICY

It is the policy of the Auburn Police Department to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

### 331.3 LEP COORDINATOR

The Chief of Police shall coordinate with the City of Auburn Planning Department certain responsibilities of the LEP coordinator within the Auburn Police Department. This coordinator shall be appointed by, and directly responsible to the Chief of Police or the authorized designee.

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

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- (a) Coordinating and implementing all aspects of the Auburn Police Department's LEP services to LEP individuals in conjunction with the City of Auburn's 2014 Language Assistance Plan (linked below).
- (b) Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all members.
- (c) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Shift Commander and Administrator. The list should include information regarding:
  - 1. Languages spoken.
  - 2. Contact information.
  - 3. Availability.
- (d) Ensuring signage stating that interpreters are available free of charge to LEP individuals is posted in appropriate areas and in the most commonly spoken languages.
- (e) Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.
- (f) Annually assessing demographic data and other resources, including contracted language services utilization data and data from community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.
- (g) Identifying standards and assessments to be used by this department to qualify individuals as qualified bilingual members or authorized interpreters.
- (h) Periodically reviewing efforts of this department in providing meaningful access to LEP individuals, and, as appropriate, developing reports, developing new procedures or recommending modifications to this policy.
- (i) Receiving and responding to complaints regarding department LEP services.
- (j) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

#### **331.4 FOUR-FACTOR ANALYSIS**

Because there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, as well as following the City of Auburn's 2014 Language Assistance Plan (linked below) to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of the following four factors, which are:

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- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of this department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

#### [City of Auburn Language Assistance Plan](#)

### **331.5 TYPES OF LEP ASSISTANCE AVAILABLE**

Auburn Police Department members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include, but are not limited to, the assistance methods described in this policy.

### **331.6 WRITTEN FORMS AND GUIDELINES**

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

### **331.7 AUDIO RECORDINGS**

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

### **331.8 QUALIFIED BILINGUAL MEMBERS**

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

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When a qualified bilingual member from this department is not available, personnel from other City departments who have been identified by the Department as having the requisite skills and competence may be requested.

#### **331.9 AUTHORIZED INTERPRETERS**

Any person designated by the Department to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the department case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the LEP coordinator that demonstrates their skills and abilities in the following areas:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this department and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

The department will utilize interpreters in the following order:

- (a) Sergeant Angel Gonzalez - Spanish (315-567-9006)
- (b) Utilization of Camillus Police Department
  - 1. [\(Camillus PD Language Interpreter Instructions\)](#)
- (c) Language Line Services
  - 1. Call 1-800-523-1786 and follow prompts ([LanguageLine Quick Reference Guide](#)) ([LanguageLine Contract](#))
  - 2. This service WILL NOT be used to interrogate a defendant or a suspect.
  - 3. When utilizing this service to interview a witness or victim, make every effort to record the interview.

Also, authorized interpreter services can be located within the City of Auburn's 2014 Language Assistance plan which is referenced and linked above.

##### **331.9.1 SOURCES OF AUTHORIZED INTERPRETERS**

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.



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Other sources may include:

- Qualified bilingual members of this department or personnel from other City departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

Authorized sources for interpreter services can be located within the City of Auburn's 2014 Language Assistance plan which is referenced and linked above.

#### **331.9.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE**

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations. Family members should not be used in cases of a domestic incident.

#### **331.10 CONTACT AND REPORTING**

Although all law enforcement contacts, services and individual rights are important, this department will utilize the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation that involves a situation in which interpretation services were provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Department or some other identified source.



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### **331.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

The Auburn Police Department will take reasonable steps and will work with the Comptroller to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

#### **331.11.1 EMERGENCY CALLS TO 9-1-1**

Department members will make every reasonable effort to promptly accommodate LEP individuals utilizing 9-1-1 lines. When a 9-1-1 call-taker receives a call and determines that the caller is an LEP individual, the call-taker shall quickly determine whether sufficient information can be obtained to initiate an appropriate emergency response. If language assistance is still needed, the language is known and a qualified bilingual member is available in Dispatch, the call shall immediately be handled by the qualified bilingual member.

If a qualified bilingual member is not available or the call-taker is unable to identify the caller's language, the call-taker will contact the contracted telephone interpretation service and establish a three-way call between the call-taker, the LEP individual and the interpreter.

Dispatchers will make every reasonable effort to dispatch a qualified bilingual member to the assignment, if available and appropriate.

Although 9-1-1 calls shall receive top priority, reasonable efforts should also be made to accommodate LEP individuals seeking routine access to services and information by utilizing the resources listed in this policy.

### **331.12 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

### **331.13 INVESTIGATIVE FIELD INTERVIEWS**

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably

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possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

#### **331.14 CUSTODIAL INTERROGATIONS**

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

To ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

#### **331.15 BOOKINGS**

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, to protect the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

#### **331.16 COMPLAINTS**

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during a complaint investigation should not be members of this department.

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Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

#### **331.17 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

#### **331.18 TRAINING**

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

The Training and Planning Administrator shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Training and Planning Administrator shall maintain records of all LEP training provided, and will retain a copy in each member's training file in accordance with the established records retention schedule.

##### **331.18.1 TRAINING FOR AUTHORIZED INTERPRETERS**

All members on the authorized interpreter list must successfully complete prescribed interpreter training. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language, demonstrate knowledge in both languages of any specialized terms or phraseology, and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Training and Planning Administrator shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.

# Communications with Persons with Disabilities

## 332.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

### 332.1.1 DEFINITIONS

Definitions related to this policy include:

**Auxiliary aids** - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; use of a notepad and pen or pencil to exchange written notes; use of a computer or typewriter; use of an assistive listening system or device to amplify sound; use of a teletypewriter (TTY) or videophones (video relay service or VRS); use of taped text or qualified readers; or use of a qualified interpreter.

**Disability or impairment** – An individual who has or is regarded as being substantially limited in a major life activity, including hearing or seeing, with or without assistance other than ordinary eyeglasses or contacts (42 USC § 12102). This includes a person who possesses visual acuity that is 20/200 or less in the better eye (corrected) or a field of vision 20 degrees or less in the better eye (18 NYCRR § 368.1; 18 NYCRR § 729.2).

**Qualified interpreter** - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, transliterators, sign language interpreters and intermediary interpreters.

## 332.2 POLICY

It is the policy of the Auburn Police Department to reasonably ensure that people with disabilities, including victims, witnesses, suspects and arrestees, have equal access to law enforcement services, programs and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights or programs based upon disabilities.

[City of Auburn Language Assistance Plan](#)

## 332.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief of Police shall delegate certain responsibilities to an ADA coordinator (28 CFR 35.107). The coordinator shall be appointed by and directly responsible to the Chief of Police or the authorized designee.

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

- (a) Working with the City ADA coordinator regarding the Auburn Police Department's efforts to ensure equal access to services, programs and activities.

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- (b) Developing reports or new procedures or recommending modifications to this policy.
- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.
- (d) Ensuring that a list of qualified interpreter services is maintained and available to each Shift Commander and Administrator. The list should include information regarding:
  - 1. Contact information.
  - 2. Availability.
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas indicating that auxiliary aids are available free of charge to individuals with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

#### **332.4 FACTORS TO CONSIDER**

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate his/her understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

#### **332.5 INITIAL AND IMMEDIATE CONSIDERATIONS**

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

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Members should exercise special care in the use of all gestures and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, is hard of hearing or has impaired speech must be handcuffed while in the custody of the Auburn Police Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

#### **332.6 TYPES OF ASSISTANCE AVAILABLE**

Auburn Police Department members shall never refuse an available service to an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall it require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to disabled individuals through a variety of services.

Disabled individuals may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

Department-provided auxiliary aids or services may include, but are not limited to, the assistance methods described in this policy.

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##### **332.7 AUDIO RECORDINGS AND ENLARGED PRINT**

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form (e.g., a personnel complaint form) or provide forms with enlarged print.

##### **332.8 QUALIFIED INTERPRETERS**

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee) if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or the investigation. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

##### **332.9 TTY AND RELAY SERVICES**

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, are hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.



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##### **332.10 COMMUNITY VOLUNTEERS**

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

##### **332.11 FAMILY AND FRIENDS**

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

##### **332.12 REPORTING**

Whenever any member of this department is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

##### **332.13 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.



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The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

#### **332.13.1 FIELD RESOURCES**

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, is hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.
- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

#### **332.14 CUSTODIAL INTERROGATIONS**

In an effort to ensure that the rights of individuals who are deaf, are hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

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To ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

#### **332.15 ARRESTS AND BOOKINGS**

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, are hard of hearing, have impaired speech or vision, are blind or have other disabilities. In the interest of the arrestee's health and welfare, to protect the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

Notification to the court should be made to allow for the appointment of a qualified interpreter prior to any legal proceeding (Judiciary Law § 390).

#### **332.16 COMPLAINTS**

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the ADA coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this department.

#### **332.17 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

#### **332.18 TRAINING**

To ensure that all members who may have contact with disabled individuals are properly trained, the Department will provide periodic training that should include:

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- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.
- (c) Working with in-person and telephone interpreters and related equipment.

The Training and Planning Administrator shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including those who are deaf, are hard of hearing, have impaired speech or vision or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Training and Planning Administrator shall maintain records of all training provided and will retain a copy in each member's training file in accordance with the established records retention schedule.

#### 332.18.1 CALL-TAKER TRAINING

Emergency call-takers shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, are hard of hearing or have speech impairments. Such training and information should include:

- (a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.
- (b) ASL syntax and accepted abbreviations.
- (c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls and using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.
- (d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Training should be mandatory for all Dispatch members who may have contact with individuals from the public who are deaf, are hard of hearing or have impaired speech. Refresher training should occur every six months.

## Biological Samples

### 333.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples for deoxyribonucleic acid (DNA) from those individuals required to provide samples upon conviction for certain offenses. This policy does not apply to biological samples collected at a crime scene or taken from an individual in conjunction with a criminal investigation, nor does it apply to biological samples collected from those required to register, for example, as sex offenders.

### 333.2 POLICY

The Auburn Police Department will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

### 333.3 OFFENDERS SUBJECT TO BIOLOGICAL SAMPLE COLLECTION

The following offenders must submit a biological sample (Executive Law § 995; Executive Law § 995-c):

- (a) When the Auburn Police Department is notified by the New York State Division of Criminal Justice Services that a sample is required from an offender.
- (b) When an offender has been ordered by a court to submit to a sample.

#### [Instructions to Offenders Procedure](#)

### 333.4 PROCEDURE

When an offender is required to provide a biological sample, a trained member shall attempt to obtain the sample in accordance with this policy.

#### [General Protocols Procedure](#)

#### 333.4.1 COLLECTION

The following steps should be taken to collect a sample:

- (a) Verify that the offender is required to provide a sample pursuant to Executive Law § 995-c.
- (b) Verify that a biological sample has not been previously collected from the offender by querying the New York State DNA Databank. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use an appropriate collection kit to perform the collection and take steps to avoid cross contamination.
- (d) Forward the collection kit to a forensic DNA laboratory authorized by the New York State Commission on Forensic Sciences to perform forensic DNA testing and analysis.

#### [Collection Instructions & Sample Forms](#)

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##### **333.5 USE OF FORCE TO OBTAIN SAMPLES**

If an offender refuses to cooperate with the sample collection process, members should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force. Force will not be used in the collection of samples except as authorized by court order, and only with the approval of a supervisor.

Methods to consider when seeking voluntary compliance include contacting:

- (a) The individual's parole or probation officer, when applicable.
- (b) The prosecuting attorney to seek additional charges against the individual for failure to comply or to otherwise bring the refusal before a judge.
- (c) The judge at the individual's next court appearance.
- (d) The individual's attorney.
- (e) A chaplain.
- (f) Another custody facility with additional resources, where the individual can be transferred to better facilitate sample collection.
- (g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

##### **333.5.1 VIDEO RECORDING**

A video recording should be made any time force is used to obtain a biological sample. The recording should document all persons participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the established records retention schedule.

## Chaplains

### 334.1 PURPOSE AND SCOPE

This policy establishes the guidelines for Auburn Police Department chaplains to provide counseling or emotional support to members of the Department, their families and members of the public.

### 334.2 POLICY

The Auburn Police Department shall ensure that department chaplains are properly appointed, trained and supervised to carry out their responsibilities without financial compensation.

### 334.3 ELIGIBILITY

- (a) Requirements for participation as a chaplain for the Department may include, but are not limited to:
  - 1. Being above reproach, temperate, prudent, respectable, hospitable, able to teach, free from addiction to alcohol or other drugs, and free from excessive debt.
  - 2. Managing his/her household, family and personal affairs well.
  - 3. Having a good reputation in the community.
  - 4. Successful completion of an appropriate-level background investigation.
  - 5. A minimum of five years of successful counseling experience.
  - 6. Possession of a valid driver license.
- (b) Any Chaplain designated by the Auburn Police Department will possess the following qualifications:
  - 1. Ecclesiastical Endorsement in good standing with a recognized religious body. While a representative of his/her denomination, the Chaplain must have the ability to be ecumenical when working with the Auburn Police Department.
  - 2. Make best efforts to be available for call upon services on a 24-7 basis.
  - 3. Encompass relevant experience, professional ministry, and emotional support services.
  - 4. Qualify in public safety chaplaincy through training, work experience and appointment.
  - 5. Work with our critical incident review team and training office to develop most effective techniques to assist affected people in crisis situations.

The Chief of Police may allow exceptions to these eligibility requirements based on organizational needs and the qualifications of the individual.

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#### **334.4 RECRUITMENT, SELECTION AND APPOINTMENT**

The Auburn Police Department shall endeavor to recruit and appoint only those applicants who meet the high ethical, moral and professional standards set forth by this department.

##### **334.4.1 QUALIFICATIONS**

A primary qualification for participation in the application process should be an interest in and an ability to assist the Department in serving the public. Chaplain candidates are encouraged to participate in ride-alongs with department members before and during the selection process.

##### **334.4.2 SELECTION AND APPOINTMENT**

Chaplain candidates shall successfully complete the following process prior to appointment as a chaplain:

- (a) Submit the appropriate written application.
- (b) Include a recommendation from employers or volunteer programs.
- (c) Interview with the Chief of Police.
- (d) Successfully complete an appropriate-level background investigation.
- (e) Complete an appropriate probationary period as designated by the Chief of Police.

Chaplains are volunteers and serve at the discretion of the Chief of Police.

#### **334.5 IDENTIFICATION AND UNIFORMS**

As representatives of the Department, chaplains are responsible for presenting a professional image to the community. Chaplains shall dress appropriately for the conditions and performance of their duties. Uniforms and necessary safety equipment will be provided for each chaplain. Identification symbols worn by chaplains shall be different and distinct from those worn by officers through the inclusion of "Chaplain" on the uniform. Chaplain uniforms shall not reflect any religious affiliation.

Chaplains will be issued Auburn Police Department identification cards, which must be carried at all times while on-duty. The identification cards will be the standard Auburn Police Department identification cards, with the exception that "Chaplain" will be indicated on the cards. Chaplains shall be required to return any issued uniforms or department property at the termination of service.

#### **334.6 DUTIES AND RESPONSIBILITIES**

Chaplains assist the Department, its members and the community as needed. Assignments of chaplains will usually be to augment the Patrol Bureau, but chaplains may be assigned to other areas within the Department as needed. Chaplains should be placed only in assignments or programs that are consistent with their knowledge, skills and abilities and the needs of the Department.

All chaplains will be assigned to duties and shall comply with the directives of the on-scene supervisor of the Auburn Police Department.



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#### *Chaplains*

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Chaplains may not proselytize or attempt to recruit members of the Department or the public into a religious affiliation while representing themselves as chaplains with this department. If there is any question as to the receiving person's intent, chaplains should verify that the person is desirous of spiritual counseling or guidance before engaging in such discussion.

Chaplains may not accept gratuities for any service, or any subsequent actions or follow-up contacts that were provided while functioning as a chaplain for the Auburn Police Department.

#### **334.6.1 ASSISTING DEPARTMENT MEMBERS**

The responsibilities of a chaplain related to department members include, but are not limited to:

- (a) Assisting in making notification to families of members who have been seriously injured or killed and, after notification, responding to the hospital or home of the member.
- (b) Visiting sick or injured members in the hospital or at home.
- (c) Attending and participating, when requested, in funerals of active or retired members.
- (d) Serving as a resource for members who are dealing with the public during significant incidents (e.g., accidental deaths, suicides, suicidal subjects, serious accidents, drug and alcohol abuse).
- (e) Providing counseling and support for members and their families.
- (f) Being alert to the needs of members and their families.

#### **334.7 PRIVILEGED COMMUNICATIONS**

No person who provides chaplain services to members of the Department may work or volunteer for the Auburn Police Department in any capacity other than that of chaplain.

Department chaplains shall be familiar with state evidentiary laws and rules pertaining to the limits of the clergy-penitent, psychotherapist-patient and other potentially applicable privileges and shall inform members when it appears reasonably likely that the member is discussing matters that are not subject to privileged communications. In such cases, the chaplain should consider referring the member to a non-department counseling resource.

No chaplain shall provide counsel to or receive confidential communications from any Auburn Police Department member concerning an incident personally witnessed by the chaplain or concerning an incident involving the chaplain.

# Public Safety Video Surveillance System

## 335.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of department public safety video surveillance, as well as the storage and release of the captured images.

This policy applies to public safety video surveillance systems operated by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department.

## 335.2 POLICY

The Auburn Police Department operates a public safety video surveillance system to complement its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist City officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

## 335.3 OPERATIONAL GUIDELINES

Only department-approved video surveillance equipment shall be utilized. Members authorized to monitor video surveillance equipment should only monitor public areas and public activities where no reasonable expectation of privacy exists. The Chief of Police or the authorized designee shall approve all proposed locations for the use of video surveillance technology and should consult with and be guided by legal counsel as necessary in making such determinations.

### 335.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City divisions and designated community groups when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high-value or high-threat areas. The public safety video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To target identified areas of gang and narcotics complaints or activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.

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- (e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- (f) To augment resources in a cost-effective manner.
- (g) To monitor pedestrian and vehicle traffic activity.
- (h) To monitor critical infrastructure.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera. Images should be transmitted to monitors installed in the Shift Commander's office. When activity warranting further investigation is reported or detected at any camera location, the available information should be provided to responding officers in a timely manner. The Shift Commander personnel are authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

The Chief of Police may authorize video feeds from the public safety video surveillance system to be forwarded to a specified location for monitoring by other than police personnel, such as allied government agencies, road or traffic crews, or fire or emergency operations personnel.

Unauthorized recording, viewing, reproduction, dissemination or retention of anything documented by public safety surveillance equipment is prohibited.

#### **335.3.2 INTEGRATION WITH OTHER TECHNOLOGY**

The Department may elect to integrate its public safety video surveillance system with other technology to enhance available information. Systems such as gunshot detection, incident mapping, crime analysis, license plate recognition, facial recognition and other video-based analytical systems may be considered based upon availability and the nature of department strategy.

The Department should evaluate the availability and propriety of networking or otherwise collaborating with appropriate private sector entities and should evaluate whether the use of certain camera systems, such as pan-tilt-zoom systems, video enhancement or other analytical technology, requires additional safeguards.

#### **335.4 VIDEO SUPERVISION**

Supervisors should monitor video surveillance access and usage to ensure members follow department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

##### **335.4.1 PROHIBITED ACTIVITY**

Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Public safety video surveillance equipment shall not be used in an unequal or discriminatory manner and shall not target individuals or groups based solely on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.

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Video surveillance equipment shall not be used to harass, intimidate, or discriminate against any individual or group.

#### **335.5 STORAGE AND RETENTION OF MEDIA**

All downloaded media shall be stored in a secure area with access restricted to authorized persons. A recording needed as evidence shall be copied to a suitable medium and booked into evidence in accordance with established evidence procedures. All actions taken with respect to retention of media shall be appropriately documented.

The type of video surveillance technology employed and the manner in which recordings are used and stored will affect retention periods. The recordings should be stored and retained in accordance with the established records retention schedule.

##### **335.5.1 EVIDENTIARY INTEGRITY**

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

#### **335.6 RELEASE OF VIDEO IMAGES**

All recorded video images gathered by the public safety video surveillance equipment are for the official use of the City of Auburn and/or Auburn Police Department.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records.

Requests for recorded images from other law enforcement agencies shall be referred to the Chief of Police, or designee, for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### **335.7 VIDEO SURVEILLANCE AUDIT**

The Chief of Police or the authorized designee will conduct an annual review of the public safety video surveillance system. The review should include an analysis of the cost, benefit and effectiveness of the system, including any public safety issues that were effectively addressed or any significant prosecutions that resulted, and any systemic operational or administrative issues that were identified, including those related to training, discipline or policy.

The results of each review shall be appropriately documented and maintained by the Chief of Police or the authorized designee and other applicable advisory bodies. Any recommendations for training or policy should be promptly addressed.

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#### *Public Safety Video Surveillance System*

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##### **335.8 TRAINING**

All department members authorized to operate or access public safety video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, and a review regarding relevant policies and procedures, including this policy.

## Child and Dependent Adult Safety

### 336.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department.

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Adult Abuse policies.

### 336.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Auburn Police Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

### 336.3 LIAISON RESPONSIBILITIES

The Chief of Police shall have the arresting officer assist in safeguarding dependents of arrested parents or guardians.

### 336.4 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. When possible, officers should attempt to determine in advance if any children are present in a pre-arrest situation. This may include having dispatchers inquire during calls for service that may involve an arrest or using intelligence gathered for a warrant service.

In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken:

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends, and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should consider reasonable alternatives to arresting a parent, guardian, or caregiver in the presence of their child or dependent adult.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be nonproductive, the officer at the scene should

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#### *Child and Dependent Adult Safety*

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explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that they will receive appropriate care.

##### 336.4.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
  - 1. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) Unless there is evidence that it would not be in the dependent person's best interest (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
  - 1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify the Office of Children and Family Services, Child Protective Services division or the Adult Protective Services division, if appropriate. If the conduct for which the parent/caregiver was arrested amounts to child abuse or maltreatment, make the mandated report (see the Child Abuse Policy) and the appropriate notification for investigation.
- (e) Notify the field supervisor or Shift Commander of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.



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##### **336.4.2 DURING THE BOOKING PROCESS**

During the booking process, the arrestee should be allowed to make telephone calls to arrange for the care of any child or dependent adult in accordance with the Temporary Custody of Adults Policy.

If an arrestee is unable to arrange for the care of any child or dependent adult through this process, or circumstances prevent them from making such arrangements (e.g., their behavior prevents reasonable accommodations for making necessary calls), a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

##### **336.4.3 REPORTING**

- (a) For all arrests where children are present or living in the household, the reporting member will document the following information:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. Special needs (e.g., medical, mental health)
  - 5. How, where and with whom or which agency the child was placed
  - 6. Identities and contact information for other potential caregivers
  - 7. Notifications made to other adults (e.g., schools, relatives)
- (b) For all arrests where dependent adults are present or living in the household, the reporting member will document the following information:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. Whether the person reasonably appears able to care for him/herself
  - 5. Disposition or placement information if he/she is unable to care for him/herself

##### **336.4.4 SUPPORT AND COUNSELING REFERRAL**

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis response telephone number, the appropriate referral information may be provided.

##### **336.5 DEPENDENT WELFARE SERVICES**

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or

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other department-approved social service agency to determine whether protective custody is appropriate.

Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked law enforcement vehicle or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

## Service Animals

### 337.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure that the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act (ADA).

#### 337.1.1 DEFINITIONS

Definitions related to this policy include:

**Service animal** - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

### 337.2 POLICY

It is the policy of the Auburn Police Department to provide services and access to persons with service animals in the same manner as those without service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law (Civil Rights Law § 47 et seq.).

### 337.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.

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- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

#### **337.4 MEMBER RESPONSIBILITIES**

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Auburn Police Department affords to all members of the public (28 CFR 35.136).

##### **337.4.1 INQUIRY**

If it is apparent or if a member is aware that an animal is a service animal, the individual generally should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the member should ask the individual only the following questions (28 CFR 35.136(f)):

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal and no further questions as to the animal's status should be asked. The individual should not be questioned about his/her disability nor should the person be asked to provide any license, certification or identification card for the service animal.

##### **337.4.2 CONTACT**

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

##### **337.4.3 REMOVAL**

If a service animal is not housebroken or exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, an officer may direct the handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the service animal (28 CFR 35.136(b)).

Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services that are reasonably available to an individual with a disability, with or without a service animal.

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##### 337.4.4 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of this department should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, officers should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ) or the New York State Office of the Attorney General Civil Rights Bureau.

# Volunteers

## 338.1 PURPOSE AND SCOPE

This policy establishes the guidelines for Auburn Police Department volunteers to supplement and assist department personnel in their duties. Trained volunteers are members who can augment department personnel and help complete various tasks.

### 338.1.1 DEFINITIONS

Definitions related to this policy include:

**Volunteer** - An individual who performs a service for the Department without promise, expectation or receipt of compensation for services rendered. This may include unpaid chaplains, interns, persons providing administrative support, and youth involved in a law enforcement Explorer Post, among others.

## 338.2 POLICY

The Auburn Police Department shall ensure that volunteers are properly appointed, trained and supervised to carry out specified tasks and duties in order to create an efficient department and improve services to the community.

## 338.3 ELIGIBILITY

Requirements for participation as a volunteer for the Department may include, but are not limited to:

- (a) Being at least 18 years of age for all positions.
- (b) Possession of a valid driver license if the position requires vehicle operation.
- (c) Possession of liability insurance for any personally owned equipment, vehicles or animals utilized during volunteer work.
- (d) No conviction of a felony, any crime of a sexual nature or against children, any crime related to assault or violence, any crime related to dishonesty, or any crime related to impersonating a law enforcement officer.
- (e) No conviction of a class A misdemeanor or class B misdemeanor crime within the past 10 years, excluding misdemeanor traffic offenses.
- (f) No mental illness or chemical dependency condition that may adversely affect the person's ability to serve in the position.
- (g) Ability to meet physical requirements reasonably appropriate to the assignment.
- (h) A personal background history and character suitable for a person representing the Department, as validated by a background investigation.

The Chief of Police may allow exceptions to these eligibility requirements based on organizational needs and the qualifications of the individual.

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### **338.4 RECRUITMENT, SELECTION AND APPOINTMENT**

The Auburn Police Department shall endeavor to recruit and appoint only those applicants who meet the high ethical, moral and professional standards set forth by this department.

#### **338.4.1 RECRUITMENT**

Volunteers should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity, nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in and an ability to assist the Department in serving the public.

#### **338.4.2 SELECTION**

Volunteer candidates shall successfully complete the following process prior to appointment as a volunteer:

- (a) Submit the appropriate written application.
- (b) Successfully complete an appropriate-level background investigation.

#### **338.4.3 APPOINTMENT**

Service as a volunteer with the Department shall begin with an official notice of acceptance or appointment by the Chief of Police or the authorized designee. Notice may only be given by an authorized representative of the Department.

No volunteer should begin any assignment until he/she has been officially accepted for that position and has completed all required screening and paperwork. At the time of final acceptance, each volunteer should complete all required enrollment paperwork and will receive a copy of the position description and agreement of service with the Department.

All volunteers shall receive a copy of the volunteer orientation materials and shall be required to sign a volunteer agreement. Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Department.

Volunteers serve at the discretion of the Chief of Police.

### **338.5 IDENTIFICATION AND UNIFORMS**

As representatives of the Department, volunteers are responsible for presenting a professional image to the community. Volunteers shall dress appropriately for the conditions and performance of their duties. Uniforms and necessary safety equipment will be provided for each volunteer. Identification symbols worn by volunteers shall be different and distinct from those worn by officers or other members of this department through the inclusion of "Volunteer" on the uniform.

Volunteers will be issued Auburn Police Department identification cards, which must be carried at all times while on-duty. The identification cards will be the standard Auburn Police Department identification cards, except that "Volunteer" will be indicated on the cards.



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##### **338.6 PERSONNEL WORKING AS VOLUNTEERS**

Qualified regular department personnel, when authorized, may also serve as volunteers. However, this department shall not utilize the services of volunteers in such a way that it would violate employment laws or collective bargaining agreements (e.g., a detention officer participating as a volunteer for reduced or no pay). Therefore, the volunteer coordinator should consult with the Comptroller prior to allowing regular department personnel to serve in a volunteer capacity (29 CFR 553.30).

##### **338.7 TRAINING AND PLANNING ADMINISTRATOR**

The volunteer coordinator shall be appointed by and directly responsible to the Administration Commander or the authorized designee.

The function of the coordinator is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist efforts to jointly provide more productive volunteer services. Under the general direction of the Chief of Police or the authorized designee, volunteers shall report to the volunteer coordinator and/or Shift Commander.

The responsibilities of the coordinator or the authorized designee include, but are not limited to:

- (a) Recruiting, selecting and training qualified volunteers.
- (b) Conducting volunteer meetings.
- (c) Maintaining records for each volunteer.
- (d) Tracking and evaluating the contribution of volunteers.
- (e) Maintaining a record of volunteer schedules and work hours.
- (f) Completing and disseminating, as appropriate, all necessary paperwork and information.
- (g) Maintaining a liaison with other community programs that use volunteers and assisting in community-wide efforts to recognize and promote volunteering.
- (h) Maintaining volunteer orientation and training materials and outlining expectations, policies and responsibilities for all volunteers.

An evaluation of the overall use of volunteers will be conducted on an annual basis by the coordinator.

##### **338.8 DUTIES AND RESPONSIBILITIES**

Volunteers assist department personnel as needed. Assignments of volunteers will usually be to augment the Patrol Bureau, but volunteers may be assigned to other areas within the Department as needed. Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills and abilities and the needs of the Department.

All volunteers will be assigned to duties by the Training and Planning Administrator, or the authorized designee.

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### **338.9 TASK-SPECIFIC TRAINING**

Task-specific training is intended to provide the required instruction and practice for volunteers to properly and safely perform their assigned duties. A volunteer's training should correspond to his/her assignment as determined by the Training and Planning Administrator.

Volunteers will be provided with an orientation program to acquaint them with the policies of the Department and law enforcement procedures applicable to their assignments.

Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete the required tasks, and should receive ongoing training as deemed appropriate by their supervisors or the Training and Planning Administrator.

Training should reinforce to volunteers that they shall not intentionally represent themselves as, or by omission infer that they are or were, officers or other full-time members of the Department. They shall always represent themselves as volunteers.

All volunteers shall comply with the rules of conduct and with all applicable orders and directives, either oral or written, issued by the Department.

#### **338.9.1 VOLUNTEER TRAINING MATERIALS**

Each new volunteer will be issued volunteer training materials. The materials outline the subject matter and skills necessary to properly function as a volunteer with the Auburn Police Department. The volunteer shall become knowledgeable of the subject matter and proficient with the skills as set forth in the training materials.

### **338.10 SUPERVISION**

Each volunteer must have a clearly identified supervisor who is responsible for direct management of that volunteer. This supervisor will be responsible for day-to-day management and guidance of the work of the volunteer and should be available to the volunteer for consultation and assistance.

A volunteer may be assigned as a supervisor of other volunteers, provided that the supervising volunteer is under the direct supervision of an employee of the Auburn Police Department.

#### **338.10.1 EVALUATIONS**

While in training, volunteers should be continuously evaluated using standardized daily and weekly observation reports. A volunteer will be considered a trainee until he/she has satisfactorily completed training. Volunteers who have completed their training should be evaluated annually using performance dimensions applicable to the duties and authorities granted to that volunteer.

#### **338.10.2 FITNESS FOR DUTY**

No volunteer shall report for work or be at work when his/her judgment or physical condition has been impaired due to illness or injury, or by the use of alcohol or drugs, whether legal or illegal.

Volunteers shall report to their supervisors any change in status that may affect their ability to fulfill their duties. This includes, but is not limited to:

- (a) Driver license.

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- (b) Medical condition.
- (c) Arrests.
- (d) Criminal investigations.

#### **338.11 INFORMATION ACCESS**

With appropriate security clearance, a volunteer may have access to or be in the vicinity of criminal histories, investigative files or information portals. Unless otherwise directed by a supervisor, the duties of the position or department policy, all such information shall be considered confidential. Only that information specifically identified and approved by authorized members shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by department policy and supervisory personnel.

A volunteer whose assignment requires the use of, or access to, confidential information will be required to have his/her fingerprints submitted to the State Identification Bureau to obtain clearance. Volunteers working this type of assignment will receive training in data practices and be required to sign a nondisclosure agreement before being given an assignment with the Department. Subsequent unauthorized disclosure of any confidential information verbally, in writing or by any other means by the volunteer is grounds for immediate dismissal and possible criminal prosecution.

Volunteers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to newspapers or other periodicals, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the proper department personnel.

##### **338.11.1 RADIO AND MDT USAGE**

Volunteers shall successfully complete state and federal database access training and radio procedures training prior to using police radios or MDTs and shall comply with all related provisions.

#### **338.12 EQUIPMENT**

Any property or equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to a volunteer shall remain the property of the Department and shall be returned at the termination of service.

#### **338.13 DISCIPLINARY PROCEDURES/TERMINATION**

If a volunteer has a personnel complaint made against him/her or becomes involved in an internal investigation, the matter shall be investigated in compliance with the Personnel Complaints Policy.

Volunteers are considered at-will and may be removed from service at the discretion of the Chief of Police, with or without cause. Volunteers shall have no property interest in their continued appointments.

Volunteers may resign from volunteer service with the Department at any time. It is requested that volunteers who intend to resign provide advance notice and a reason for their decision.

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##### **338.13.1 EXIT INTERVIEWS**

The volunteer coordinator should conduct exit interviews, where possible. These interviews should ascertain why the volunteer is leaving the position and should solicit the volunteer's suggestions on improving the position. When appropriate, an exit interview should also include a discussion on the possibility of involvement in some other capacity with the Department.

##### **338.14 COLLEGE INTERNSHIP PROGRAM**

The Auburn Police Department is committed to developing partnerships within the community it serves. Through the College Student Internship Program, the Auburn Police Department builds partnerships with colleges and universities and benefits, along with the student interns, from shared educational experiences.

The College Student Internship Program provides a positive learning environment in which interested college students can experience the various aspects and responsibilities of law enforcement while completing a project as part of their studies. The Auburn Police Department strives to offer a quality educational experience by providing the student with a learning environment that enhances their understanding of law enforcement within the Criminal Justice System.

[College Internship Program Procedure](#)

[Intern COVID-19 Form](#)

# Native American Graves Protection and Repatriation

## 339.1 PURPOSE AND SCOPE

This policy is intended ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001).

### 339.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

**Native American human remains** - The physical remains of the body of a person of Native American ancestry.

**Funerary objects and associated funerary objects** - Objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains, or that were made exclusively for burial purposes, or to contain human remains.

**Sacred objects** - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

**Objects of cultural patrimony** - Objects having ongoing historical, traditional or cultural importance that is central to the Native American group or culture itself and therefore cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

## 339.2 POLICY

It is the policy of the Auburn Police Department that the protection of Native American human remains, funerary objects, sacred objects or objects of cultural patrimony on federal lands is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption or complicated custody transfer processes.

## 339.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, sacred objects or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.4 et seq.).

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

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Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.4):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land - New York State Office of Parks, Recreation and Historic Preservation
- Tribal land - Responsible Indian tribal official

#### **339.4 EVIDENCE AND PROPERTY**

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.6).

#### **339.5 STATE LAWS**

The following statutes may be applicable when encountering a situation involving the disturbance of a Native American grave site:

- (a) Indian cemetery or burial grounds - Tampering with or removing items from a state-designated Indian burial ground (Indian Law § 12-a).
- (b) Body stealing - The unlawful removal of a human body or body parts (Public Health Law § 4216).

## Off-Duty Law Enforcement Actions

### 340.1 PURPOSE AND SCOPE

This policy is intended to provide guidelines for officers of the Auburn Police Department with respect to taking law enforcement action while off-duty.

### 340.2 POLICY

It is the policy of the Auburn Police Department that officers generally should not initiate law enforcement action while off-duty. Officers are not expected to place themselves in unreasonable peril and should first consider reporting and monitoring the activity. However, any officer who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage or loss, may take reasonable action to minimize or eliminate the threat.

### 340.3 DECISION TO INTERVENE

There is no legal requirement for off-duty officers to take law enforcement action. Officers should consider waiting for on-duty uniformed law enforcement personnel to arrive and while gathering as much accurate intelligence as possible, instead of immediately intervening. However, if an officer decides to intervene, he/she must evaluate whether the action is necessary or desirable, and should take into consideration:

- (a) The potential to be misidentified by other law enforcement personnel.
- (b) The potential to be misidentified by members of the public, who may be armed or who may take action.
- (c) The tactical disadvantage of being alone and the possibility of multiple or hidden suspects.
- (d) Limited off-duty firearms capabilities and ammunition.
- (e) The inability to communicate with responding law enforcement personnel.
- (f) The lack of equipment, such as body armor, handcuffs or control devices.
- (g) Unfamiliarity with the surroundings, including escape routes.
- (h) The potential for increased risk to bystanders by confronting a suspect or taking action.

#### 340.3.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary, the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. If possible, the dispatcher receiving the call should obtain a description of the off-duty officer from the caller and broadcast that information to responding officers.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as an officer with the Auburn Police Department until acknowledged. Official identification should also be displayed when possible.



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#### **340.4 CONSIDERATIONS**

When encountering a non-uniformed officer in public, uniformed officers should wait for acknowledgement by the non-uniformed officer in case he/she is working in an undercover capacity.

##### **340.4.1 CIVILIAN RESPONSIBILITIES**

Civilian members should not become involved in any law enforcement action while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

##### **340.4.2 INCIDENTS OF PERSONAL INTEREST**

Department members should refrain from handling incidents of personal interest (e.g., family or neighbor disputes) and should remain neutral. In such circumstances members should call the responsible agency to handle the matter.

#### **340.5 REPORTING**

If prior notification to the appropriate local law enforcement agency is not reasonably possible before taking action, the officer shall notify the agency as soon as reasonably practicable. Officers shall cooperate fully with the agency having jurisdiction by providing statements or reports as requested or as appropriate.

Officers shall notify the Shift Commander regarding any law enforcement action taken while off-duty. The Shift Commander may send a supervisor to the location. The supervisor may request assistance from the Administration, if deemed appropriate.

The Shift Commander shall determine whether a case report or an administrative report should be completed by the involved officer.

## Community Relations

### 341.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for community relationship-building.

Additional guidance on community relations and outreach is provided in other policies, including the:

- Hate Crimes Policy.
- Limited English Proficiency Services Policy.
- Communications with Persons with Disabilities Policy.
- Chaplains Policy.
- Patrol Policy.
- Suspicious Activity Reporting Policy.

### 341.2 POLICY

It is the policy of the Auburn Police Department to promote positive relationships between department members and the community by treating community members with dignity and respect and engaging them in relationship-building activities, by making relevant policy and operations information available to the community in a transparent manner.

### 341.3 OFFICER RESPONSIBILITIES

Officers Achieving the Department's community relations objectives and crime prevention functions are a responsibility shared by all members. Officers should, as time and circumstances reasonably permit:

- (a) Make casual and consensual contacts with community members to promote positive community relationships (see the Contacts and Temporary Detentions Policy).
- (b) Become reasonably familiar with the schools, businesses and community groups in their assigned jurisdictional areas.
- (c) Work with community members and the department community policing supervisor to identify issues and solve problems related to community relations and public safety.
- (d) Conduct routine foot patrols of their assigned areas to facilitate interaction with community members. Officers carrying out foot patrols should notify Dispatch of their status (i.e., on foot patrol) and location before beginning and upon completion of the foot patrol.
- (e) They should also periodically inform Dispatch of their location and status during the foot patrol.

#### Duties of the Community Oriented Policing (COP) Officer

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##### **341.4 COMMUNITY POLICING SUPERVISOR**

The Chief of Police or the authorized designee should designate a member of the Department to serve as the community policing supervisor.. He/she should report directly to the Chief of Police or authorized designee and is responsible for:

- (a) Obtaining department-approved training related to his/her responsibilities.
- (b) Responding to requests from department members and the community for assistance in identifying issues and solving problems related to community relations and public safety.
- (c) Organizing surveys to measure the condition of the department's relationship with the community.
- (d) Working with community groups, department members and other community resources to:
  - 1. Identify and solve public safety problems within the community.
  - 2. Organize programs and activities that help build positive relationships between department members and the community and provide community members with an improved understanding of department operations.
- (e) Working with the Patrol Commander to develop patrol deployment plans that allow officers the time to participate in community engagement and problem-solving activities.
- (f) Recognizing department and community members for exceptional work or performance in community relations efforts.
- (g) Attending community meetings to obtain information on community relations needs.
- (h) Informing the Chief of Police and others of developments and needs related to the furtherance of the department's community relations goals, as appropriate.

##### **341.5 SURVEYS**

The community policing supervisor should arrange for a survey of community members and department members to be conducted periodically to assess the condition of the relationship between the Department and the community. Survey questions should be designed to evaluate perceptions of the following:

- (a) Overall performance of the Department
- (b) Overall competence of department members
- (c) Attitude and behavior of department members
- (d) Level of community trust in the Department
- (e) Safety, security or other concerns

A written summary of the compiled results of the survey should be provided to the Chief of Police.

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##### **341.6 COMMUNITY AND YOUTH ACTIVITIES AND PROGRAMS**

The community policing supervisor should organize or assist with programs and activities that create opportunities for department members and community members, especially youth, to interact in a positive setting. Examples of such programs and events include:

- (a) Department-sponsored athletic programs (e.g., baseball, basketball, soccer, bowling).
- (b) Police-community get-togethers (e.g., cookouts, meals, charity events).
- (c) Youth leadership and life skills mentoring.
- (d) School resource officer/Drug Abuse Resistance Education (D.A.R.E.®) programs.
- (e) Neighborhood Watch and crime prevention programs.

##### **341.7 INFORMATION SHARING**

The community policing supervisor should work with the Public Information Officer to develop methods and procedures for the convenient sharing of information (e.g., major incident notifications, significant changes in department operations, comments, feedback, positive events) between the Department and community members. Examples of information-sharing methods include:

- (a) Community meetings.
- (b) Social media (see the Department Use of Social Media Policy).
- (c) Department website postings.

Information should be regularly refreshed, to inform and engage community members continuously.

##### **341.8 LAW ENFORCEMENT OPERATIONS EDUCATION**

The community policing supervisor should develop methods to educate community members on general law enforcement operations so they may understand the work that officers do to keep the community safe. Examples of educational methods include:

- (a) Development and distribution of informational cards/flyers.
- (b) Department website postings.
- (c) Presentations to driver education classes.
- (d) Instruction in schools.
- (e) Department ride-alongs (see the Ride-Alongs Policy).
- (f) Scenario/Simulation exercises with community member participation.
- (g) Youth internships at the Department.
- (h) Citizen academies.

Instructional information should include direction on how community members should interact with the police during enforcement or investigative contacts and how community members can make

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a complaint to the Department regarding alleged misconduct or inappropriate job performance by department members.

#### **341.9 SAFETY AND OTHER CONSIDERATIONS**

Department members responsible for community relations activities should consider the safety of the community participants and, as much as reasonably practicable, should not allow them to be present in any location or situation that would jeopardize their safety.

Department members in charge of community relations events should ensure that participating community members have completed waiver forms before participation, if appropriate. A parent or guardian must complete the waiver form if the participating community member has not reached 18 years of age.

Community members are subject to a criminal history check before approval for participation in certain activities, such as citizen academies.

#### **341.10 TRANSPARENCY**

The Department should periodically publish statistical data and analysis regarding the department's operations. The reports should not contain the names of officer, suspects or case numbers.

#### **341.11 TRAINING**

Subject to available resources, members should receive training related to this policy, including training on topics such as:

- (a) Effective social interaction and communication skills.
- (b) Cultural, racial and ethnic diversity and relations.
- (c) Building community partnerships.
- (d) Community policing and problem-solving principles.
- (e) Enforcement actions and their effects on community relations.

Where practicable and appropriate, community members, especially those with relevant expertise, should be involved in the training to provide input from a community perspective.

# Extreme Risk Protection Orders

## 342.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for applying for and serving extreme risk protection orders, and accounting for firearms obtained pursuant to those orders.

### 342.1.1 DEFINITIONS

Definitions related to this policy include:

**Extreme risk protection order** - An order of protection prohibiting a named person from purchasing, possessing, or attempting to purchase or possess a firearm, rifle, or shotgun (CPLR § 6340; CPLR § 6342; CPLR § 6343).

**Prohibited items** - Firearms, rifles, or shotguns that are prohibited by an extreme risk protection order (CPLR § 6340).

## 342.2 POLICY

It is the policy of the Auburn Police Department to apply for and serve extreme risk protection orders in compliance with state law, and to properly account for prohibited items obtained by the Department pursuant to such orders.

## 342.3 EXTREME RISK PROTECTION ORDER COORDINATOR

The Chief of Police has identified an Extreme Risk Protection Order Coordinator as the Detective Bureau Supervisor. The responsibilities of the coordinator include:

- (a) Developing and maintaining procedures for the filing of an application for an order or a renewal of an order by department members (CPLR § 6341; CPLR § 6345).
- (b) Developing and maintaining procedures for the receipt and service of orders consistent with the requirements of CPLR § 6342 and CPLR § 6343. Procedures should include:
  1. Evaluation of an order, and any related search warrant, to determine appropriate service and necessary precautions (see the Warrant Service Policy and the Operations Planning and Deconfliction Policy).
  2. Preparing or obtaining a search warrant prior to attempting service of an order, when applicable.
- (c) Coordinating with the Training and Planning Administrator to provide training on such orders to officers who may be involved in petitioning for or serving orders. Training should include determining when a petition is appropriate, the process for seeking an order, and the service of such orders.
- (d) Reviewing each application for an order filed by department members, including any associated documents, to ensure compliance with this policy, department procedures, and state law.
- (e) Developing and maintaining procedures for members to accept surrendered or seized prohibited items. Procedures should include:

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1. Accepting prohibited items at times other than when an order is being served by the Department.
  2. Preparing and providing a Property Seizure Receipt describing the prohibited items (CPLR § 6344).
- (f) Managing court-ordered background investigations.

#### **342.4 EXTREME RISK PROTECTION ORDERS**

An officer who reasonably believes that an extreme risk protection order is appropriate should obtain supervisor approval prior to seeking an order.

##### **342.4.1 STANDARDS**

Extreme risk protection orders shall be filed when there is probable cause to believe the respondent is likely to engage in conduct that would result in serious harm to the respondent or others (CPLR § 6341; CPLR § 6342; CPLR § 6345).

##### **342.4.2 REQUIREMENTS OF APPLICATION**

An application for an extreme risk protection order should be prepared consistent with state law and the procedures developed by the Detective Bureau Supervisor (CPLR § 6341; CPLR § 6342).

#### [Extreme Risk Protection Orders Instructions](#)

#### [Extreme Risk Protection Orders Business Hours - Filing of ERPOs](#)

#### **342.5 SERVICE**

Officers who receive an extreme risk protection order for service should serve a copy of the order, along with any accompanying notice of hearing and associated documents, when directed by the court, on the person named in the order as soon as practicable. Service of orders should take precedence over the service of other orders, except for orders of a similar emergency nature (CPLR § 6342).

##### **342.5.1 SAFETY CONSIDERATIONS**

When appropriate, based on the circumstances and department procedures, service of orders should be executed pursuant to the Operations Planning and Deconfliction Policy.

In no circumstances should fewer than two officers be present when an order is being served.

##### **342.5.2 SURRENDER OF PROHIBITED ITEMS**

Officers serving an extreme risk protection order shall request that the named person immediately surrender all prohibited items as required by the order. Officers should take custody of any items surrendered pursuant to the order or discovered either in plain sight or pursuant to a lawful search (CPLR § 6342; CPLR § 6343).

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A receipt identifying all surrendered or seized items shall be prepared by the officers and a copy given to the person (CPLR § 6344). The officers should ensure the original receipt is included in the original case report and forwarded to the Records Supervisor as soon as practicable.

All items collected should be handled and booked in accordance with the Identification Bureau Policy.

#### **342.5.3 SEARCH WARRANTS**

Officers should consult with a shift supervisor whether a search warrant may be reasonably necessary prior to attempting service of an order.

Consideration should also be given to whether a search warrant is necessary after an extreme risk protection order has been served if an officer reasonably believes there are prohibited items within the respondent's custody, control, or possession that have not been surrendered or seized.

Preparation and service of the search warrant should be done in accordance with the Warrant Service Policy.

#### **342.6 RELEASE OF PROHIBITED ITEMS**

Any person requesting the release of any prohibited items in department custody pursuant to an extreme risk protection order should be referred to the Identification Bureau.

#### **342.7 RENEWAL OF EXTREME RISK PROTECTION ORDER**

The Detective Bureau supervisor is responsible for the review of any extreme risk protection order obtained by the Department to determine if renewal or extension of the order should be requested within the time prescribed by law (CPLR § 6345).



# Law Enforcement-Based Victim Specialist Program

## 343.1 PURPOSE AND SCOPE

How law enforcement first responds to victims is critical in determining how victims cope, initially with the immediate crisis, and later, with their recovery from the crime. This response often influences the victim's participation in the investigation and prosecution of the crime as well as the victim's likelihood of reporting any future crimes. Recognizing this critical role, law enforcement leaders are integrating victimization issues into their training for line officers and incorporating a strong victim assistance component into their agencies with the use of a specially trained Law Enforcement Victim Specialist. The purpose of this policy is to emphasize that an effective response to the needs of crime victims is an integral part of the law enforcement mission. This essential function, performed by both sworn and civilian personnel, should address victims' needs by establishing a continuum of support and resources as victims' progress through the various phases of the criminal justice process.

## 343.2 POLICY

It is the policy of the Auburn Police Department to recognize and address the needs and rights of crime victims during each contact; support, provide access to resources, and assist victims as they continue to interact with the criminal justice system; and act as a liaison to appropriate victim assistance and service agencies beginning with our Victim Specialist. See also related policy, Victim and Witness Assistance.

## 343.3 RESPONSIBILITIES

### Auburn Police Department

- (a) Detective Bureau Supervisor
  - 1. Serve as the City of Auburn liaison to CCS
  - 2. Provide office and programmatic support
  - 3. Be the point of contact for the Victim Specialist
- (b) City Director of Capital Projects & Grants
  - 1. Executing the OVC grant agreement in GMS
  - 2. Preparing and executing sub recipient agreements
  - 3. Submitting FFR and Progress Reports in GMS
- (c) City Comptroller
  - 1. Review of Federal Financial Reports
  - 2. Preparation and Submittal of Grant Reimbursements
  - 3. Creation and monitoring of grant expense / revenue accounts

### Cayuga Counseling Services, Inc.

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- (a) CCS Executive Director
  - 1. Provide agency oversight
  - 2. Provide direct supervision to the Director of Victim Services
- (b) CCS Director of Victim Services
  - 1. Responsible for oversight and quality assurance in all aspects program operations;
  - 2. Serve as the point of contact;
  - 3. Develop Policies and Procedures in conjunction with Auburn Police Department;
  - 4. Maintain Program protocols to reflect current needs;
  - 5. Ensure the protocols in this proposal are carried out;
  - 6. Oversee data collection;
  - 7. Provide direction related to the provision of services;
  - 8. Oversee the funding responsibilities, files, records, and statistical information;
  - 9. Compile and submit all required statistical, funding and over site reports in a timely manner;
  - 10. Coordinate staff attendance at all required trainings;
  - 11. Provide direct supervision to the Victim Specialist;
  - 12. Pursue funding to expand, improve and sustain program operations and initiatives.
- (c) CCS Victim Specialist
  - 1. Respond to emotional, psychological and physical needs of crime victims;
  - 2. Review daily call for service logs with the APD Spillman Records Management System in order to identify victims who could be benefit from a follow-up needs assessment;
  - 3. Review domestic incident reports to identify cases that should be referred to the High-Risk Team using established criteria;
  - 4. Mail/distribute to victims a copy of the issued order of protection from CAP arraignments when received
  - 5. Provide direct services to crime victims including referrals to other service providers in the community;
  - 6. Respond to the scene of crime when asked by Supervising officers to do so;
  - 7. Provide outreach and educational programming to identify crime victims and ensure they are aware of the services available and their rights;
  - 8. Present to APD personnel at lineup to ensure they know about the services available through the Victim Specialist Program;
  - 9. Participate in ride-along with APD personnel;

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#### *Law Enforcement-Based Victim Specialist Program*

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10. Complete client contact logs and maintain client records;
11. Develop brochures and other printed materials to be distributed to crime victims;
12. Compile program statistics.

#### **343.4 PROGRAM DESCRIPTION**

The Law Enforcement Victim Specialist program will develop and execute a coordinated response and expansion of services for crime victims in Auburn, N.Y. The program will fund 1 full-time Victim Specialist who will be located at the Auburn Police Department in the City of Auburn, N.Y.

The creation of a victim services position that is located within the Auburn Police Department will allow the Victim Specialist to quickly respond to victims' needs, meet officers at a crime scene, and provide victims with immediate crisis intervention.

##### **343.4.1 TARGET POPULATION**

This program will target victims of all crimes in the City of Auburn that are handled through the Auburn Police Department. The program does not discriminate on the basis of race, color, national origin, sex, disability, religion, age, veteran status, gender identity or expression, sexual orientation, or other status protected by law.

Crimes that would be eligible for a referral to the Victim Specialist include, but are not limited to, the following:

- Adult physical assault (includes aggravated and simple assault)
- Adult sexual assault
- Adults sexually abused/assaulted as children
- Arson
- Bullying (verbal, cyber, or physical)
- Burglary
- Child physical abuse or neglect
- Child pornography
- Child sexual abuse/assault
- Cyber crimes
- Domestic and/or family violence
- DUI/DWI incidents
- Elder abuse or neglect
- Gang violence
- Hate crime: Racial/religious/gender/ sexual orientation/other
- Human trafficking: Labor

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- Human trafficking: Sex
- Identity theft/fraud/financial crime
- Kidnapping (noncustodial)
- Kidnapping (custodial)
- Mass violence (domestic/international)
- Other vehicular victimization (e.g., hit and run)
- Robbery
- Stalking/harassment
- Survivors of homicide victims
- Teen dating victimization
- Terrorism (domestic/international)

Note: The primary goal of the program is to address rights and needs of victims of attempted or actual criminal acts however, when feasible, the Advocate may reach out when needed to help with crisis events that are not criminal and no offender is involved. These include but are not limited to suicides, car accidents, etc.

#### 343.4.2 REFERRAL PROCESS

Referrals can be made in the following ways:

**Phone:** You can call the Victim Specialist directly at 315-283-0600.

**Email:** APD personnel can email the Victim Specialist at [tbozeatcook@auburnny.gov](mailto:tbozeatcook@auburnny.gov) When emailing please include the following information:

- APD Case #
- Name of Victim
- Brief explanation / reason for referral and what victim needs assistance with

**Mailbox:** Leave a copy of your report in the detective bin with a request, indicating you are requesting a follow up from the Victim Specialist.

**Detective Bureau meetings:** The Victim Specialist will attend weekly Detective Bureau meetings in order to assist with identifying victims who would benefit from follow-up services.

#### 343.4.3 PROGRAM RESPONSE TO VICTIMS

**Referrals:** Once a referral is made to the Victim Specialist, contact will be made as soon as possible but no later than the next day the Specialist is working.

**On scene response:** It is up to the supervising officers to determine if having the Victim Specialist respond to the scene would be helpful to the officers and the victim involved. If it is determined that a victim would benefit from an on-scene response by the Victim Specialist, a call can be

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made to the Victim Specialist's cell phone at 315-283-0600 to request a response. If the Specialist is available, she will respond to the scene and begin providing advocacy/supportive services to the victim. If the Specialist is unable to respond to the scene, a referral should be made and the Specialist will reach out to the victim the following business day.

The Victim Advocate can act as a liaison between Auburn Police Department personnel and the already established Domestic Violence Intervention Program and the SAVAR Program when someone has been a victim of domestic violence and/or sexual assault.

If you cannot reach the Victim Specialist when working with a victim of sexual assault and/or domestic violence, the following numbers should be utilized:

In cases of domestic violence, the Domestic Violence Intervention Program hotline, 315- 255-6221 should be utilized.

In cases of sexual assault, the SAVAR hotline, 315-252-2112 should be utilized.

#### **343.4.4 SERVICES AVAILABLE**

The Victim Specialist's role will be to respond to the emotional, physical and/or psychological needs of crime victims and to connect victims to supportive services that assist them with stabilization following their victimization.

The services can include, but are not limited to:

- (a) On-scene crisis intervention services
- (b) Advocacy services
- (c) Crime victim rights information
- (d) Emergency transportation
- (e) Short-term child care services
- (f) Referrals for temporary housing/shelter and security measures
- (g) Assistance in participating in criminal justice proceedings
- (h) Referrals and accompaniment to forensic medical examinations
- (i) Assistance with crime victim compensation applications and eligibility
- (j) Other service referrals for crime victims identified by Victim Specialist and/or Law Enforcement personnel.

#### **343.5 CONFIDENTIALITY AND INFORMATION SHARING**

##### **343.5.1 CONFIDENTIALITY**

Confidentiality and safety are a primary concern of the Victim Specialist Program and we are committed to maintaining the confidentiality of the victims served through the program. Written consent will be required for the Victim Specialist to share any information about a client. The Victim Specialist may only disclose confidential information without written consent when there is a clear and imminent threat to an individual's safety and wellbeing. This includes sharing information with

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police and medical professionals and Child Protective Services, only in the case in which sharing information would assist in a life-threatening situation or in response to a valid court order or other statutory requirement.

The confidentiality policy is based on the following guiding principles:

- (a) The Victim Specialist does not require clients to provide a release of information in order to receive in house services.
- (b) Clients will be notified of what information a program has about them and how their information will be used.
- (c) Releases of information are client-centered.
- (d) All releases of information are written, informed, revocable and reasonably time-limited.
- (e) A release of information is required if a staff member is asked by the client to release specific pieces of their individual personally identifying information outside of the Victim Specialist own agency or program.
- (f) A release of information may not be required if there is a court mandate or statutory obligation to report, such as suspected child abuse or neglect.
- (g) Clients will be notified when a release is made under a court mandate or statutory obligation.
- (h) Whenever releasing information about a client, the program will keep in mind the "minimum necessary concept," meaning that even with a release or mandatory report, staff will share only the information necessary to accomplish the client's purpose or to meet the requirements of the reporting obligation, and only have that release open for the amount of time necessary to meet the client's needs.

#### 343.5.2 RELEASE OF INFORMATION

The Victim Specialist shall not disclose, reveal, or release any personally identifying information or individual information collected in connection with services requested, utilized, or denied, regardless of whether such information has been encoded, encrypted, hashed, or otherwise protected. The Victim Specialist may not disclose, reveal, or release any individual client information without the informed, written, reasonably time-limited consent of the person about whom information is sought.

In no circumstances may a crime victim be required to provide a consent to release personally identifying information as a condition of eligibility for program services.

Additionally, in no circumstances may any personally identifying information be shared in order to comply with reporting, evaluation, or data collection requirements of any program.

Consent for release may not be given by the abuser of a minor, the abuser of the other parent of a minor, or by an incapacitated person. If a minor or a person with a legally appointed guardian is permitted by law to receive services without their parent's or guardian's consent, the minor or

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person with a guardian may consent to release of information without additional consent from the parent or guardian. See 28 CFR 94.115.

The Victim Specialist is required to be trained on confidentiality before providing direct services to clients. Each staff member of Cayuga Counseling Services, Inc. is required to sign a confidentiality statement. Each staff member and volunteer is advised at orientation that breaching a client's confidentiality is grounds for immediate termination.

Neither clients nor staff will discuss program specifics, including client's information, in public spaces. This includes public areas of the program's facilities.

#### **343.5.3 REPORTING BREACHES OF PERSONALLY IDENTIFIABLE INFORMATION**

All actual or imminent breaches of Personally Identifiable Information will be reported, via email, to the OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach. Additionally, the individual whose information has been breached will be notified via first-class mail or email if they have agreed to receive such notices electronically and follow the guidelines of 45 CFR §§ 164.400-414

#### **343.5.4 EXCEPTIONS TO THE CONFIDENTIALITY REQUIREMENTS**

If the Victim Specialist has to release personal information without consent (ie: in response to a valid court order, report suspected abuse or neglect or another statutory requirement), the Victim Specialist will provide notice to victims affected by the disclosure of the information, and take reasonable steps necessary to protect the privacy and safety of the persons affected by the release of the information.

Nothing in this confidentiality policy prohibits compliance with legally mandated reporting of abuse or neglect, which is explained to all clients seeking services through the program.

#### **343.5.5 PROGRAM'S RESPONSE TO SUBPOENAS OR RECORDS REQUESTS**

If the Victim Specialist is served with a subpoena requesting a client's file information, Program staff will discuss the subpoena with the client. If the client decides that they do not want their file information shared with the court, the Victim Specialist will work with Agency Attorneys to file a Motion to Quash. The Motion to Quash will contain a request to the court asking to modify or terminate the subpoena based on certain objections.

### **343.6 OPERATIONS**

#### **343.6.1 HOURS OF OPERATIONS**

The Victim Specialist will be in the office at the Auburn Police Department on Mondays, Wednesday and Fridays from 8 am-4:30 pm and Tuesday and Thursdays from 12:30 pm-9:00 pm.

This schedule is subject to change based on the needs of the program.

At a minimum, quarterly, the Victim Specialist will be present at APD lineup briefings for all shifts to explain the services available to victims through this program.



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##### 343.6.2 DOCUMENTATION

The Victim Specialist will be responsible for documenting all services provided within 7 days of providing the service in case notes. The Victim Specialist will also be responsible for gathering demographic data and all required data on the Quarterly PMT reports as well as the semi-annual reports.

All documentation will be maintained separately from the APD case files and the services provided by the Victim Specialist will not become part of the case record. Files will be kept in a locked filing cabinet in the Victim Specialist's office at Auburn Police Department.

##### 343.6.3 REPORTING

Cayuga Counseling Services, Inc. will be responsible for collecting data and submitting required reports via the tables below. Once the reports are submitted, a copy will be sent to Auburn Police Department for their reference. A.pdf copy will be sent to Christina Selvek, City of Auburn Director of Grants and Capital Projects, by the 20th of the month following the end of a quarter so it can be uploaded into GMS.

##### Quarterly

Performance Measurement in the Performance Measurement Tool (PMT) and Financial Status Reports in Grants Management System (GMS)\*

Reporting Period Due by (no later than 30 days after the end of the reporting period):

<b>Reporting Period</b>	<b>Submission Period</b>	<b>Content</b>	<b>Deadline</b>
January 1 - March 31	April 1-30	Performance Measures	April 30
April 1 - June 30	July 1-30	Performance Measures and Narrative Responses	July 30
July 1 - September 30	October 1-30	Performance Measures	October 30
October 1 - December 31	January 1-30	Performance Measures and Narrative Responses	January 30

##### Semiannual

<b><u>Reporting Period</u></b>	<b><u>Submission Period</u></b>	<b><u>Semiannual PMT Report</u></b>	<b><u>Deadline</u></b>
January 1 - June 30	July 1-30	Performance Measures and Narrative Responses	July 30
July 1 - December 31	January 1-30	Performance Measures and Narrative Responses	January 30

##### 343.6.4 FISCAL

Cayuga Counseling Services, Inc. will be responsible for collecting financial data and submitting a monthly voucher to the City of Auburn on the 15th day of each month. In addition to a voucher, a backup report will be submitted detailing all expenses being claimed during that period.

The City of Auburn will be responsible for submitting the required quarterly fiscal reports via the Federal Grants Management System.



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##### 343.6.5 VEHICLE USE

The Victim Specialist will be required to utilize her own vehicle for work-related business including transporting clients per Cayuga Counseling Services, Inc.'s policy, Section 2.25 in the Employee Handbook.

The Victim Specialist will be required to record her mileage and submit for reimbursement through Cayuga Counseling Services, Inc. at the end of each pay period.

## Pandemics

### 344.1 PURPOSE AND SCOPE

The purpose of this policy is to provide information regarding the Coronavirus Disease (COVID-19) or any similar widespread pandemic as well as procedures department members should consider when encountering potential communicable virus cases. This policy & procedure provides guidance for a phased response which will be used by the department to ensure the continued ability to provide critical services to our community and our partner agencies.

#### 344.1.1 DEFINITIONS

**Emerging Infectious Disease** - Infectious diseases whose incidence in humans has increased in the past two decades or threatens to increase in the near future (e.g., Ebola Virus, Coronavirus Disease 2019 (COVID-19), Middle East Respiratory Syndrome (MERS)).

### 344.2 POLICY

See related policy, Communicable Diseases

#### 344.2.1 CORONAVIRUS DISEASE 2019 (COVID-19) (AS WELL AS ANY SIMILAR WIDESPREAD PANDEMIC)

- (a) The Coronavirus Disease 2019 (COVID-19) has spread at a varied rate across the United States; however, the situation is evolving and general precautions and external guidance is constantly being updated on the New York State Department of Health: <https://www.health.ny.gov/> Department members should be aware of, and prepared to respond appropriately to potential Coronavirus Disease 2019 (COVID-19) cases. According to the New York State Department of Health (NYSDOH):
1. The NYSDOH is monitoring closely the COVID-19 outbreak and current information suggest that person-to-person spread will continue to occur and more cases might be identified in the United States.
  2. The NYSDOH's goal is to reduce the impact of the COVID-19 by detecting new cases quickly, minimizing transmission, and developing guidance to prepare communities to respond.
  3. The Centers for Disease Control (CDC) states COVID-19 is thought to spread mainly between people who are in close contact with one another (within 6 feet) through respiratory droplets produced when an infected person coughs or sneezes. It is also possible that a person can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes, but this is not thought to be the main way the virus spreads.

Additional information regarding the spread of COVID- 19 is available at the CDC website at <https://www.cdc.gov/>

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4. First responders have been identified as being at increased risk of exposure. However, there are actions sworn and civilian members can take to reduce this risk. These actions include:
  - (a) Avoid close contact with people who are sick. When possible maintain separation of at least six (6) feet between individuals. Avoid touching your eyes, nose, and mouth with unwashed hands. Wash your hands often with soap and water for at least 20 seconds. Use an alcohol-based hand sanitizer that contains at least 60% alcohol if soap and water are not available.
  - (b) **Practice Social Distancing.**
  - (c) Cover your cough or sneeze with a tissue, then throw the tissue in the trash. When a tissue is not available, sneeze or cough into the crook of your arm. Clean and disinfect frequently touched objects and surfaces. Wipe down counters with disinfectant spray and wipe with a paper towel, throwing the paper towel in the trash after.
- (b) According to the United States Centers for Disease Control and Prevention (CDC), but not verbatim:
  1. Coronaviruses are a large family of viruses that are common in people and many different species of animals, including camels, cattle, cats, and bats. Rarely, animal coronaviruses can infect people and then spread between people such as with MERS-CoV and SARS-CoV (now with this new virus named SARS-CoV-2).
  2. Both MERS-CoV and SARS-CoV have been known to cause severe illness in people. The complete clinical picture regarding COVID-19 is not fully understood. Reported illnesses have ranged from mild to severe, including illness resulting in death. While information so far suggests that most COVID19 illness is mild, a report out of China suggests serious illness occurs in 16% of cases. Older people and people with certain underlying health conditions like heart disease, lung disease, and diabetes, for example, seem to be at greater risk of serious illness.
  3. Outbreaks of novel (new) virus infections among people are always of public health concern. The risk from these outbreaks depends on characteristics of the virus, including how well it spreads between people, the severity of resulting illness, and the medical or other measures available to control the impact of the virus (for example, vaccine or treatment medications). The fact that this disease has caused illness, including illness resulting in death, and sustained person-to-person spread is concerning. With the worldwide spread of COVID19, it has now met all three of the criteria of a pandemic. Department members are advised to refer to <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-law-enforcement.html> for information law enforcement officers should know about COVID-19.
- (c) According to the New York State Department of Health (NYSDOH):

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1. Common human coronaviruses usually cause mild to moderate upper respiratory tract illnesses, such as the common cold. These illnesses usually only last for a short amount of time and symptoms may include:

- (a) Fever,
- (b) Cough,
- (c) Shortness of breath.

Note: Human coronaviruses can sometimes cause lower-respiratory tract illnesses, such as pneumonia or bronchitis.

2. There are no specific treatments. To help relieve symptoms:

- (a) Take pain and fever medications (avoid ibuprofen)
- (b) Drink plenty of liquids, and
- (c) Stay home and rest.

#### **344.3 INDIVIDUAL RESPONSE TO COMMUNICABLE VIRUSES**

- (a) Department member should be alert for individuals exhibiting signs and symptoms of an emerging infectious disease outlined in this directive.
- (b) At no time will department members unreasonably place themselves at risk for potential exposure to an emerging infectious disease.
- (c) If a department member responds to a call where there is a **known risk** of an emerging infectious disease, and there is no active disturbance or violence, the member will wait outside the relevant location until Emergency medical personnel have determined if there is an actual potentially infected individual and will only enter if Emergency medical personnel determines it is safe to do so.
- (d) If a department member encounters or is made aware of an individual potentially infected with an emerging infectious disease or exhibiting physical symptoms and signs of risk factor, the member will:
  1. Follow the procedures and guidelines of the Communicable Diseases policy (Refer to *Sick Leave* and *Work-Related Illness and Injury Reporting* policies for more information).
    - (a) In every situation where biohazard waste or other potentially infectious materials or persons are present, member will use universal precautions which include the use of the personal protective equipment (PPE). NOTE: A supply of PPE (masks and gloves) will be maintained in the Command Center Communications Patrol operations. Patrol supervisors will ensure that a supply of PPE is readily available to equip members in the field as needed.
    - (b) Notify Emergency medical personnel and request emergency medical services for the potentially infected individual(s).

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- (c) If feasible, department members will minimize their own contact with the individual, including stepping out of the location and conducting initial interviews from outside the location, and will isolate and contain the individual until the arrival of Emergency medical personnel.
  - (d) Unprotected department members should refrain from direct contact with affected persons and objects, and if possible, remain at least six (6) feet away.
  - (e) Department members will not transport the individual in a department vehicle unless it is a matter of life and death.
  - (f) Notify their immediate supervisor and the on-duty or shift Commander.
- (e) **Post-Exposure Procedures:**
1. All department members coming into contact with an individual potentially infected with an emerging infectious disease of those individuals exhibiting signs and symptoms of an emerging infectious disease will follow the decontamination procedures outlined in the department policy including:
    - (a) Washing the affected area (e.g. hands, face, clothing, etc.) with soap and water immediately or as soon as possible following exposure.
    - (b) Decontamination of all personal uniform and equipment items potentially exposed.
    - (c) Proper removal and disposal of the used PPE items in such a manner as to prevent further contamination.

#### **344.4 PHASED DEPARTMENT RESPONSE LEVELS**

##### 344.4.1 PHASE I - NORMAL OPERATIONS

##### 344.4.2 PHASE II - RESTRICTED OPERATIONS

- (a) PPE will be issued to all department members and department members will begin to utilize the Communicable Disease Screening form when they encounter or are made aware of an individual potentially infected with an emerging infectious disease or exhibiting physical symptoms and signs of risk factor.
- (b) Department members will use greater social distancing techniques when possible to minimize exposure.
- (c) Department members will wipe steering wheel, gear selector, seatbelts, computer keyboard (NOTE: Not the computer screen), and other controls with disinfectant wipe. (NOTE: Wipes that are dry are ineffective in killing the coronavirus). In department vehicles without electronics in them, the use of disinfectant spray is recommended and allowed. The rear area of patrol vehicles should be sprayed with disinfectant spray.
- (d) Officers who are assigned to duties in the station will disinfect their work area at the start and completion of each shift, to include telephones, computer keyboards and any surfaces the officer touches. To the extent possible should limit the use of shared workspaces during this emergency.

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- (e) Officers will wait for emergency medical personnel on all medical related calls, unless an active disturbance or other emergency requires immediate action. Emergency medical personnel will determine the need for any police interaction and/or direct the level of PPE required prior to entry in cases where criminal action is suspected or alleged.
- (f) Department members will use hand sanitizer, disinfectant spray, and other cleaning supplies which will be provided throughout the department for use in disinfecting common areas as available.
- (g) The department will cancel all training for a period of time and then re-evaluate as appropriate.
- (h) All new requests for accrued time off will be denied for a period of time and reevaluated in 30-day increments.
- (i) All non-essential public services will be suspended for a period of time and re-evaluated as appropriate. (fingerprinting, ID Cards etc.)
- (j) All non-essential overtime details will be suspended for a period of time and re-evaluated as appropriate. (US Marshal FTF, DV Follow-up, DWI/Traffic)
- (k) Supervisors will conduct roll call in smaller groups utilizing Auburn Fire Department Bay #1, hallways, or outdoors to practice greater social distance among department members.
- (l) Access to the following area will be restricted to official business only: Records, Training, Detective Bureau, and IDO.
- (m) Department members who receive documents and money from the public should wear gloves, avoid touching the face, and wash hands frequently.
- (n) Personal responsibility in hygiene and contact with others should be practiced limiting exposure.
- (o) Sworn members should exercise sound discretion in the area of proactive enforcement.
- (p) When an arrest is required, any processing of a defendant that can be made on scene with an appearance ticket should be conducted as such. Printable arrests should limit exposure time and numbers of officers in the processing room with the defendant. Utilize a surgical mask on any defendant who is exhibiting signs and symptoms of an emerging infectious disease. Consider a warrant application in cases not requiring immediate action, but also remember mandatory arrests must still be made.
- (q) Consideration for handling calls where no one is in danger telephonically. Reports of thefts, property, damage, and even minor vehicle accidents can be taken over the telephone.
- (r) In the event medical attention is required for a person in custody, the officer will contact a supervisor and discuss the circumstances and charges related to the arrest to determine if officers should sit at the hospital where there is a potential for exposure to emerging infectious disease is more likely. In the event a medical clearance is

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warranted, the minimum number of officers should be involved and proper PPE (e.g., gloves and mask) will be utilized.

#### 344.4.3 PHASE III - REDUCED OPERATIONS

- (a) Detective Bureau personnel assignments will be evaluated and a possible work from home order may be instituted for some or all detectives. If a work from home order is determined, Detectives will be required to respond from home to serious crimes as determined by the Detective Bureau Supervisor, unless needed in a patrol function.
- (b) The department will assign specialized sworn personnel to the Patrol Division as needed. (ie: SRO/NARCO/TRAFFIC)
- (c) Public access to the Police Department will be limited to the public lobby only. Citizens will be directed to make police reports via telephone for non-priority calls. If a member of the public requires access to the police department inside of the lobby, they will be required to be screened and asked to voluntarily wear a surgical mask. If they refuse access will be denied.
- (d) Access by staff to Records, IDO, Administration Hallway, and the Detective Bureau will be restricted. Contact with employees in these areas should be via phone or email, unless there is a critical situation that can only be handled face to face.
- (e) Department members who are authorized to work from home will be transferred to a work at home status.
- (f) All officers who work part-time for other police agencies will be restricted from working these off-duty employment details until further notice. This status will be then re-evaluated as appropriate.
- (g) All parking enforcement employees will be relieved of duty and listed as non-essential personnel until further advisement from the Chief of Police.
- (h) Consideration of limiting pro-active enforcement. On every person to person contact officers are potentially exposed to persons who are contagious. In every traffic stop, every pedestrian stop, and any other contact, the officer will be in close proximity to the subject and may be handling items, i.e. license and registration that the subject just handled. As such, officers can become exposed and be placed under a 14-day quarantine or worse. In such events the overall numbers of public safety personnel available will thereby be diminished leaving not enough officers available to handle serious public safety events.
- (i) Officers should use latex gloves on all calls for service that they respond to and be provided with a trash receptacle in their vehicle where the gloves can be disposed following each call.
- (j) See **Addendum “A”** regarding General Order #20-003(a) **“Mandatory Daily Employee Screening”** protocols which will be instituted.
- (k) Considerations will be made to split patrol operations between the headquarters building and an offsite location to reduce employee exposures to each other. See **Addendum “B”** as an example.

#### [Addendum A - Covid-19 Employee Screening Protocol](#)



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#### Addendum B - Co-location Split Operations

##### 344.4.4 PHASE IV - MINIMAL OPERATIONS

- (a) Department members will respond only to priority calls for service (immediate threat for loss of life). Limiting law enforcement operations to those calls of a serious nature where there is an immediate need for investigation i.e. murder, rape, robbery, arson, kidnapping or where there is a threat of injury to a person i.e. domestic assault, assault in progress, murder, rape, robbery, arson, kidnapping etc. Note this is not meant to be an exhaustive list but should convey the idea that if no person is in danger then law enforcement should not respond and expose officers.
- (b) All sworn non-patrol members will be transferred to patrol functions.
- (c) The department will determine need for modified, altered, or split shifts for department members.
- (d) Except in special circumstances, arrests should be made only in instances of mandatory arrests situations, domestic violence, or other violent circumstances.
- (e) Proactive policing functions will be avoided unless absolutely necessary. I.e: traffic enforcement, warrant execution etc.
- (f) Considerations:
  - 1. Telework: Consideration should be given to any member who have the ability to conduct all or the majority of their tasks from home using approved telework technologies as determined by City of Auburn Information Technology Department.
  - 2. Special consideration should be given to Patrol Division manpower and combining resources with other law enforcement peer agencies as appropriate.
  - 3. Consideration should be given to the use of police academy recruits in various positions as appropriate to their level of training and if they are reassigned to APD from the academy.
  - 4. Consideration should be given to acceleration of training for officers in the field training program, as appropriate for their level of performance.
  - 5. All access to the Public Lobby will be restricted and the lobby door will be locked.



## Employee Travel Expenses

### 345.1 PURPOSE AND SCOPE

The purpose of this regulation is to set forth the policy and procedure of the City of Auburn, as established by the City Manager, for the payment and reimbursement of reasonable expenses incurred by a police department employee in travel to and attendance at meetings involving city business, or training.

### 345.2 POLICY

Travel of an individual must be authorized by the Chief of Police and the City Manager. The individual will submit a travel authorization form through their chain of command ultimately being forwarded to the Training and Planning Administrator. Travel must be by the most direct route and in the most economical manner. Official Internal Revenue Service rates are employed for reimbursement of meals, with higher rates authorized in certain higher-cost locations. Registration and tuition fees are reimbursable. A detailed statement of actual expenditures must be submitted within seven (7) days after the individual's completion of training. Costs must be evidenced by bills and itemized receipts.

For travel to meetings in Cayuga and adjacent counties, only authorization of the Chief of Police is required. Instead of completing a travel authorization request form, the employee should apply for reimbursement or payment with a Per Diem Reimbursement form.

[Per Diem Reimbursement Request Form](#)

#### 345.2.1 AUTHORIZATION TO TRAVEL

Except in emergencies or when the need for travel could not have reasonably been anticipated in advance, requests for authorization will be submitted in advance and shall contain a detailed statement of estimated expenses to be incurred. For conferences and training purposes, copies of registration brochures, letters of invitation, or other materials describing the program will be included.

No individual shall be authorized to travel unless such travel is determined by the Chief of Police to be necessary for conducting official city business or important to the improvement of city operations as a result of specialized skills or knowledge to be obtained.

[Training and Travel Request Form](#)

#### 345.2.3 LIABILITY

The city shall not be liable for reimbursement of any expenses incurred by an individual during a travel which has not been authorized in accordance with this regulation.

#### 345.2.3 PAYMENT FOR EXPENSES

- (a) Transportation

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1. Travel to and from the meeting location must be made by the most direct route and in the most economical and practical manner. Wherever possible, discount or excursion fares shall be utilized.
  2. If a less economical mode of travel is selected by the individual for personal reasons, the difference in cost between the selected mode and the most economical mode must be borne by the individual.
  3. City automobile - the reimbursement for travel in a city automobile shall be for actual expenses, including fuel, lubricants, towing, repairs, tolls and parking. The City's insurance agent must be notified through the City Manager's office when taking a city vehicle out of state.
  4. Private automobile -
    - (a) the reimbursement for travel in a private automobile shall be for actual toll and parking expenses and for a mileage allowance equal to the then current Internal Revenue Service approved rate. Use of an employee's private vehicle must be authorized by the Chief of Police and should only be utilized if a city automobile is not available or;
    - (b) the employee specifically requests to travel directly to the training/meeting location from their home and opts to not utilize a city automobile. If this request is made and granted then the employee will not be reimbursed for travel time, fuel, tolls, or mileage while utilizing their private vehicle.
  5. Rental automobile - the reimbursement for travel in a rented automobile shall be at the rate for compact or economy automobiles, unless otherwise authorized by the city manager. No reimbursement shall be made unless approval of such rental is obtained from the City Manager prior to the start of travel. If an unexpected need arises during the course of travel, a verbal authorization should be received prior to contracting for the rental.
- (b) Lodging
1. If available, special government rates, including sales tax exemptions, must be obtained for all lodging through the presentation of the employee's identification card and/or the use of a city purchase order or city credit card. In New York State, a sales tax exemption certificate shall be attached to the purchase order or presented to the hotel at the time of registration.
  2. Lodging reimbursement shall be limited to a standard room at the single occupancy rate, unless the room is shared with another authorized traveler. When employee is accompanied by a person(s) for whom authorization has not been obtained (e.g., a spouse), reimbursement will be limited to the standard single room rate for the hotel or place of lodging. Reimbursement for lodging shall be for actual costs, except when such costs are unreasonable in relation to the location's prevailing room rates as determined by the City Comptroller.
  3. Employees who are attending an accredited New York State Basic Course for Police Officer academy whereby lodging is provided shall stay in the provided lodging if available. If the employee chooses to not stay in the provided lodging

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for an approved reason, alternative accommodations will at the employees own expense.

4. No lodging expenses for meetings within Cayuga and adjacent counties will be paid without written authorization of the City Manager.

(c) Meals

1. Meals paid for enroute or at a meeting location must be for the authorized person(s) only.
2. Employees who are attending an accredited New York State Basic Course for Police Officer academy will not be reimbursed for meals while attending the academy.
3. Reimbursement is not allowed for meal expenses incurred at meetings held in Cayuga County unless the meal is included in an event or registration fee.
4. For travel outside Cayuga County, the reimbursement for meals shall be limited to current fiscal year Continental US (CONUS) rate chart, found at the following link: <https://www.gsa.gov/travel/plan-book/per-diem-rates>.
5. The City Comptroller will determine whether travel is to an IRS designated high cost area.
6. Breakfast reimbursement will be allowed if the travel begins before 8:00 a.m. Lunch reimbursement will be permitted for trips exceeding a 2:00 p.m. return time. Dinner reimbursement will be allowed for trips exceeding a 7:00 p.m. return time. When travel begins before 8:00 a.m. and exceeds 7:00 pm., the normal daily rate applies and pro-rating of meals is unnecessary.
7. When meals are included in a registration fee, no additional reimbursement shall be made.

(d) Registration and Training Fees.

1. Registration and training fees are fully reimbursable and must be made in the most economical manner (e.g. Pre-paid).
2. Registration fees include all fees charged for attendance at a meeting attributable to education or training sessions, but may not include optional entertainment functions or events.

(e) Taxi, ride-sharing, bus and subway fees, parking and toll fees, and telephone charges must be directly related to and required for the accomplishment of the purpose of the approved travel.

(f) Tips and gratuities reimbursement is for the actual amount on meals, taxicabs, and hotel services when required, not to exceed 20% on meals.

(g) Miscellaneous expenses.

1. Any special needs or unexpected expenses for which provision is not otherwise made in this regulation must be specifically documented and explained and approved by the city manager prior to reimbursement.

(h) Documentation of expenses.

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1. The individual authorized to travel shall submit to the Training and Planning Administrator a detailed statement of actual expenses incurred during the travel. For travel outside Cayuga and adjacent counties, the statement must be made on the Per Diem Reimbursement form and shall be approved by the Chief of Police.
2. No reimbursement shall be sought or made for:
  - (a) Travel insurance;
  - (b) Alcoholic beverages;
  - (c) Laundry, valet or other room services;
  - (d) NYS sales tax, if the individual authorized to travel has failed to present a sales tax exemption certificate to the service provider;
  - (e) Entertainment, whether of city employees or others;
  - (f) Other items which were not essential to the conduct of city business; or
  - (g) Costs attributable to other individuals not authorized to travel.
3. Documentation of expenses must be obtained by individuals authorized to travel. The Office of the Chief of Police and the City Comptroller will require a written statement or receipt of every expense for which reimbursement is requested.

#### 345.2.4 NON-COMPLIANCE

Any individual who fails to submit documented expenses and itemized receipts as required by this regulation without reasonable explanation shall be ineligible for future travel authorization until the prior travel has been appropriately reported and documented. (note: IRS requires unsubstantiated payments to employees to be considered as taxable income and included in w-2 wages.)

#### 345.2.5 EXCEPTION

The requirement for prior authorization shall not apply for travel outside Cayuga County by an individual who is authorized by the Chief of Police to travel to another jurisdiction for the purpose of investigation or transferring custody of a prisoner. Also, the interpretation of this regulation shall be modified, as required, whenever its provisions are inconsistent with the terms and conditions of any state or federal grant from which reimbursement for travel is to be paid.

# Handle With Care Program

## 346.1 PURPOSE

The purpose of this policy is to establish procedures regarding the department's Handle with Care program.

### 346.1.1 DEFINITIONS

**Child**– A child means any school-aged person under the age of eighteen (18) and over the age of three (3) that is enrolled in any AECSD sponsored program, or as otherwise defined by State law; whether or not he/she is present at the scene of a traumatic event (as used herein, “child” refers to both an individual child and multiple children).

**Parent**– A parent means any adult who is legally responsible for the well-being, supervision, and care of a child. In most cases, this individual is a biological or adoptive parent, or guardian.

**School District**– School district means the Auburn Enlarged City School District which provides excellent comprehensive educational program for over 4,000 full-time students as well as students who participate in other programs. The professional staff consists of approximately 25 administrators, 358 teachers, 17 teacher assistants, and support staff of 197. The district encompasses 37 square miles with an annual budget of approximately \$80,725,559. The Board of Education consists of 9 members, three of whom are elected annually to three year terms.

**Individual Trauma**– Individual trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or threatening and that has lasting adverse effects on the individual’s functioning and physical, mental, social, emotional, or spiritual wellbeing.

**Traumatic Event**– Traumatic event means any experience that is emotionally painful or distressful, which often results in lasting mental and physical effects. A traumatic event or experience can impact the child’s ability to perform in school.

## 346.2 POLICY

It is the policy of the Auburn Police Department to refer school-aged children who have been exposed to a traumatic event to the school district for trauma-informed support.

## 346.3 BACKGROUND

- (a) The Handle With Care program was developed by the West Virginia Center for Children’s Justice to prevent children’s exposure to trauma, mitigate negative affects experienced by children’s exposure to trauma, and to increase knowledge and awareness of this issue.
- (b) The Handle With Care program promotes safe and supportive homes, schools and communities that protect children.
- (c) The Handle With Care program supports children exposed to trauma and violence through improved communication and collaboration between law enforcement and

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#### *Handle With Care Program*

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schools. The ultimate goal of the Handle With Care program is to help students to succeed in school.

- (d) The Handle With Care program provides the school district with a notification when a child has been identified at the scene of a traumatic event. Events include, but are not limited to:
  - 1. Domestic violence situations;
  - 2. Motor vehicle accidents;
  - 3. Assaults;
  - 4. Witnessing a violent offense;
  - 5. Police action and enforcement; or
  - 6. Any event that may be perceived as traumatic.

#### **346.4 PROCEDURE**

- (a) Each school-day morning, an email will be sent from the Auburn Police Department SRO/COP Supervisor or other designated Handle With Care department representative, to the Auburn Enlarged City School District designated Social Worker. The email will contain the name and age of any children present for a police interaction, as outlined in the below procedures.
- (b) The AECSD Handle With Care designated Social Worker will then disseminate the Handle With Care notice to the appropriate person within each school building.
- (c) Auburn Police Officers will handle all calls for service in accordance with current guidelines as outlined in the department's Policy & Procedure manuals.
  - 1. Officers shall take note whether school-aged children (ages 3 to 18) are present during any call for service they are assigned in which there is a possibility that the child was exposed to a traumatic event.
    - (a) It shall be noted, that the notation will consist of documenting the school aged child's pedigree information, which shall be listed as VI, WI, PI, etc. on appropriate departmental reports. No additional notation is needed unless necessary per the specific investigation involved.
    - (b) Appropriate departmental forms shall include:
      - 1. New York State Domestic Incident Report (DIR);
      - 2. Auburn Police Spillman Incident Report;
      - 3. NYS Arrest Report;
      - 4. Spillman CAD notes;
      - 5. New York State Suspected Child Abuse or Maltreatment Report; or
      - 6. Any other relevant reporting form.
    - (c) Before the end of the involved Auburn Police Officer's shift the officer will send an email message to the designated Handle With Care email

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#### *Handle With Care Program*

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group utilizing the Auburn Police Department email system. The email will include the involved child's name, age and the complaint number relative to the incident the child was involved with and potentially subjected to some form of trauma.

- (d) In addition, all daily Calls For Service logs and Domestic Incident Reports will be reviewed on a daily basis (Monday-Friday) by designated Auburn Police Department Handle With Care personnel to capture any other school-aged children listed within said reports.
- (e) Each school-day morning, the SRO/COP Supervisor or other Auburn Police Department designee will compile and forward a list of names to a the AECSD Handle With Care assigned Social Worker.
  - 1. The AECSD Handle With Care assigned Social Worker will be responsible for disseminating the Handle With Care notice to the appropriate person at each school building, in accordance with the AECSD policies and procedures.



## Community Resources & Referrals

### 347.1 PURPOSE AND SCOPE

The purpose of this policy is for members to recognize the role our agency has in making individual referrals to diversionary programs and other community resources, and to have all resources and/or references available in one policy.

### 347.2 POLICY

It is the policy of the Auburn Police Department to make referrals to individuals in need of non-police resources for additional support, to include substance use disorder, emotional abuse, domestic abuse, behavioral health and victim services.

### 347.3 REFERRAL PROGRAMS

#### 347.3.1 NICK'S RIDE

Whenever an officer comes into contact with an individual who has suffered an overdose and/or admits a chemical dependency and is willing to seek help, the contacting officer will make an immediate referral to either Nick's Ride or a Helio Health representative.

- (a) Ashley Moench (Executive Director - Nick's Ride) Office 315-253-3945
- (b) Helio Health - 315-401-4288
- (c) Refer to 428 Medical Aid and Response for more information

#### [Chemical Dependency Referrals Procedure](#)

#### 347.3.2 VICTIM SERVICES

To ensure victims receive the appropriate assistance, it is the policy of the Auburn Police Department to recognize and address the needs and rights of crime victims during each contact; support, provide access to resources, and assist victims as they continue to interact with the criminal justice system; and act as a liaison to appropriate victim assistance and service agencies beginning with our Victim Specialist

- (a) Refer to the following policies:
  - 1. 318 - Victim and Witness Assistance
  - 2. 343 - Law Enforcement-Based Victim Specialist

#### 347.3.3 FAMILY ACCESS TO SERVICES TEAM (FAST)

Families Access to Services Team (FAST) is Cayuga County's System of Care approach to coordinating services to families with youth who have significant behavioral health needs. FAST is a cross system collaboration of county providers, school partners and youth and their families designed to be the "single door" for families to access home and community based services and support.

#### [FAST Program Brochure](#)



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#### *Community Resources & Referrals*

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##### 347.3.4 CRISIS INTERVENTION

The Auburn Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved. Refer to the following policies:

- 409 - Crisis Intervention Incidents
- 410 - Emergency Admissions / Mental Hygiene Arrest

#### [Mental Health Services Resource List](#)

##### 347.3.5 HANDLE WITH CARE

It is the policy of the Auburn Police Department to refer school-aged children who have been exposed to a traumatic event that occurred outside the confines of the school to the school district for trauma-informed support.

- (a) Refer to policy 346 - Handle with Care Program

##### 347.3.6 SEXUAL ASSAULT VICTIMS ADVOCATE RESOURCE (SAVAR)

It is the policy of the Auburn Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community. SAVAR provides comprehensive services including advocacy, therapy, support group, education and prevention programming to survivors of sexual violence in Cayuga County. Refer to the following policies:

- (a) 318 - Victim and Witness Assistance
- (b) 343 - Law Enforcement-Based Victim Specialist
- (c) 601 - Sexual Assault Investigations

## **Chapter 4 - Patrol Operations**

## Patrol

### 400.1 PURPOSE AND SCOPE

The purpose of this policy is to define the patrol function and address intraorganizational cooperation and information sharing.

### 400.2 POLICY

The Auburn Police Department provides patrol services 24 hours a day, seven days a week and will prioritize responses to requests for emergency services using available resources to enhance the safety of the public and department members.

### 400.3 ORGANIZATION

- (a) The Deputy Chief is the head of the Patrol Division
- (b) Lieutenants, or Captains, assigned to a shift are in charge of the shift at all times, and will direct and control the operations of their shifts.
- (c) Sergeants assigned to a shift are the first line supervisors and implement directives of the shift lieutenants and are responsible for performance of members under their immediate control.
- (d) Patrol officers are the primary providers of service and carry out all the duties requires or assigned to them.
- (e) The chain of command will be followed in all ordinary circumstances. Any deviation will be justified by members doing same.
- (f) Members will obey any lawful orders of a superior, including any order relayed from a superior by a member of the same or lesser rank.

### 400.4 FUNCTION

Patrol will generally be conducted by uniformed officers in clearly marked law enforcement vehicles in assigned jurisdictional areas of Auburn. The function of patrol is to respond to calls for assistance and reports of criminal activity, act as a deterrent to crime, enforce state and local laws, identify community needs, provide support and assistance to the community and respond to emergencies.

Patrol services include, but are not limited to:

- (a) Responding to/ investigating emergency calls for service.
- (b) Actively patrolling assigned area of responsibility and engaging in proactive policing.
- (c) Apprehending criminal offenders.
- (d) Providing mutual aid and assistance to other agencies for emergency and law enforcement-related activities.
- (e) Preventing and investigating criminal acts, traffic violations and collisions, maintaining public order and discovering hazardous situations or conditions.

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#### *Patrol*

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- (f) Responding to/ investigating reports of both criminal and non-criminal acts.
- (g) Responding to/ investigating routine calls for service, such as public assistance or public safety.
- (h) Directing and controlling traffic.
- (i) Carrying out crime prevention activities, such as residential checks, business checks and community presentations.
- (j) Carrying out community-oriented policing and problem-solving activities, including the application of resources to improve or resolve specific problems or situations and contacting or assisting members of the public in a positive way.
- (k) Identifying and/or responding to calls for service regarding hazardous highway conditions, requesting notification to the appropriate municipal or private agency regarding the hazard, and, if necessary, mitigating the hazard utilizing all available resources..

#### **400.5 INFORMATION SHARING**

To the extent feasible, all information relevant to the mission of the Department should be shared among all bureaus and specialized units on a timely basis. Members should be provided with opportunities on a regular basis to share information during the daily lineups.

Additionally, information should be shared with outside agencies and the public in conformance with department policies and applicable laws. Members are encouraged to share information with other units and bureaus.

#### **400.6 CROWDS, EVENTS AND GATHERINGS**

Officers may encounter gatherings of people, including, but not limited to, civil demonstrations, public displays, parades, sporting events and civic, social and business events. Officers should monitor such events as time permits in an effort to keep the peace and protect the safety and rights of those present. A patrol supervisor should be notified when it becomes reasonably foreseeable that such an event may require increased monitoring, contact or intervention.

Officers responding to an event or gathering that warrants law enforcement involvement should carefully balance the speech and association rights of those present with applicable public safety concerns before taking enforcement action.

Generally, officers should consider seeking compliance through advisements and warnings for minor violations, and should reserve greater enforcement options for more serious violations or when voluntary compliance with the law is not achieved.

Officers are encouraged to contact organizers or responsible persons to seek voluntary compliance that may address relevant public safety concerns.

#### **400.7 ASSIGNMENTS**

Maps of the service areas, organized into identifiable patrol areas, shall be made available to members assigned to patrol via paper or electronic copies.

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Periodic review of staffing needs for patrol assignments to meet community needs will be conducted by the Chief of Police or the authorized designee.

[Patrol area map](#)

## Bias-Based Policing

### 401.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the Auburn Police Department's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach and partnerships).

#### 401.1.1 DEFINITIONS

Definitions related to this policy include:

**Bias-based policing or improper profiling** - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement. This includes explicit and implicit biases (i.e., conscious and unconscious beliefs or attitudes towards certain groups).

### 401.2 POLICY

The Auburn Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

### 401.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes, including, but not limited to, descriptive information of an individual.

### 401.4 MEMBER RESPONSIBILITIES

Every member of this department will perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members will, when reasonable to do so, intervene to prevent any bias-based actions by another member.

#### 401.4.1 REASON FOR CONTACT

Officers contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

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#### *Bias-Based Policing*

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To the extent that written documentation would otherwise be completed (e.g., arrest report, incident report, applicable notes, etc.), the involved officer should include those facts giving rise to the contact, as applicable.

Nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

#### **401.5 SUPERVISOR RESPONSIBILITIES**

Supervisors will monitor those individuals under their command for compliance with this policy and will handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

- (a) Supervisors will discuss any issues with the involved officer and his/her supervisor in a timely manner.
  - (a) Supervisors will document these discussions, in the prescribed manner.
- (b) Supervisors will initiate investigations of any actual or alleged violations of this policy.
- (c) Supervisors will take prompt and reasonable steps to address any retaliatory action taken against any member of this department who discloses information concerning bias-based policing.

#### **401.6 TRAINING**

Training on fair and objective policing and review of this policy will be conducted as directed by the Training and Planning Administrator shall be conducted annually and include:

- (a) Explicit and implicit biases.
- (b) Avoiding improper profiling.

# Lineup

## 402.1 PURPOSE AND SCOPE

This policy discusses the activity of lineup and includes the tasks that should be accomplished during this short period.

## 402.2 POLICY

Lineup is intended to facilitate the accurate flow of information in order to enhance coordination of activities, improve performance and safety, and outline the expected actions of members.

## 402.3 LINEUP

All bureaus and specialized units should conduct regular lineup at the beginning of the shift to discuss, disseminate and exchange information among department members, work groups and other organizations. A supervisor generally will conduct lineup. However, the supervisor may delegate this responsibility to a subordinate member in his/her absence or for training purposes.

Lineup should include, but is not limited to:

- (a) Providing members with information regarding daily activities, with particular attention given to changes in the status of:
  - 1. Wanted persons.
  - 2. Crime patterns.
  - 3. Suspect descriptions.
  - 4. Intelligence reports and photographs.
  - 5. Community issues affecting law enforcement.
  - 6. Major investigations.
- (b) Notifying members of changes in schedules and assignments.
- (c) Reviewing recent incidents for situational awareness and training purposes.
- (d) Providing training on a variety of subjects.
- (e) Conducting periodic personnel inspections.

Supervisors should also ensure that all members are informed about General Orders and any recent policy changes.

### 402.3.1 RETENTION OF LINEUP TRAINING RECORDS

Lineup training materials and a curriculum or summary shall be forwarded to the Training and Planning Administrator for inclusion in training records, as appropriate.

## 402.4 PREPARATION OF MATERIALS

The member conducting lineup is responsible for preparation of the materials necessary for a constructive lineup.



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#### **402.5 TRAINING**

Lineup training should incorporate short segments on a variety of subjects or topics and may include:

- (a) Review and discussion of new or updated policies.
- (b) Presentation and discussion of the proper application of existing policy to routine daily activities.
- (c) Presentation and discussion of the proper application of existing policy to unusual activities.
- (d) Review of recent incidents for training purposes.

## Crime and Disaster Scene Integrity

### 403.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

### 403.2 POLICY

It is the policy of the Auburn Police Department to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

### 403.3 SCENE RESPONSIBILITY

The first officer at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Officers shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an officer has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, it shall be maintained until the officer is properly relieved by a supervisor or other designated person.

### 403.4 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

- (a) Broadcast emergency information, including requests for additional assistance and resources.
- (b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.
- (c) Locate or identify suspects and determine whether dangerous suspects are still within the area.
- (d) Provide first aid to injured parties if it can be done safely.
- (e) Evacuate the location safely as required or appropriate.
- (f) Secure the inner perimeter.
- (g) Protect items of apparent evidentiary value.
- (h) Secure an outer perimeter.
- (i) Identify potential witnesses.
- (j) Start a chronological log noting critical times and personnel allowed access.

### 403.5 FIRST SUPERVISOR CONSIDERATIONS

- (a) Obtain as much information as possible from the first officers on the scene and notify the command officer of same.

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#### *Crime and Disaster Scene Integrity*

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- (b) Evaluate the scene, ensure that the initial responding officer(s) have taken the appropriate actions, and determine if additional personnel or equipment is needed at the scene.
- (c) Establish an inner perimeter and outer perimeter if so needed. Station personnel at needed locations.
- (d) Ensure that vehicular and pedestrian traffic has been adequately diverted from the area. Notify office of emergency management if auxiliary police are needed for traffic control.
- (e) Initiate any necessary evacuation of area.
- (f) Ensure that the safety of officers and civilians is not in danger. Take any necessary steps to insure same.
- (g) Have summoned to the scene any required specialized personnel that may be needed, such as a detective, ID officer, hostage negotiator, etc.

#### **403.6 COMMAND OFFICER CONSIDERATIONS**

- (a) The command officer will have the Chief of Police, Deputy Chief of Police and any other appropriate personnel such as the command officer of the detective bureau, coroner (homicides and suspicious deaths) etc., notified of the situation as the situation or incident so requires.
- (b) The command officer will respond to the scene and will take command of the scene, if the command officer is at headquarters at the time, he will assign an officer to desk duty before responding to the scene and will give the desk officer any necessary instructions before so responding.
- (c) Set up a command post if necessary upon arrival at scene, and consult with the supervisor or initial responding officer(s) to obtain their evaluation of the situation.
- (d) Coordinate all activities at the scene.
- (e) Brief the Chief of Police and any other appropriate personnel upon their arrival at the scene.
- (f) In major crime cases, upon the completion of photos, video and scene processing, the district attorney will be notified.

#### **403.7 SPECIALIZED PERSONNEL CONSIDERATIONS**

- (a) All specialized personnel who are summoned to the scene will report to the command officer upon their initial arrival at the scene. No unauthorized personnel, such as off duty officers not summoned to the scene, or anyone who is not a part of the investigation, will enter the scene.
- (b) Only the minimum necessary amount of personnel will be allowed to enter the scene. A plan will be developed at the command post as to the order in which specialized personnel will enter the scene, as the situation dictates.
- (c) When specialized personnel enter the scene, such as evidence technicians, ID officer, etc. in their respective order, no one else will enter the scene during the time, unless

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expressly requested by the specialized personnel. This will enable them to perform their special duties in least amount of time and without distraction or disturbance from other personnel.

- (d) Upon entering the scene, specialized personnel will report to the officer stationed at the entrance to the scene and will see that their name(s) are recorded by the officer in the order in which they enter the scene.
- (e) In the event that any additional equipment or personnel is needed, or in the event that specialized personnel encounter any problems with any other personnel at the scene, the command officer will be immediately notified by the specialized personnel.
- (f) When specialized personnel are sent into the scene, they will be in charge of the scene processing and no one will in any way interfere with them while in the performance of their specialized duties. All other personnel will render any assistance to the specialized personnel as requested by them at the scene. These requests will be made through the command officer at the scene.
- (g) Specialized personnel will be afforded the necessary amount of time to perform their specialized duties at the scene. No one will be allowed to pressure them to hasten work. When they have completed their assignment, the command officer present will resume overall control of the scene.

#### **403.8 SEARCHES**

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

##### **403.8.1 CONSENT**

When possible, officers should seek written consent to search from authorized individuals. However, in the case of serious crimes or major investigations, it may be prudent to also obtain a search warrant. Consent as an additional authorization may be sought, even in cases where a search warrant has been granted.

A fire chief may, as part of his/her obligation to determine the cause of a fire or explosion, direct and authorize officers to participate in determination of cause and conduct a search for that limited purpose without a search warrant (General Municipal Law § 204-d).

#### **403.9 DETECTIVE BUREAU SUPERVISOR RESPONSIBILITIES**

The Detective Bureau Supervisor is responsible for:

- (a) Ensuring reasonable access to qualified personnel, equipment and supplies for processing crime scenes.
- (b) Establishing procedures for collecting, processing and preserving physical evidence in the field.

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- (c) Establishing procedures for photographing, video-recording and other imaging used to collect and preserve evidence.
- (d) Establishing procedures for processing, developing, lifting and labeling fingerprints.
- (e) Establishing procedures for the safe collection, storage, transportation and submission of biological and other evidence for DNA testing and evaluation.

#### **403.10 TRAINING**

The Training and Planning Administrator shall ensure that members who are responsible for processing crime or disaster scenes receive the appropriate training.

## Emergency Response Team

### 404.1 PURPOSE AND SCOPE

This policy provides guidelines for the specialized support of the Emergency Response Team (ERT) in handling critical field operations where special tactical deployment methods or intense negotiations are beyond the capacity of field officers.

#### 404.1.1 DEFINITIONS

Definitions related to this policy include:

**Negotiation team** - Designated officers, who are specifically trained and equipped to provide skilled verbal communications to de-escalate or effect surrender in situations where suspects have taken hostages or barricaded themselves or who are suicidal.

**Tactical team** - Designated officers, who are specifically trained and equipped to resolve critical incidents that are so hazardous, complex or unusual that they may exceed the capabilities of first responders or investigators. This includes, but is not limited to, hostage taking, barricaded suspects, snipers, terrorist acts and other high-risk incidents. As a matter of department policy, a tactical team may also be used to serve high-risk warrants, both search and arrest, where public and officer safety issues necessitate such use.

**Incident commander** - The officer in charge of the overall command decisions and the on scene commander. He/she will be the ranking officer designated by the Chief of Police and will have the full authority of the Chief of Police (the incident commander has final responsibility and authority in determining the length of time that negotiations or negotiation attempts will continue, and in approving the level of force that will be employed to effect the resolution of the incident).

**ERT commander** - The officer in charge of the ERT as designated by the Chief of Police. The ERT commander is responsible for the conduct of the tactical operation. No other person who is not in a leadership position with ERT will direct any element or member therein. The ERT Commander directs the ert tactical commander and negotiators.

**Shift commander** - The highest ranking patrol division supervisor in charge of the on-duty shift.

**Barricade situation** - The standoff created by an armed or potentially armed suspect(s) in any location, whether fortified or not, who is refusing to comply with police demands for surrender. (when a person or persons attempt to avoid apprehension; these incidents frequently involve bizarre behavior, including threats to themselves or others.)

**Hostage situation** - The holding of any person(s) against their will by an armed or potentially armed suspect(s).

**Sniper situation** - The firing upon citizens and/or police by an armed suspect.

**Apprehension** - The arrest or apprehension of armed or potentially armed subjects.

**Staging area** - The assembly point for the officers responding to hostage/barricade incidents. This area should be easily and conveniently accessible to officers, and of sufficient size to

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#### *Emergency Response Team*

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accommodate the expected manpower. The shift commander will choose this area. This area will not be used as a command post.

**Command post** - A location established between the inner and outer perimeter where on scene command functions are assigned and coordinated.

**Warrant service** - The service of search or arrest warrants where there is a likelihood of armed or potentially armed suspect(s) and there is the potential for armed resistance.

**Special assignments** - Any assignment approved by the chief of police based on the level of threat or the need for special expertise.

#### **404.2 POLICY**

It shall be the policy of the Auburn Police Department to maintain a ERT, either internally or through participation in a regional team, comprised of negotiation and tactical teams, and to provide the equipment, manpower and training necessary to maintain such teams. The ERT should develop sufficient resources to perform three basic operational functions:

- (a) Command and control
- (b) Containment
- (c) Entry/apprehension/rescue

#### **404.3 CAPABILITIES**

This department acknowledges that training needs may vary based on the experience level of team members, team administrators and potential incident commanders. Therefore, with the preservation of innocent human life being paramount, nothing in this policy shall prohibit individual teams from responding to a situation that exceeds their training level due to the exigency of the circumstances.

The various levels of tactical team capability and training are as follows and may fluctuate based upon personnel, training, available equipment, resources and capabilities:

- Level I - A basic team capable of providing containment and intervention in critical incidents that exceed the training and resources available to line-level officers. This does not include ad hoc teams of officers that are formed around a specific mission, detail or incident (e.g., active shooter response). Generally 5 percent of the Level I team's on-duty time should be devoted to training.
- Level II - An intermediate-level tactical team capable of providing containment and intervention. These teams possess tactical capabilities above the Level I teams. These teams may or may not work together on a daily basis, but are intended to respond to incidents as a team. At least 5 percent of the Level II team's on-duty time should be devoted to training with supplemental training for tactical capabilities above the Level I team.
- Level III - An advanced-level tactical team whose members function on a full-time basis. Generally 25 percent of the Level III team's on-duty time is devoted to training.

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Level III teams operate in accordance with contemporary best practices. Such teams possess both skills and equipment to utilize tactics beyond the capabilities of Level I and Level II teams.

#### **404.4 MANAGEMENT AND SUPERVISION**

Under the direction of the Chief of Police, through the Deputy Chief of Police, the ERT shall be managed by the appointed ERT Commander. The ERT Commander shall be selected by the Chief of Police.

##### **404.4.1 TEAM SUPERVISORS**

The negotiation team and tactical team will be under the direction of designated team supervisors, who shall be selected by the Chief of Police in consultation with the ERT Commander.

The primary responsibility of the team supervisors is to oversee the operation of their teams, which includes deployment, training, first-line supervisor participation and other duties as directed by the ERT Commander.

#### **404.5 READINESS**

An operational readiness assessment should be conducted to determine the type and extent of ERT missions and operations appropriate to this department. The assessment should consider the capabilities, training and limitations of the ERT and should be reviewed by the ERT Commander or the authorized designee on a routine basis.

##### **404.5.1 EQUIPMENT INSPECTIONS**

The ERT Commander shall appoint a team supervisor to perform operational readiness inspections of all ERT equipment at least quarterly. The result of the inspection will be forwarded to the ERT Commander in writing. The inspections will include personal equipment issued to members of the ERT, operational equipment maintained in the ERT facility and equipment maintained or used in ERT vehicles.

##### **404.5.2 MULTIJURISDICTIONAL OPERATIONS**

The ERT, including any relevant specialized teams and supporting resources, should develop protocols, agreements, memorandums of understanding (MOUs) or working relationships to support multijurisdictional or regional responses.

- (a) If it is anticipated that multijurisdictional ERT operations will be conducted, multi-agency and multidisciplinary joint training exercises should occur.
- (b) Members of the Auburn Police Department ERT shall operate under the policies, procedures and command of the Auburn Police Department when working in a multi-agency situation.

#### **404.6 PROCEDURES**

Situations that necessitate the need for an ERT response vary greatly from incident to incident and often demand on-scene evaluation. The guidelines allow for appropriate on-scene decision-making and development of organizational and operational procedures.



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##### 404.6.1 ORGANIZATIONAL PROCEDURES

The Department shall develop a separate written set of organizational procedures that should address, at a minimum:

- (a) Specific missions the ERT is capable of performing.
- (b) ERT organization and function.
- (c) Member selection, retention and termination criteria.
- (d) Training and required competencies including record production and retention.
- (e) Procedures for notification, activation, deactivation and deployment.
- (f) Command and control issues, including a clearly defined command structure and dedicated lines of communication.
- (g) Multi-agency response.
- (h) Out-of-jurisdiction response.
- (i) Specialized functions and supporting resources.

#### List of ERT Personnel

##### 404.6.2 OPERATIONAL PROCEDURES

The Department shall develop a separate written set of operational procedures in accordance with the determination of the ERT's level of capability, using sound risk-reduction practices. The operational procedures should be patterned after the National Tactical Officers Association's (NTOA) SWAT Standard for Law Enforcement Agencies. Because such procedures are specific to ERT members and outline negotiation, tactical and officer safety issues, they are not included within this policy.

The operational procedures should include, at a minimum:

- (a) Designation of members who are responsible for developing an operational or tactical plan prior to, and/or during ERT operations (time permitting).
  - 1. All ERT members should have an understanding of operational planning.
  - 2. ERT training should include planning for both spontaneous and planned events.
  - 3. ERT planning should incorporate medical emergency contingency plans as part of the ERT operational plan.
- (b) Plans for mission briefings conducted prior to an operation, unless circumstances require immediate deployment.
  - 1. When possible, briefings should include the specialized teams, certified tactical dispatchers and other supporting personnel.
- (c) Protocols for a sustained operation to be developed that may include relief, rotation of members and augmentation of personnel and resources.

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- (d) A [Risk Assessment Matrix](#) to be worked through prior to initiating a tactical action as a means of conducting a threat assessment to determine the appropriate response and resources necessary, including the use of the ERT.
- (e) Roles for the negotiations team and negotiators.
- (f) A standard method of determining whether a warrant should be regarded as high risk.
- (g) A method for deciding how best to serve a high-risk warrant with all reasonably foreseeable alternatives being reviewed in accordance with risk/benefit criteria prior to selecting the method of response.
- (h) Protocols for post-incident scene management, including:
  - 1. Documentation of the incident.
  - 2. Transition to investigations and/or other bureaus.
  - 3. Debriefing after every deployment of the ERT.
    - (a) After-action team debriefing provides evaluation and analysis of critical incidents, affords the opportunity for individual and team assessments, helps to identify training needs and reinforces sound risk management practices.
    - (b) Such debriefing should not be conducted until involved members have had the opportunity to individually complete necessary reports or provide formal statements.
    - (c) In order to maintain candor and a meaningful exchange, debriefing will generally not be recorded.
    - (d) When appropriate, debriefing should include specialized teams and supporting or assisting personnel.
- (i) A sound risk management analysis.
- (j) Standardization of equipment deployed.

#### [Risk Assessment Matrix](#)

#### [Auburn ERT Standard Operating Procedure Manual](#)

#### [APD-CCSheriff Mutual Aid 2019](#)

#### 404.6.3 DOCUMENTATION OF ACTIVATION

After the situation is resolved, the ERT Commander will forward a written report to the Chief of Police.

- (a) The report will only include those actions taken by the Team to include:
  - 1. Injuries to any persons involved
  - 2. Use of weapons
  - 3. Any property damage

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##### 404.6.4 AFTER-ACTION CRITIQUE

- (a) At the completion of all operations and significant training events, the ERT Commander, or his designee, will conduct an after-action review.
- (b) The purpose of this review will be to create a forum of team members to offer information for the improvement of the team.
- (c) The after-action review will be formatted to develop the following information:
  - 1. Positive factors
  - 2. Areas that need improvement
  - 3. Solutions for any areas that need correction.

##### 404.7 OPERATIONAL GUIDELINES

The following are guidelines for the operational deployment of the ERT. Generally, the tactical team and the negotiation team will be activated together. It is recognized, however, that the teams can be activated independently as circumstances dictate. The tactical team may be used in a situation not requiring the physical presence of the negotiation team, such as warrant service operations. The negotiation team may be used in a situation not requiring the physical presence of the tactical team, such as handling a suicidal person. Operational deployment of the specialized teams shall be at the discretion of the Shift Commander.

##### 404.7.1 APPROPRIATE USE

Incidents that may result in the activation of the ERT include:

- (a) Barricaded suspects who refuse an order to surrender.
- (b) Incidents where hostages are taken.
- (c) Individuals who are threatening suicide and have refused to surrender.
- (d) Arrests of potentially armed or dangerous persons.
- (e) Any situation that could threaten or undermine the ability of the Department to preserve life, maintain social order and ensure the protection of persons or property.

Requests by field personnel for assistance from crisis response units from another agency must be approved by the Shift Commander. Deployment of the Auburn Police Department ERT in response to requests by other agencies must be authorized by a Shift Commander.

##### 404.7.2 ON-SCENE DETERMINATION AND NOTIFICATION

The supervisor-in-charge at the scene of a particular event will be designated as the Incident Commander and will assess whether the ERT is to respond to the scene. With input from the Incident Commander, final determination will be made by the Shift Commander, who shall then notify the ERT Commander. If the ERT Commander is unavailable, then a specialized team supervisor shall be notified.

The Shift Commander should brief the ERT Commander about the incident. Such information should include:

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- (a) The type of crime involved.
- (b) The number of suspects, identity and criminal history.
- (c) The known weapons and resources available to the suspect.
- (d) If the suspect is in control of hostages and/or barricaded.
- (e) Whether contact has been made with the suspect and whether there have been demands.
- (f) If potential victims are still within the inner perimeter.
- (g) If the suspect has threatened or attempted suicide.
- (h) The location of the command post and a safe approach to it.
- (i) The extent of any inner or outer perimeter and the number of personnel involved.
- (j) Any other assets or resources at the scene including other involved agencies.
- (k) Any other important facts critical to the immediate situation.

The ERT Commander or team supervisor shall then follow current callout procedures. A current mobilization list shall be maintained in the Shift Commander's office and Dispatch by the ERT Commander.

The Shift Commander will notify the Deputy Chief of Police as soon as practicable.

#### 404.7.3 FIELD PERSONNEL RESPONSIBILITIES

While waiting for the ERT to respond, field personnel should, if determined to be safe and practicable and sufficient resources exist:

- (a) Establish an arrest/response team in case the suspect takes action. The response team's tasks may include:
  - 1. Taking action to mitigate a deadly threat or behavior either inside or outside the location.
  - 2. Securing any subject or suspect who may surrender or attempt to escape.
- (b) Evacuate any injured persons in the zone of danger.
- (c) Evacuate or provide safety instructions to other people in the zone of danger.
- (d) Establish an inner and outer perimeter.
- (e) Establish a command post outside of the inner perimeter.
- (f) Attempt to establish preliminary communication with the suspect. Once the ERT has arrived, all negotiations should generally be halted to allow the negotiation and tactical teams time to organize, position and assume the appropriate roles and responsibilities.
- (g) Plan for, and stage, anticipated resources.

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##### 404.7.4 EMERGENCY ACTIVATION

- (a) In exigent circumstances (i.e. active shooter, hostage taker), the Shift Commander or supervisor may immediately activate the ERT Team.
- (b) Immediate activation can be initiated through the Cayuga County 911 Center.
- (c) Texts should indicate (ERT call-in) and members should be notified to call the ERT Commander to verify the text was received.

##### 404.7.5 ON-SCENE COMMAND RESPONSIBILITIES

Upon arrival of the ERT at the scene, the Incident Commander shall brief the ERT Commander and team supervisors. Upon review, it will be the ERT Commander's decision, with input from the Incident Commander, whether to deploy the ERT. Once the ERT Commander authorizes deployment, the ERT Commander or the authorized designee will be responsible for the tactical response and negotiations. The Incident Commander shall continue to supervise the command post operation, outer perimeter security, evacuation and media access and will support the ERT. The Incident Commander and ERT Commander or the authorized designee shall maintain direct communication at all times.

##### 404.7.6 COMMUNICATIONS WITH ERT MEMBERS

All persons who are non-ERT members should refrain from any non-emergency contact or interference with any ERT member during active negotiations. ERT operations require the utmost in concentration by involved members and, as a result, no one should interrupt or communicate with ERT members directly. All non-emergency communications shall be channeled through the negotiation team or tactical team supervisor or the authorized designee.

#### **404.8 TACTICAL TEAM ADMINISTRATIVE GUIDELINES**

The tactical team was established to provide a skilled and trained team for deployment to events that require specialized tactics, in situations where suspects have taken hostages and/or barricaded themselves, and in prolonged or predictable situations where persons who are armed or suspected of being armed pose a danger to themselves or others.

The following procedures serve as directives for the administrative operation of the tactical team.

##### 404.8.1 SELECTION OF TACTICAL MEMBERS

Interested members who are off probation shall submit a letter of interest to the ERT Commander. Those qualifying applicants will then be invited to participate in the testing process. The testing process will consist of an oral interview, physical agility test, firearm qualification and team evaluation.

- (a) Oral interview: The oral interview will be conducted by individuals selected by the ERT Commander. Applicants will be evaluated by certain criteria, which includes:
  - 1. Recognized competence and ability, as evidenced by performance.
  - 2. Demonstrated good judgment and understanding of the critical role of a tactical team member.

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3. Special skills, training or appropriate education as it pertains to this assignment.
  4. Commitment to the ERT, realizing that the additional assignment may necessitate unusual working hours, conditions and training obligations.
- (b) Physical agility: The physical agility test is designed to determine the physical capabilities of the applicant as they relate to performance of tactical team-related duties. The test and scoring procedure will be established by the certifying basic SWAT school. A minimum qualifying score shall be attained by the applicant to be considered for the position.
  - (c) Firearm qualification: Candidates will be invited to shoot the ERT basic drill for the necessary firearm. A minimum qualifying score established by the Range Instructor must be attained to qualify.
  - (d) Team evaluation: Current team members will evaluate each candidate on field tactical skills, teamwork, ability to work under stress, communication skills, judgment and any special skills that could benefit the team.
  - (e) Successful completion of a basic SWAT school.

The ERT Commander shall submit a list of successful applicants to the Chief's Office for final selection.

#### 404.8.2 TACTICAL TRAINING

Training shall be coordinated by the ERT Commander. The ERT Commander may conduct monthly training exercises that include a review and critique of members and their performance in the exercises, in addition to specialized training.

#### 404.8.3 TACTICAL TEAM EVALUATION

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the team shall be conducted by the team supervisor. The performance and efficiency level, as established by the team supervisor, will be met and maintained by all tactical team members. Any member of the tactical team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

### **404.9 NEGOTIATION TEAM ADMINISTRATIVE GUIDELINES**

The negotiation team has been established to provide skilled verbal communicators who will attempt to de-escalate and effect surrender in critical situations where suspects have taken hostages or barricaded themselves or have suicidal tendencies.

The following procedures serve as directives for the administrative operation of the negotiation team.

#### 404.9.1 SELECTION OF NEGOTIATION MEMBERS

Interested department members who are off probation shall submit a letter of interest to the Negotiation Team Supervisor. Qualified applicants will then be required to successfully complete

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a basic Hostage Negotiation/ Crisis Intervention school and any additional negotiations training as deemed appropriate by the negotiation team supervisor.

#### 404.9.2 NEGOTIATION TRAINING

Training shall be coordinated by the Negotiation Team Supervisor. The Negotiation Team Supervisor may conduct training exercises that include a review and critique of members and their performance in the exercises, in addition to specialized training.

#### 404.9.3 NEGOTIATION TEAM EVALUATION

Continual evaluation of a team member's performance and efficiency as it relates to the positive operation of the team shall be conducted by the team supervisor. Performance and efficiency levels, established by the team supervisor, will be met and maintained by all team members. Any member of the negotiation team who performs or functions at a level less than satisfactory shall be subject to dismissal from the team.

### **404.10 UNIFORMS AND EQUIPMENT**

ERT specialized teams from this department should wear attire that clearly identify them as law enforcement members. It is recognized that certain tactical conditions may require covert movement. Attire may be selected that is appropriate to the specific mission.

#### 404.10.1 EQUIPMENT

ERT specialized teams from this department should be adequately equipped to meet the specific missions identified by the Department.

The ERT Commander shall maintain a list of special equipment assigned.

[ERT Issued Equipment](#)

[Respiratory Protection Procedure](#)

[Respirator \(Gas Mask\) Monthly Inspection Record](#)

#### 404.10.2 FIREARMS

Weapons and equipment used by the ERT specialized teams and any supporting resources should be department-issued or approved, including any modifications, additions or attachments.

### **404.11 TRAINING**

The ERT Commander shall conduct an annual ERT training needs assessment to ensure that training correlates to the team's capabilities and department policy.

#### 404.11.1 INITIAL TRAINING

Tactical team members and team supervisors should not be deployed until successful completion of a basic ERT course or its equivalent that has been approved by this department.

- (a) To avoid unnecessary or redundant training, previous training completed by members may be considered equivalent when the hours and content or topics meet or exceed requirements determined by the Department.

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- (b) Untrained members may be used in a support or training capacity.

#### 404.11.2 UPDATE/REFRESHER TRAINING

Tactical and negotiation team members and team supervisors should complete update or refresher training periodically.

#### 404.11.3 MANAGEMENT TRAINING

Command and executive personnel are encouraged to attend training for managing the ERT functions at the organizational level. This is to ensure that those who provide active oversight at the scene understand the purpose and capabilities of these specialized teams.

Command personnel who may assume incident command responsibilities should attend a tactical commander or critical incident commander course or its equivalent that has been approved by this department.

#### 404.11.4 SCENARIO-BASED TRAINING

ERT specialized teams should participate in scenario-based training that simulates the critical field operations environment. Such training is an established method of improving performance during an actual deployment.

#### 404.11.5 TRAINING DOCUMENTATION

Individual and team training shall be documented and records maintained by the Training and Planning Administrator. Such documentation shall be maintained in each member's training file. A separate department ERT training file shall be maintained with documentation and records of all team training.



## Ride-Alongs

### 405.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for a ride-along with members of the Auburn Police Department. This policy provides the requirements, approval process, hours of operation and member responsibilities for ride-alongs.

### 405.2 POLICY

Ride-along opportunities will be provided to the members of the public, City employees and members of this department to observe and experience, first-hand, various functions of the Auburn Police Department. The term “ride-along” includes riding as a passenger with an officer on patrol or observing the work day of members engaged in other functions within the Department.

### 405.3 ELIGIBILITY

A ride-along is available to members of the public, business owners, and students currently attending class in the Auburn area. Efforts will be made to accommodate all interested persons. However, any applicant may be disqualified without cause from participating.

Factors that may be considered in disqualifying an applicant include, but are not limited to:

- Being under 17 years of age.
- Prior criminal history.
- Pending criminal action.
- Pending lawsuit against this department or the City
- Denial by any supervisor.
- Evidence of poor moral character

### 405.4 REQUESTS TO PARTICIPATE

Generally, ride-along and job observation requests will be maintained and scheduled by the Training and Planning Administrator. The applicant will complete and sign a Confidentiality/ Waiver of Liability Form. If the applicant is under 18 years of age, a parent or guardian must countersign, and get notarized, the Confidentiality/ Waiver of Liability Form. Information requested will include a valid state-issued identification card or driver's license number, birthdate, address and telephone number.

The Training and Planning Administrator will schedule a date, based on availability. If approved, a copy of the Confidentiality/ Waiver of Liability Form will be forwarded to the appropriate bureau as soon as possible for scheduling considerations.

If the request is denied, a representative of this department will advise the applicant of the denial.

[Confidentiality /Waiver of Liability Form](#)

[Ride Along COVID-19 Form](#)

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#### **405.5 PROCEDURES**

Once approved, ride-along applicants will be allowed to participate no more than once every six months. An exception may apply to the following law enforcement-involved participants:

- Explorers
- Volunteers
- Chaplains
- Reserves
- Interns
- Auburn Police Department applicants
- Any others with approval of the Shift Commander

An effort will be made to ensure that no more than one member of the public will participate in a ride-along or job observation during any given time period. Normally, no more than one ride-along participant will be allowed in department vehicles at a given time.

Ride-along requirements for department Explorers are covered in the Explorers Policy.

##### **405.5.1 OFF-DUTY PARTICIPATION**

Off-duty members of this department or any other law enforcement agency, and employees of the City, will not be permitted to participate in a ride-along with on-duty members of this department without the express consent of the Shift Commander, Deputy Chief of Police, or Chief of Police.

In the event that such participation is permitted, the off-duty department member, other law enforcement agency personnel or City employee shall not:

- (a) Be considered on-duty.
- (b) Represent him/herself as a member of this department or any other law enforcement agency.
- (c) Participate in any law enforcement activity except as emergency circumstances may require.

##### **405.5.2 CRIMINAL HISTORY CHECK**

All ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check prior to approval of the ride-along.

##### **405.5.3 SUITABLE ATTIRE**

Any person approved to participate in a ride-along is required to be suitably dressed in a collared shirt, blouse or jacket, slacks and shoes. Sandals, t-shirts, tank tops, shorts and ripped or torn pants are not permitted. Hats and ball caps will not be worn without the express consent of the Shift Commander. The Shift Commander or a supervisor may refuse a ride-along to anyone who is not dressed appropriately.

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##### **405.6 MEMBER RESPONSIBILITIES**

The assigned department member shall consider the safety of the ride-along or job observation participant at all times. The member shall maintain control over the participant and shall instruct the individual about the conditions that necessarily limit his/her participation. Instructions should include:

- (a) The participant will follow the directions of the department member.
- (b) The participant will not become involved in any investigation, handling of evidence, discussions with victims or suspects, reading an individual's criminal history or other protected information, or handling any police department equipment.
- (c) Participation may be terminated at any time by the member if the participant interferes with the performance of the member's duties.
  - 1. If the ride-along is in progress, the member may return the participant to the point the ride originated.
- (d) Participants may be allowed to continue a ride-along during the transportation and booking process, provided it does not jeopardize their safety.
- (e) Members will not allow participants to be present in any location or situation that would jeopardize the participant's safety or cause undue stress or embarrassment to a victim or any other member of the public.
- (f) Participants who are not law enforcement officers may not be permitted to accompany the department member into a private residence or premises or onto private property without the express consent of the resident or other authorized person. A search warrant is not an exception to these requirements.
- (g) No audio or video recording equipment, or cameras will be allowed during the observation period, and participants will not be allowed to carry any briefcases, handbags, etc. without first allowing a member of the Auburn Police Department to examine same inside and out.

The member assigned to provide a ride-along shall advise the dispatcher that a ride-along participant is present in the vehicle before going into service. An officer with a ride-along participant should use sound discretion when encountering a potentially dangerous situation, such as a high-speed pursuit and, if feasible, let the participant out of the vehicle in a well-lit public place. The dispatcher will be advised of the situation and as soon as practicable have another department member respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

Conduct by a person participating in a ride-along that results in termination of the ride, or is otherwise inappropriate, should be immediately reported to the Shift Commander. The member should enter comments regarding the reasons for terminating the ride-along on the Confidentiality/Waiver of Liability Form.

Upon completion of the ride-along, the member shall return the Confidentiality/ Waiver of Liability Form to the Training and Planning Administrator.

# Hazardous Material Response

## 406.1 PURPOSE AND SCOPE

Exposure to hazardous materials presents potential harm to department members and the public. This policy outlines the responsibilities of members who respond to these events and the factors that should be considered while on-scene, including the reporting of exposures and supervisor responsibilities.

### 406.1.1 DEFINITIONS

Definitions related to this policy include:

**Hazardous material** - A substance which, by its nature, containment or reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

## 406.2 POLICY

It is the policy of the Auburn Police Department to respond to hazardous material emergencies with due regard for the safety of the public and those members responding to such incidents.

## 406.3 HAZARDOUS MATERIAL RESPONSE

Members may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill or fire. When members come into contact with a suspected hazardous material, they should take certain steps to protect themselves and other persons.

The fire department is the agency trained and equipped to properly respond and mitigate most incidents involving hazardous materials and biohazards.

Responders should not perform tasks or use equipment without proper training. A responder entering the area may require decontamination before he/she is allowed to leave the scene, and should be evaluated by appropriate technicians and emergency medical services personnel for signs of exposure.

## 406.4 CONSIDERATIONS

The following steps should be considered at any scene involving suspected hazardous materials:

- (a) Make the initial assessment of a potentially hazardous material from a safe distance.
- (b) Notify Dispatch, appropriate supervisors, the appropriate fire department and hazardous response units.
  - 1. Provide weather conditions, wind direction, a suggested safe approach route and any other information pertinent to responder safety.
- (c) Wear personal protective gear, being cognizant that some hazardous material can be inhaled.

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- (d) Remain upwind, uphill and at a safe distance, maintaining awareness of weather and environmental conditions, until the material is identified and a process for handling has been determined.
- (e) Attempt to identify the type of hazardous material from a safe distance using optical aids (binoculars or spotting scopes) if they are available. Identification can be determined by:
  - 1. Placards or use of an emergency response guidebook or mobile app. (Emergency Response Guidebook Mobile Application).
  - 2. Driver's statements or shipping documents from the person transporting the material.
  - 3. Information obtained from any involved person with knowledge regarding the hazardous material. Information should include:
    - (a) The type of material.
    - (b) How to secure and contain the material.
    - (c) Any other information to protect the safety of those present, the community and the environment.
- (f) Provide first aid to injured parties if it can be done safely and without contamination.
- (g) Make reasonable efforts to secure the scene to prevent access from unauthorized individuals and to protect and identify any evidence.
- (h) Begin evacuation of the immediate and surrounding areas, dependent on the material. Voluntary evacuation should be considered; mandatory evacuation may be necessary and will depend on the type of material.
- (i) Activate automated community notification systems, if applicable.
- (j) Notify the New York State Department of Environmental Conservation (Environmental Conservation Law § 17-1007;.

#### **406.5 REPORTING EXPOSURE**

Department members who believe they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the member in a case and exposure report that shall be forwarded via chain of command to the Shift Commander as soon as practicable. Should the affected member be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the report.

Injury or illness caused or believed to be caused by exposure to hazardous materials shall be reported the same as any other on-duty injury or illness, in addition to a case report as applicable.

#### [Exposure Incident Report](#)

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##### 406.5.1 SUPERVISOR RESPONSIBILITIES

When a supervisor has been informed that a member has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to mitigate the exposure or continued exposure.

Safety items not maintained by this department may be available through the appropriate fire department or emergency response team.

## Hostage and Barricade Incidents

### 407.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the officers by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

#### 407.1.1 DEFINITIONS

Definitions related to this policy include:

**Barricade situation** - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

**Hostage situation** - An incident where it is reasonable to believe a person is:

- Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.
- Unlawfully held against his/her will under threat or actual use of force.

### 407.2 POLICY

It is the policy of the Auburn Police Department to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

### 407.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Officers should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, department-authorized negotiators should respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands, and the available resources.

#### 407.3.1 EMERGENCY COMMUNICATIONS

The following law and regulation apply to emergency interception and disconnection of phone services:

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- (a) An application for an eavesdropping or video surveillance warrant can be applied for via phone or other electronic means during an emergency (CPL § 700.21). The provisions of CPL § 700.05 through CPL § 700.21 must be followed.
- (b) A phone company can disconnect phone service to a residence when there is an emergency that is endangering a person or surrounding area (16 NYCRR § 609.14).

#### **407.4 FIRST RESPONDER CONSIDERATIONS**

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume control of the scene until relieved by a supervisor or a more qualified responder. The officer shall continually evaluate the situation, including the level of risk to officers, to the persons involved and to bystanders, and the resources currently available.

The handling officer should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

##### **407.4.1 BARRICADE SITUATION**

Unless circumstances require otherwise, officers handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. In the interim, the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (d) Provide responding emergency personnel with a safe arrival route to the location.
- (e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt to obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.



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- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the PIO.
- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.
- (l) Activate Emergency Response Team.

#### 407.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Establish a rapid response plan in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).
- (d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated, if practicable, pending further interview.
- (e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (f) Provide responding emergency personnel with a safe arrival route to the location.
- (g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (h) Coordinate pursuit or surveillance vehicles and control of travel routes.
- (i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
- (j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
- (k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.

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- (l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the PIO.
- (m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (n) Activate Emergency Response Team.

#### **407.5 SUPERVISOR RESPONSIBILITIES**

Upon being notified that a hostage or barricade situation exists, the supervisor should respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting Emergency Response Team (ERT) response if appropriate and apprising the ERT Commander of the circumstances. In addition, the following options, listed here in no particular order, will be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
- (b) Ensure the completion of necessary first responder responsibilities or assignments.
- (c) Request crisis negotiators, specialized assignment members, additional department members, resources or equipment as appropriate.
- (d) Establish a command post location as resources and circumstances permit.
- (e) Designate assistants who can help with intelligence information and documentation of the incident.
- (f) If it is practicable to do so, arrange for video documentation of the operation.
- (g) Consider contacting utility and communication providers when restricting such services (e.g., electric power, gas, telephone service).
- (h) Ensure adequate law enforcement coverage for the remainder of the City during the incident. The supervisor should direct nonessential personnel away from the scene unless they have been summoned by the supervisor or Dispatch.
- (i) Identify a media staging area outside the outer perimeter and have the department PIO or a designated temporary media representative provide media access in accordance with the Media Relations Policy.
- (j) Identify the need for mutual aid and the transition or relief of personnel for incidents of extended duration.
- (k) Debrief personnel and review documentation as appropriate.
- (l) Notification of the Chief of Police, or his/her designee.

#### **407.6 NEGOTIATOR DUTIES**

- (a) Upon notification by the police department, respond to the scene of the situation.
- (b) Upon arrival on-scene, report to the shift supervisor/incident commander at the command post. Ensure additional police negotiators are enroute to establish the required team of (3) primary police negotiators to be assembled and the first alternate

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negotiator notified of the incident. A list of primary and alternate negotiators will be posted in the command center.

- (c) Assess the situation, commence or assume negotiations, and ensure a liaison is established with the Emergency Response Team Commander, or his official designee.
- (d) Contact additional negotiating resources as may be necessary, such as, but not limited to, Federal Bureau of Investigation, The New York State Police and / or New York State Department of Corrections Hostage Negotiator personnel. The inclusion of mental health professionals for advisement of the police negotiators may be of value under certain circumstances.
- (e) All additional negotiation resources and personnel will report on-scene to the incident commander at the command post prior to entry into the area where negotiations are in progress.
- (f) Assign negotiators (primary, secondary and coach) and ensure that appropriate logs are kept and events recorded as they occur.
- (g) Continually inform and consult with the Emergency Response Team Commander, or their official designee, concerning all actions, activities and needs.
- (h) Recognize the Emergency Response Team Commander, or their official designee, as the scene commander of the situation and will respect and obey any decisions from that Emergency Team Commander, or their official designee.

#### **407.7 ERT RESPONSIBILITIES**

It will be the ERT Commander's decision, with input from the Incident Commander, whether to deploy the ERT during a hostage or barricade situation. Once the ERT Commander authorizes deployment, the ERT Commander or the authorized designee will be responsible for the tactical response and negotiations. The Incident Commander shall continue to supervise the command post operation, outer perimeter security, evacuation and media access, and will support the ERT. The Incident Commander and the ERT Commander or the authorized designees shall maintain direct communications at all times.

#### **407.8 REPORTING**

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion of incident reports. A meeting will be convened by the Chief or his designee to critique the incident, if appropriate.

# Response to Bomb Calls

## 408.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Auburn Police Department in their initial response to incidents involving explosives or explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

## 408.2 POLICY

It is the policy of the Auburn Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

## 408.3 RECEIPT OF BOMB THREAT

Department members receiving a bomb threat first-hand should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established department evidence procedures.

The member assigned to the bomb threat should ensure that the Shift Commander is immediately advised and informed of the details. This will enable the Shift Commander to ensure that the appropriate personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

### [Bomb Threat Procedure and Responsibilities](#)

## 408.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

### 408.4.1 AUBURN POLICE DEPARTMENT FACILITY

If the bomb threat is against the Auburn Police Department facility, the Shift Commander will direct and assign officers as required for coordinating a general building search or evacuation of the police department, as he/she deems appropriate.

### 408.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the Auburn Police Department that is not the property of this department, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the Shift Commander deems appropriate.

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##### **408.4.3 FEDERAL BUILDING OR PROPERTY**

If the bomb threat is against a federal building or property, the Federal Protective Service should be immediately notified. The Federal Protective Service provides a uniformed law enforcement response for most facilities, which may include use of its Explosive Detector Dog teams.

If the bomb threat is against a federal government property where the Federal Protective Service is unable to provide a timely response, the appropriate facility's security or command staff should be notified.

Bomb threats against a military installation should be reported to the military police or other military security responsible for the installation.

##### **408.5 PRIVATE FACILITY OR PROPERTY**

When a member of this department receives direct first-hand notification of a bomb threat at a location in the City of Auburn, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

- (a) The location of the facility.
- (b) The nature of the threat.
- (c) Whether the type and detonation time of the device is known.
- (d) Whether the facility is occupied, and if so, the number of occupants currently on-scene.
- (e) Whether the individual is requesting police assistance at the facility.
- (f) Whether there are any internal facility procedures regarding bomb threats in place, such as:
  - 1. No evacuation of personnel and no search for a device.
  - 2. Search for a device without evacuation of personnel.
  - 3. Evacuation of personnel without a search for a device.
  - 4. Evacuation of personnel and a search for a device.

The member assigned to investigate the bomb threat should communicate with the person in charge of the threatened facility as soon as possible.

##### **408.5.1 ASSISTANCE**

The Shift Commander should be notified when police assistance is requested. The Shift Commander will make the decision whether the Department will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including police control over the facility.

Should the Shift Commander determine that the Department will assist or control such an incident, he/she will determine:

- (a) The appropriate level of assistance.

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- (b) The plan for assistance.
- (c) Whether to evacuate and/or search the facility. The decision to evacuate will ultimately be made by the property owner / person in charge when on private property.
- (d) Whether to involve facility staff in the search or evacuation of the building.
  - 1. The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.
  - 2. The safety of all participants is the paramount concern.
- (e) The need for additional resources, including:
  - 1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request police assistance to clear the interior of a building, based upon the circumstances and known threat, officers may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

#### **408.6 FOUND DEVICE**

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
- (b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.
- (c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes:
  - 1. Two-way radios.
  - 2. Cell phones.
  - 3. Other personal communication devices.
- (d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance. Have the 911 Center notify a Bomb Disposal Unit. The nearest units are:
  - 1. Onondaga County Sheriff's Bomb Squad at (315) 425-2111 (Onondaga County 911)
  - 2. For Military Explosives contact the U.S. Army Explosive Ordinance Disposal Unit at Fort Drum at (315) 955-9534.
- (e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
- (f) A safe access route should be provided for support personnel and equipment.

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- (g) Search the area for secondary devices as appropriate and based upon available resources.
- (h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.
- (i) Promptly relay available information to the Shift Commander including:
  - 1. The time of discovery.
  - 2. The exact location of the device.
  - 3. A full description of the device (e.g., size, shape, markings, construction).
  - 4. The anticipated danger zone and perimeter.
  - 5. The areas to be evacuated or cleared.
- (j) Establish a command post and staging area.
- (k) Request the fire department send an ambulance crew and appropriate fire apparatus to the designated staging area.

#### **408.7 EXPLOSION/BOMBING INCIDENTS**

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. As in other catastrophic events, a rapid response may help to minimize injury to victims, contamination of the scene by gathering crowds, or any additional damage from fires or unstable structures.

##### **408.7.1 CONSIDERATIONS**

Officers responding to explosions, whether accidental or a criminal act, should consider the following actions:

- (a) Assess the scope of the incident, including the number of victims and extent of injuries.
- (b) Request additional personnel and resources, as appropriate.
- (c) Assist with first aid.
- (d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.
- (e) Assist with the safe evacuation of victims, if possible.
- (f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.
- (g) Preserve evidence.
- (h) Establish an outer perimeter and evacuate if necessary.
- (i) Identify witnesses.

##### **408.7.2 NOTIFICATIONS**

When an explosion has occurred, the following people should be notified as appropriate:

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- Fire department
- Bomb squad
- Additional department personnel, such as investigators and forensic services
- Field supervisor
- Shift Commander
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate

#### **408.8 CROWD CONTROL**

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

##### **408.8.1 PRESERVATION OF EVIDENCE**

As in any other crime scene, steps should immediately be taken to preserve the scene. The Shift Commander should assign officers to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be embedded in nearby structures or hanging in trees and bushes.



## Crisis Intervention Incidents

### 409.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

#### 409.1.1 DEFINITIONS

Definitions related to this policy include:

**Person in crisis** - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; noncompliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

**Crisis Intervention Team (C.I.T.):** A group of officers specially trained to deal with emotionally disturbed individuals in a variety of situations in the community. These situations may include suicidal persons, persons exhibiting irrational behavior, handling psychiatric patients, the homeless, various mental health concerns and/or referrals, and any other situations that deal specifically with the needs of the mental health community and emotionally disturbed persons.

**Mental Illness:** A disorder in which individuals experience periodic problems with feeling, thinking, and/or judgment to such an extent that the person afflicted requires care, treatment, and rehabilitation. Mental illness may be acute and time limited or chronic and lifelong. Mental illness may occur in anyone.

**Behavioral Health Crisis:** An episode of mental and/or emotional distress in a person that is creating significant or repeated disturbance and is considered disruptive by the community, friends, family or the person themselves.

### 409.2 POLICY

The Auburn Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

### 409.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

- (a) A known history of mental illness
- (b) Threats of or attempted suicide

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- (c) Loss of memory
- (d) Incoherence, disorientation or slow response
- (e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
- (f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
- (g) Social withdrawal
- (h) Manic or impulsive behavior, extreme agitation or lack of control
- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility or paranoia

Members should be aware that this list is not exhaustive. The presence or absence of any of these signs should not be treated as proof of the presence or absence of a mental health issue or crisis.

#### **409.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS**

The Chief of Police should designate an appropriate Crisis Intervention Coordinator to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources to guide department interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

#### **409.5 FIRST RESPONDERS**

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues and mental health crises are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis should:

- (a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
- (b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.
- (c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (d) Attempt to determine if weapons are present or available.

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- (e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.
- (f) Secure the scene and clear the immediate area as necessary.
- (g) Employ tactics to preserve the safety of all participants.
- (h) Determine the nature of any crime.
- (i) Request a supervisor, as warranted.
- (j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.
- (k) If circumstances reasonably permit, consider and employ alternatives to force.

#### **409.6 DE-ESCALATION**

Officers should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm and courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (i.e., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding officers generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

#### **409.7 INCIDENT ORIENTATION**

When responding to an incident that may involve mental illness or a mental health crisis, the officer should request that the dispatcher provide critical information as it becomes available. This includes:

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- (a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- (b) Whether there have been prior incidents or suicide threats/attempts, and whether there has been previous police response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

#### **409.8 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to the scene of any interaction with a person in crisis, when requested or warranted. Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources, including the need for a Crisis Intervention Officer, CIT Team, and/or Mobile Crisis Team.
- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed.
- (e) Evaluate whether a critical incident stress management debriefing for involved members is warranted.

#### **409.9 INCIDENT REPORTING**

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to department reporting procedures or other official mental health or medical proceedings.

##### **409.9.1 DIVERSION**

Individuals who are not being arrested for criminal offenses should be processed in accordance with the Emergency Admissions Policy.

#### **409.10 CIVILIAN INTERACTION WITH PEOPLE IN CRISIS**

Civilian or clerical members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.

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- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an officer should be promptly summoned to provide assistance.

#### **409.11 EVALUATION**

The Crisis Intervention Coordinator, in coordination with the Training and Planning Administrator, will coordinate the crisis intervention strategy for this department should ensure that a thorough review and analysis of the department response to these incidents is conducted annually.

#### **409.12 TRAINING**

In coordination with the mental health community and appropriate stakeholders, the Department will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis.

##### **409.12.1 CIT TEAM REQUIREMENTS**

- (a) All members of the Crisis Intervention Team must complete a 40 hour C.I.T. Certification course.
- (b) Further training will be set forth by the CIT Coordinator and Training Office.

#### **409.13 CIT ACTIVATION**

- (a) On-duty members, if available, will be activated via E-911 under the following circumstances:
  - 1. An individual is actively threatening to and/or is inflicting harm upon self/others and is exhibiting signs and/or symptoms of a mental health crisis.
  - 2. Request for transport by an authorized agent pursuant to Mental Hygiene Law 9.45 and 9.60.
  - 3. As requested by any member of the Department or by members of various mental health agencies/hospitals that request a C.I.T. officer.
  - 4. Any situation that indicates the subject may be having a behavioral health crisis or demonstrates conduct that they are a danger to themselves, which includes a person's refusal or inability to meet their essential need for food, shelter, clothing, or health care, provided that such refusal or inability is likely to result in serious harm if there is no immediate intervention.
  - 5. At the request of a supervisor.
- (b) Off-duty C.I.T. members can be activated by the Supervisor in charge, if warranted.
- (c) Utilization of a C.I.T. member does not relieve supervisors or members of their duty regarding transporting, reports, custody, etc.
- (d) Documentation:

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#### *Crisis Intervention Incidents*

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1. C.I.T. members will complete an incident report.
2. The C.I.T. member will forward the incident report to the C.I.T. Coordinator.
3. The C.I.T. Coordinator may forward the incident report to Cayuga County Mental Health for follow up and/or referral purposes.

## Emergency Admissions / Mental Hygiene Arrest

### 410.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may place a person under an Emergency Admission/Mental Hygiene Arrest (Mental Hygiene Law § 9.41).

#### 410.1.1 DEFINITIONS

Definitions related to this policy include (Mental Hygiene Law § 9.01):

**Likely to result in serious harm** - Includes a substantial risk of physical harm to:

- (a) One's self as manifested by threats of or attempts at suicide, or serious bodily harm or other conduct demonstrating that the person is dangerous to him/herself.
- (b) Others as manifested by homicidal or other violent behavior by which others are placed in reasonable fear of serious physical harm.

### 410.2 POLICY

It is the policy of the Auburn Police Department to protect the public and individuals through legal and appropriate use of emergency admission process.

Members of the Auburn Police Department making arrests or returning individuals to a mental health facility, pursuant to the mental hygiene law, will share information surrounding the individual's condition an/or arrest with hospital personnel involved in the evaluation of the person.

### 410.3 AUTHORITY

Any officer:

- (a) May take any person into custody for an emergency admission when the person appears to be mentally ill and is conducting him/herself in a manner which is likely to result in serious harm and transport the person to a hospital, comprehensive psychiatric emergency program (CPEP), or crisis stabilization center as specified in Mental Hygiene Law § 9.41.
  - 1. The officer may also temporarily detain such person in a safe and comfortable place pending an examination or admission to a hospital or CPEP. However, notification shall be made to the Director of Community Services (DCS), the director's designee or, if not available, to the city or county health officer, as applicable (Mental Hygiene Law § 9.41).
- (b) Shall, upon written direction from the DCS, take a person into custody or assist in the transporting of the person to a designated hospital, CPEP, or crisis stabilization center (Mental Hygiene Law § 9.45).
- (c) Shall, upon written direction of a qualified supervising or treating psychiatrist, take into custody a person for an emergency admission or assist in the transportation of the person to a hospital or CPEP designated by the qualified psychiatrist (Mental Hygiene Law § 9.55).

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- (d) Shall, upon written request of the director or the director's designee of a hospital that does not have appropriate inpatient psychiatric services, take into custody a person for an emergency admission or assist in transporting the person. The person shall be transported to the hospital or CPEP designated by the director or the director's designee of the hospital (Mental Hygiene Law § 9.57).
- (e) May, upon the request of an authorized physician who has certified that the person is mentally ill and in need of involuntary care and treatment in a hospital, take a person into custody and transport or assist in the transportation of that person to a hospital as directed. For purposes of this section, an authorized physician is one of the two physicians who are required to examine the person and who authorized the involuntary admission (Mental Hygiene Law § 9.27).
- (f) Shall, upon written request of the DCS, take a person who has been certified by the DCS as having a mental illness which is likely to result in serious harm into custody and transport or assist in the transportation of the person to a hospital for an involuntary admission (Mental Hygiene Law § 9.37).
- (g) Shall, upon the direction of an authorized physician or qualified mental health professional who is a member of a mobile crisis outreach team, take into custody and transport or assist in the transportation of the person to a hospital or, when the individual consents, to a crisis stabilization center (Mental Hygiene Law § 9.58)

#### 410.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for emergency admission, the officer may inquire as to whether the person desires to be voluntarily evaluated at an appropriate facility (Mental Hygiene Law § 9.41). If the person so desires, the officer should:

- (a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person.
- (b) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.
- (c) Contact the parent or appropriate guardian if the person is under 16 years of age prior to proceeding with a voluntary evaluation and/or admission (Mental Hygiene Law § 9.13).

If at any point the person changes the person's mind regarding voluntary evaluation, the officer should proceed with the emergency admission, if appropriate.

#### 410.3.2 LOCATIONS FOR OBSERVATION AND EVALUATION

- (a) Cayuga County Mental Health (CCMH), located at 146 North St., Auburn, NY, operates its business hours from 9:00am to 5:00pm, Monday through Friday. Officers may transport non-combatative § 9.41 arrests to Cayuga County Mental Health, and CCMH personnel will transport these subjects to Auburn Community Hospital for observation and evaluation.
- (b) Cayuga Counseling Services, located at 17 E. Genesee St., Auburn, NY: Officers encountering non-violent individuals in psychiatric crisis, who are clients of Cayuga Counseling Services, may transport the subject in crisis to Cayuga



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Counseling Services. Their office hours are: Monday, Tuesday and Thursday, from 8:30am-7:00pm, Wednesday from 8:30am-8:00pm and Friday from 8:30am-5:00pm. All after hours, weekend, and combative, impaired by alcohol or drugs, §9.41 arrests have to be transported to Auburn Community Hospital's Emergency Room for observation and evaluation.

#### **410.3.3 CRISIS STABILIZATION CENTER SERVICES**

In all cases, officers should inform individuals of crisis stabilization center services where available (Mental Hygiene Law § 36.02).

#### **410.4 CONSIDERATIONS AND RESPONSIBILITIES**

Any officer handling a call involving a person who may qualify for detention for the purpose of emergency admission should consider, as time and circumstances reasonably permit:

- (a) Available information that might assist in determining the possible cause and nature of the person's action or stated intentions.
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques
- (d) Community or other resources that may be readily available to assist with mental health issues like the mobile crisis response team

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others.

An emergency admission can be considered over arrest for people who have mental health issues and are suspected of committing minor crimes or creating other public safety issues.

#### **410.5 TRANSPORTATION**

When transporting any individual for an emergency admission or involuntary admission, the transporting officer should have Dispatch notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Officers may transport individuals in the patrol unit and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an officer during the transport, Shift Commander notification is required before transport commences.

#### **410.6 TRANSFER TO APPROPRIATE FACILITY**

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the officer should provide the staff member with the written application for an emergency admission and remain present to provide clarification of the grounds for detention, upon request.

If the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission

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process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

When transporting females, per request of medical facility personnel, attempts shall be made to secure the assistance of a female staff member of the medical facility making the request. If none is available, a female police officer, if one is available, will be assigned to assist in the transport.

#### **410.7 DOCUMENTATION**

The officer should provide a verbal summary to the evaluating staff member regarding the circumstances leading to the involuntary detention. The officer will document his/her actions in an incident report. If extenuating circumstances exist, such as use of force, then officers will document their actions on a Use of Force report.

#### **410.8 CRIMINAL OFFENSES**

Officers investigating an individual who is suspected of committing a minor criminal offense and who is being taken into custody through an emergency admission should resolve the criminal matter by issuing a warning or a citation, as appropriate.

When an individual who may qualify for an emergency admission has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the officer should:

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the detention.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for an emergency admission.

In the supervisor's judgment, the individual may be processed and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

When an individual is arrested under the mental hygiene law and that individual is to be charged criminally when released from the mental health facility, that information must be relayed to both the physician/psychiatric admitting officer and then facility security officer on duty so that the release of the individual may be delayed until the Auburn Police return to retake custody of the subject. When informed by the medical faculty that the subject is to be released, the shift commander, or supervisor in his absence, will take appropriate action to see that the subject is arrested for the pending criminal charges.

If a subject arrested under the mental hygiene law escapes the custody of police or the hospital prior to evaluation, that person will be considered a wanted person under the original charge (ie, that person has not satisfied the charge he is being evaluated). Officers shall continue to utilize the original complaint number for any additional case reports.

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##### **410.9 FIREARMS AND OTHER WEAPONS**

Whenever a person is taken into custody for an emergency admission, the handling officers should seek to determine if the person owns or has access to any firearm or other deadly weapon. Officers should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Officers are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful warrantless entry has already been made (e.g., exigent circumstances, consent). A warrant may also be needed before searching for or seizing weapons.

##### **410.10 TRAINING**

This department will endeavor to provide department-approved training on interaction with mentally disabled persons, an emergency admission and crisis intervention.

## Appearance Tickets

### 411.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of the Auburn Police Department with guidance on when to release adults who are suspected offenders on an appearance ticket for a criminal offense, rather than having the person held in custody. Additional release restrictions may apply to those detained for domestic violence, as outlined in the Domestic Violence Policy.

### 411.2 POLICY

The Auburn Police Department will consider its resources and its mission of protecting the community when exercising any discretion to release suspected offenders on an appearance ticket, when authorized to do so.

### 411.3 RELEASE

A suspected offender may be released on issuance of an appearance ticket for all other offenses except any of the crimes listed in the Prohibitions section of this policy (CPL § 140.20; CPL § 140.27; CPL § 150.20).

Prior to release, an officer shall inform the arrestee of his/her option to provide contact information for purposes of receiving a reminder of his/her court appearance date (CPL § 150.10). The contact information should be recorded and promptly filed with the appropriate criminal court along with the citation (CPL § 150.80).

#### 411.3.1 RELEASE BY PEACE OFFICER

If the officer is a peace officer, the officer may issue and serve an appearance ticket if specially authorized by state or local law. Otherwise, the officer shall enlist the aid of a police officer and request that the police officer issue and serve an appearance ticket upon the arrested person (CPL § 140.27).

#### 411.3.2 RELEASE FOLLOWING FINGERPRINTING AND PHOTOGRAPHING

Following an arrest for a felony, a misdemeanor defined in the penal law, or a misdemeanor defined outside the penal law that would constitute a felony if the accused had a previous judgment of conviction for a crime, the officer shall ensure fingerprints of the accused are taken prior to release on an appearance ticket (CPL § 160.10).

An officer should take fingerprints of a person arrested for any offense, prior to release on an appearance ticket, if the officer:

- (a) Is unable to ascertain the person's identity.
- (b) Reasonably suspects that the person is providing false identification information.
- (c) Reasonably suspects that the person is sought by law enforcement for some other offense.

A photograph and palm prints of the arrested person may be taken along with their fingerprints.

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##### **411.3.3 APPEARANCE TICKET RETURN DATE**

Officers should make all appearance tickets returnable in the appropriate local criminal court as soon as possible, but no later than 20 days from the date of issuance, or at the next scheduled session of the appropriate court, if such session is scheduled to occur more than 20 days from date of issuance (CPL §150.40).

##### **411.4 PROHIBITIONS**

The release of a suspected offender on an appearance ticket is not permitted when the person is accused of an A, B, C, or D felony, a violation of the following class E felonies, or is required to be arrested under CPL § 140.10(4) (CPL § 140.20; CPL § 150.20):

- (a) Rape in the third degree (Penal Law § 130.25)
- (b) Criminal sexual act in the third degree (Penal Law § 130.40)
- (c) Escape in the second degree (Penal Law § 205.10)
- (d) Absconding from temporary release in the first degree (Penal Law § 205.17)
- (e) Absconding from a community treatment facility (Penal Law § 205.19)
- (f) Bail jumping in the second degree (Penal Law § 215.56)

See the Domestic Violence Policy for release restrictions related to those investigations.

##### **411.5 INITIAL CONSIDERATIONS**

Officers should issue an appearance ticket, rather than effect a custodial arrest, for any offense other than a class A, B, C, or D felony; a violation of § 130.25, § 130.40, § 205.10, § 205.17, § 205.19, or § 215.56 of the Penal Law; or an applicable domestic violence offense under CPL § 140.10(4), unless there is reason to believe the individual:

- (a) Has one or more outstanding local criminal court or superior court warrants.
  - (b) Has failed to appear in court proceedings in the last two years.
  - (c) Has not made the individual's identity or method of contact known even after a reasonable opportunity to do so.
  - (d) Has been charged with a crime between members of the same family or household (CPL § 530.11).
  - (e) Is charged with a sex offense under Article 130 of the Penal Law.
  - (f) Should be brought before the court for consideration of an order of protection under the circumstances of the offense.
  - (g) Is charged with a crime for which the court may suspend or revoke the individual's driver license.
  - (h) Reasonably appears to need immediate medical or mental health care such that it would be in the individual's best interest to be brought before the court.
1. In such cases, officers should make reasonable efforts to secure medical or mental health services (CPL § 150.20) (see the Emergency Admissions and Medical Aid and Response policies).

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- (i) Is 18 or older and charged with either of the following (CPL § 150.20):
  - 1. Criminal possession of a weapon on school grounds as defined in Penal Law § 265.01-a.
  - 2. A hate crime as defined in Penal Law § 485.05.
- (j) Is charged with a qualifying offense pursuant to CPL § 510.10(4)(t) or CPL § 530.40(4)(t) (CPL § 150.20).

#### 411.5.1 IMPAIRMENT

Officers should consider the suspected offender's apparent level of impairment due to alcohol and/or drugs prior to release and follow the Medical Aid and Response Policy as applicable. For impaired suspected offenders who do not require medical aid, officers should consider arranging release to a responsible person.

# Foreign Diplomatic and Consular Representatives

## 412.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Auburn Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

## 412.2 POLICY

The Auburn Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

## 412.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol or, in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll-free at 866-217-2089, or at another current telephone number, and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

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#### *Foreign Diplomatic and Consular Representatives*

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##### **412.4 ENFORCEMENT ACTION**

- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
  - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
  - 1. Diplomatic-level staff of missions to international organizations and recognized family members
  - 2. Diplomatic agents and recognized family members
  - 3. Members of administrative and technical staff of a diplomatic mission and recognized family members
  - 4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
  - 1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents
  - 2. Support staff of missions to international organizations
  - 3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries
  - 4. Honorary consular officers

#### **Consular Notification Procedures**

##### **412.5 DOCUMENTATION**

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

##### **412.6 DIPLOMATIC IMMUNITY**

Reference table on diplomatic immunity:



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Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
<b>Diplomatic Agent</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity and inviolability)
<b>Member of Admin and Tech Staff</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity and inviolability)
<b>Service Staff</b>	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
<b>Career Consul Officer</b>	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts  Testimony may not be compelled in any case	No for official acts  Yes otherwise (note (a))	No immunity or inviolability
<b>Honorable Consul Officer</b>	Yes	Yes	Yes	No for official acts  Yes otherwise	No for official acts  Yes otherwise	No immunity or inviolability
<b>Consulate Employees</b>	Yes (note (a))	Yes	Yes	No-for official acts  Yes otherwise	No for official acts  Yes otherwise (note (a))	No immunity or inviolability (note (a))
<b>Int'l Org Staff</b> (note (b))	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts  Yes otherwise (note (c))	No immunity or inviolability

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<b>Diplomatic-Level Staff of Missions to Int'l Org</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity and inviolability)
<b>Support Staff of Missions to Int'l Orgs</b>	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

- (a) This table represents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety or the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

#### [Diplomats and Diplomatic Immunity Procedure](#)

## Rapid Response and Deployment

### 413.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist officers in situations that call for rapid response and deployment.

### 413.2 POLICY

The Auburn Police Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those who are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Department in protecting themselves or others from death or serious injury.

### 413.3 CONSIDERATIONS

When dealing with a crisis situation members should:

- (a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.
- (b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.
- (c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.
- (d) Attempt, if feasible and based upon the suspect's actions and danger to others, a negotiated surrender of the suspect and release of the hostages.

### 413.4 FIRST RESPONSE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers should consider reasonable options to reduce, prevent or eliminate the threat. Officers must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, officers will take immediate action, if reasonably practicable, while requesting additional assistance.

Officers should remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to incidents at other locations.

When deciding on a course of action officers should consider:

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- (a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advancement or engagement should be based on information known or received at the time.
- (b) Whether to wait for additional resources or personnel. This does not preclude an individual officer from taking immediate action.
- (c) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.
- (d) Whether the suspect can be contained or denied access to victims.
- (e) Whether the officers have the ability to effectively communicate with other personnel or resources.
- (f) Whether planned tactics can be effectively deployed.
- (g) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

In the case of a barricaded or trapped suspect, with no hostages and no immediate threat to others, officers should consider covering escape routes and evacuating persons as appropriate, while summoning and waiting for additional assistance (e.g., special tactics and/or hostage negotiation team response).

#### **413.5 PLANNING**

The Patrol Commander should coordinate critical incident planning. Planning efforts should consider:

- (a) Identification of likely critical incident target sites, such as schools, shopping centers, entertainment venues and sporting event venues.
- (b) Availability of building plans and venue schematics of likely critical incident target sites.
- (c) Communications interoperability with other law enforcement and emergency service agencies.
- (d) Training opportunities in critical incident target sites, including joint training with site occupants.
- (e) Evacuation routes in critical incident target sites.
- (f) Patrol first-response training.
- (g) Response coordination and resources of emergency medical and fire services.
- (h) Equipment needs.
- (i) Mutual aid agreements with other agencies.
- (j) Coordination with private security providers in critical incident target sites.
- (k) A review of, and coordination with, the emergency response plans filed by the school district (Education Law § 2801-a).

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##### **413.6 TRAINING**

The Training and Planning Administrator should include rapid response to critical incidents in the training plan. This training should address:

- (a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment venues and sporting event venues.
- (b) Communications interoperability with other law enforcement and emergency service agencies.
- (c) Patrol first-response training, including patrol rifle, shotgun, breaching tool and control device training.
- (d) First aid, including gunshot trauma.
- (e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

# Immigration Violations

## 414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Auburn Police Department relating to immigration and interacting with federal immigration officials.

## 414.2 POLICY

It is the policy of the Auburn Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

## 414.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, ethnicity, or national origin in any way that would violate the United States or New York State constitutions.

## 414.4 DETENTIONS

An officer should not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant.

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of federal immigration law may detain the person for a reasonable period of time in order to contact federal immigration officials to verify whether an immigration violation is a federal civil violation or a criminal violation. If the violation is a criminal violation, the officer may continue to detain the person for a reasonable period of time if requested by federal immigration officials (8 USC § 1357(g)(10)). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has committed a criminal immigration offense, he/she may continue the detention and may request a federal immigration official to respond to the location to take custody of the detained person (8 USC § 1357(g)(10)).

An officer is encouraged to forgo detentions made solely on the basis of a misdemeanor offense when time limitations, availability of personnel, issues of officer safety, communication capabilities, or the potential to obstruct a separate investigation outweigh the need for the detention.

An officer should notify a supervisor as soon as practicable whenever an individual is being detained for a criminal immigration violation.

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##### **414.4.1 SUPERVISOR RESPONSIBILITIES**

When notified that an officer has detained an individual and established reasonable suspicion or probable cause to believe the person has violated a criminal immigration offense, the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Lawfully arrest the person for a criminal offense or pursuant to a judicial warrant (see the Law Enforcement Authority for Police Officers Policy).

##### **414.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT**

Generally, an officer should not notify federal immigration officials when booking arrestees at a jail facility. Any required notification will be handled according to jail operation procedures. No individual who is otherwise ready to be released should continue to be detained solely for the purpose of notification.

##### **414.6 FEDERAL REQUESTS FOR ASSISTANCE**

Requests by federal immigration officials for assistance from this department should be directed to a supervisor. The Department may provide available support services, such as traffic control or peacekeeping efforts.

##### **414.7 INFORMATION SHARING**

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in department records
- (c) Exchanging such information with any other federal, state, or local government entity

##### **414.7.1 IMMIGRATION DETAINERS**

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 unless the person has been charged with a federal crime or the detainer is accompanied by a warrant, affidavit of probable cause, or removal order. Notification to the federal authority issuing the detainer should be made prior to the release.

##### **414.8 U VISA AND T VISA NONIMMIGRANT STATUS**

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

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Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Detective Bureau supervisor assigned to oversee the handling of any related case.

The Detective Bureau supervisor should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
  - 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

#### **414.9 TRAINING**

The Training and Planning Administrator should ensure officers receive training on this policy.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed.



## Utility Service Emergencies

### 415.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for addressing City utility service emergencies. This policy will address calls for service that are directed to the Police Department.

### 415.2 POLICY

It is the policy of the Auburn Police Department to appropriately respond to City emergency utility service requests received by this department.

### 415.3 UTILITY SERVICE EMERGENCY

A current contact list of City personnel to be notified in the event of a utility service emergency should be available in Dispatch.

#### 415.3.1 WATER LINES

The City's responsibility for water lines ends at the street water shut-off valve; any break or malfunction in the water system from the street water shut-off valve to a residence or business is the responsibility of the customer.

If a water line break occurs on the City side of the water line, public works personnel should be notified as soon as practicable.

#### 415.3.2 ELECTRICAL LINES

When a power line poses a hazard, a member of this department should be dispatched to the reported location to protect against personal injury or property damage that might be caused by the power line. The fire department, electric company and/or the public works department should be promptly notified, as appropriate.

#### 415.3.3 RESERVOIRS, PUMPS, WELLS

In the event of flooding or equipment malfunctions involving City reservoirs, pumps or wells, the water department and City DPW should be contacted as soon as practicable.

#### 415.3.4 NATURAL GAS LINES

All reports of a possible leak of natural gas or damage to a natural gas line shall promptly be referred to the fire department and the local entity responsible for gas lines. A member of this department should be dispatched to the reported location if it appears that assistance such as traffic control or evacuation is needed.

#### 415.3.5 TRAFFIC SIGNALS

A member of this department should be dispatched upon report of a damaged or malfunctioning traffic signal in order to protect against personal injury or property damage that might occur as the result of the damaged or malfunctioning signal. The member will advise Dispatch of the problem with the traffic signal. The dispatcher should make the necessary notification to the appropriate traffic signal maintenance agency as soon as practicable.

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#### *Utility Service Emergencies*

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A decision to place a signal on flash should include a consultation with the appropriate traffic signal maintenance agency, unless exigent circumstances exist.

# Aircraft Accidents

## 416.1 PURPOSE AND SCOPE

The purpose of this policy is to provide department members with guidelines for handling aircraft accidents.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Comprehensive Emergency Management Plan and Hazardous Material Response policies.

### 416.1.1 DEFINITIONS

Definitions related to this policy include:

**Aircraft** - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

## 416.2 POLICY

It is the policy of the Auburn Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

## 416.3 ARRIVAL AT SCENE

Officers or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

- (a) Protect persons and property.
- (b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.
- (c) Preserve ground scars and marks made by the aircraft.
- (d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.
- (e) Maintain a record of persons who enter the accident site.
- (f) Consider implementation of an Incident Command System (ICS).

## 416.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

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#### *Aircraft Accidents*

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##### **416.5 NOTIFICATIONS**

When an aircraft accident is reported to this department, the responding supervisor shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Supervisors shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

- (a) Fire department
- (b) Appropriate airport tower
- (c) Emergency medical services (EMS)

##### **416.6 CONTROLLING ACCESS AND SCENE AUTHORITY**

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

- (a) FAA.
- (b) Fire department, EMS or other assisting law enforcement agencies.
- (c) Coroner.
- (d) Air Carrier/Operators investigative teams with NTSB approval.
- (e) Appropriate branch of the military, when applicable.
- (f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this department will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene department supervisor should ensure the accident is still appropriately investigated and documented.

##### **416.7 DANGEROUS MATERIALS**

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

- Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.

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#### *Aircraft Accidents*

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- Pressure vessels, compressed gas bottles, accumulators and tires.
- Fluids, batteries, flares and igniters.
- Evacuation chutes, ballistic parachute systems and composite materials.

#### **416.8 DOCUMENTATION**

All aircraft accidents occurring within the City of Auburn shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of APD members deployed to assist; other City resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

##### **416.8.1 WRECKAGE**

When reasonably safe, members should:

- (a) Obtain the aircraft registration number (N number) and note the type of aircraft.
- (b) Attempt to ascertain the number of casualties.
- (c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.
  1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).
- (d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.
- (e) Acquire copies of any recordings from security cameras that may have captured the incident.

##### **416.8.2 WITNESSES**

Members tasked with contacting witnesses should obtain:

- (a) The location of the witness at the time of his/her observation relative to the accident site.
- (b) A detailed description of what was observed or heard.
- (c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.
- (d) The names of all persons reporting the accident, even if not yet interviewed.
- (e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

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##### **416.9 MEDIA RELATIONS**

The Public Information Officer (PIO) should coordinate a response to the media, including access issues, road closures, detours and any safety information that is pertinent to the surrounding community. Any release of information regarding details of the accident itself should be coordinated with the NTSB or other authority who may have assumed responsibility for the investigation.

Depending on the type of aircraft, the airline or the military may be responsible for family notifications and the release of victims' names. The PIO should coordinate with other involved entities before the release of information.

## Field Training and Evaluation Program

### 417.1 PURPOSE AND SCOPE

This policy provides guidelines for field training that ensure standardized training and evaluation; facilitate the transition from the academic setting to the actual performance of general law enforcement duties; and introduce the policies, procedures and operations of the Auburn Police Department. The policy addresses the administration of field training and the selection, supervision, training and responsibilities of the Field Training Officer (FTO).

### 417.2 POLICY

It is the policy of the Auburn Police Department that all newly hired or appointed officer trainees will participate in field training that is staffed and supervised by trained and qualified FTOs. In addition to FTO training, officer trainees must successfully complete a one-year period of probation after graduation from a New York State accredited training academy.

### 417.3 FIELD TRAINING

The Department shall establish minimum standards for field training, which should be of sufficient duration to prepare officer trainees for law enforcement duties and be a minimum of 160 hours plus the Final Evaluation Summary for recruit officers with no prior experience, in compliance with Municipal Police Training Council requirements. The field training is designed to prepare trainees for a patrol assignment and ensure they acquire the skills needed to operate in a safe, productive and professional manner, in accordance with the general law enforcement duties of this department. A field training guide shall be used to identify the specific performance criteria the trainee shall be trained and evaluated under by the FTOs.

To the extent practicable, field training should include procedures for:

- (a) Issuance of training materials to each trainee at the beginning of his/her field training.
- (b) Daily evaluation and documentation of the trainee's performance.
- (c) A multiphase structure that includes:
  - 1. A formal evaluation progress report completed by the FTOs involved with the trainee and submitted to the FTO Supervisor.
  - 2. Assignment of the trainee to a variety of shifts and geographical areas.
  - 3. Assignment of the trainee to a rotation of FTOs in order to provide for an objective evaluation of the trainee's performance.
- (d) Retention of all field training documentation in the officer trainee's training/ FTO file including:
  - 1. All performance evaluations.
  - 2. A certificate of completion certifying that the trainee has successfully completed the required number of field training hours.

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#### *Field Training and Evaluation Program*

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#### **417.4 FIELD TRAINING EVALUATION PHASES**

\*\*\*The Chief of Police, at his or her discretion, may reduce the length of Phase 2 training for recruits with prior certified police training and experience, who have exhibited competence and effectiveness in their skills, knowledge and abilities.

The Field Training Evaluation Program (FTEP) is designed to provide the recruit officer with an environment in which to transfer the academic training received in the Police Academy to the practical needs of a patrol officer. The Field Training Officer (FTO) is provided to assist the recruit officer in the transfer. The field training evaluation program is divided into three phases.

- (a) Phase 1 - The academic training segment of the program. Successful completion of the academic portion of the police academy automatically passes the recruit officer on to Phase 2.
- (b) Phase 2 - Covers the time after the academy in which the officer puts the skills obtained in the police academy to use with the assistance of the Field Training Officers. The Recruit Officer will complete a comprehensive checklist of tasks to assure the FTO that he/she has mastered the basic police skills and will be evaluated on a daily basis on how he/she utilizes these skills in his/her job performance. Upon completion of this phase of the program and when the probationary officer has reached an acceptable level of competence, he/she will receive certification from the police academy and advance to Phase 3, which will be assignment as a probationary patrol officer. If the probationary officer fails to reach this acceptable level of performance, phase 2 training may be extended or his/her employment may be terminated.
- (c) Phase 3 - Covers the period from the end of Phase 2 to the end of the civil service probationary period, usually the maximum time permitted. The probationary officer is assigned to one or more patrol supervisors. During this period, the patrol supervisor will prepare monthly observation summaries of the officer's performance. If the officer's performance is not satisfactory in the opinion of the patrol supervisor(s), the probationary officer may be retained in Phase 3 or reverted back to Phase 2 for closer observation and more personal assistance. Failure of a probationary officer to satisfactorily complete Phase 3 during his/her probationary period may be cause for termination. This will occur only after the probationary officer has been exposed to the FTEP and evaluated by the command staff of the Auburn Police Department.

The field training and evaluation program is in effect from the time the recruit officer is appointed until his/her probationary period has been completed.

- (a) Phase 1 is the successful completion of the police academy.
- (b) Phase 2 consists of 17 weeks assigned to an FTO.
  - 1. Week 1 - Technical training at headquarters
  - 2. Week 2-6 - Assignment to FTO#1
  - 3. Week 7-11 - Assignment to FTO#2
  - 4. Week 12-16 - Assignment to FTO#3
  - 5. Week 17 - Reassignment to FTO#1- plain clothes observation of probationary officer by FTO#1



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- (c) Phase 3 commences at the completion of Phase 2 and terminates at the end of the probationary period.
- (d) At the completion of the FTO period, the probationary officer will be evaluated by a direct supervisor, monthly, until their one-year probationary period expires.

[NYS DCJS FTO Daily Observation Report](#)

[NYS DCJS FTO Evaluation Summary Form](#)

[Supervisor Monthly Evaluation Report for Probationary Officers](#)

#### **417.5 FTO SUPERVISOR**

The Chief of Police shall delegate certain responsibilities to an FTO supervisor. The supervisor shall be appointed by the Chief of Police and directly responsible to the Training and Planning Administrator.

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

- (a) Assignment of trainees to FTOs.
- (b) Conducting FTO meetings.
- (c) Maintaining and ensuring FTO and trainee performance evaluations are completed.
- (d) Maintaining, updating and issuing department training materials to each FTO and trainee.
- (e) Developing ongoing training for FTOs.
- (f) Mentoring and supervising individual FTO performance.
- (g) Monitoring the overall performance of field training.
- (h) Maintaining a liaison with police academy staff on recruit officer performance during academy attendance.
- (i) Performing other activities as may be directed by the Training and Planning Administrator/Commander.

The FTO Supervisor will be required to successfully complete a basic field training officer course within one year of appointment to this position.

#### **417.6 FTO SELECTION, TRAINING AND RESPONSIBILITIES**

##### **417.6.1 SELECTION PROCESS**

The selection of an FTO will be by a committee of the Chief of Police, Deputy Chief of Police, Training and Planning Administrator, FTO Supervisor, and a Patrol Supervisor. Selection will be based on the officer's:

- (a) Desire to be an FTO.
- (b) Experience, which shall include a minimum of three years of patrol experience, two of which shall be with this department.
- (c) Demonstrated ability as a positive role model.

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- (d) Successful completion of an internal oral interview process.
- (e) Evaluation by supervisors
- (f) Possession of, or ability to obtain, department-approved certification.

An FTO must remain in good standing and may be relieved from FTO duties due to discipline, inappropriate conduct or poor performance.

#### 417.6.2 TRAINING

An officer selected as an FTO shall successfully complete the Police Field Training Officer Course required by the MPTC, prior to being assigned as an FTO.

#### 417.6.3 TRAINING MATERIALS

The FTO shall receive training materials outlining the requirements, expectations and objectives of the FTO position. FTOs should refer to their training materials or the FTO Supervisor regarding specific questions related to FTO or field training.

#### 417.6.4 RESPONSIBILITIES

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

- (a) Issuing his/her assigned trainee field training materials in accordance with the Training Policy.
  - 1. The FTO shall ensure that the trainee has the opportunity to become knowledgeable of the subject matter and proficient with the skills as set forth in the training materials.
  - 2. The FTO shall sign off on all completed topics contained in the training materials, and evaluating the performance of his/her assigned trainee.
- (b) Observing the trainee's daily interaction with the public.
- (c) Completing and reviewing daily performance evaluations with the trainee.
- (d) Completing and submitting a written evaluation on the performance of his/her assigned trainee to the FTO Supervisor on a daily basis.
- (e) Providing the shift supervisor with a verbal synopsis of the trainee's activities when necessary or during any unusual occurrence needing guidance or clarification.

#### **417.7 DUTIES AND RESPONSIBILITIES OF THE TRAINING AND PLANNING ADMINISTRATOR**

- (a) Complete and submit the Police Officer Registry Entry Form-Certification of Initial Employment Form, for each newly hired recruit, to NYS Department of Criminal Justice Services (Office of Public Safety) as per NYS Executive Law section 845(see attachment #1 – police officer registry entry form-certification of initial employment form).
- (b) Complete and submit the Waiver of Police Training Requirement Form to NYS DCJS, for newly hired recruits who have completed a NYS DCJS approved police academy

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and are currently NYS police certified, as per NYS executive law section 841 (see attachment #2 – waiver of police training requirement).

- (c) Overall supervision and command of the Field Training and Evaluation Program and its personnel.
- (d) Keep the Chief of Police apprised of recruit performance and status.
- (e) Make periodic contact with the training academy and recruit during phase I of the Field Training and Evaluation Program.
- (f) Review all reports and evaluations pertaining to the recruit through the entire training program.
- (g) Assure cooperation between the shift supervisors and the field training program personnel.
- (h) Confer with the Chief of Police in regards to field training officer selection and assignments, recruit scheduling, recruit progress and program revisions.
- (i) Coordinates and directs the Auburn Police Department's pre academy orientation program for newly hired police recruits.

[Police Officer Registry Entry Form and Instructions](#)

[Waiver of Police Training Requirement and Instructions](#)

#### **417.8 RECRUIT TRAINING**

- (a) All Police Department sworn personnel must comply with New York State's Department of Criminal Justice Services (NYS DCJS) and the Municipal Police Training Council's mandatory basic training requirement. A recruit shall either:
  - 1. Complete recruit training at one of the basic training academies approved licensed by the Law Enforcement Training Standards Board.
  - 2. Completed Phase 1 AND Phase 2 from a NYS DCJS approved Pre-employment Police Basic Training Program.
  - 3. Receive a waiver of the basic training requirement as a result of the recruit having already successfully completed a NYS DCJS approved Police Academy course and being a currently sworn and certified Police Officer in the State of New York.
- (b) Newly sworn officers shall complete academy training prior to any routine assignment, in any capacity.
- (c) Recruit officers, during Academy Training Phase I, shall be under the direction of the Training and Planning Administrator.
- (d) The Training and Planning Administrator shall arrange for each recruit to receive orientation in the policies, procedures, rules and regulations of the department.
- (e) Officers attending a training academy shall be expected to observe all rules and regulations set forth by the academy staff, and must maintain passing grades on

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academy examinations. The Training and Planning Administrator shall make periodic contact with the Academy staff to determine the recruit's progress.

- (f) Serious violations of training academy rules, or failure to maintain a passing grade shall result in dismissal from the department.
- (g) Recruit officers shall maintain periodic contact with the Training and Planning Administrator during their training academy session, keeping him apprised of their progress and any problems encountered.
- (h) Recruit officers must graduate from the training academy, pass the mandatory firearm training course required by law, and pass the Auburn Police Department's Firearm Training Course, prior to carrying a firearm.
- (i) Recruits will be provided with orientation material explaining basic information regarding the academy.

#### **417.9 TRAINING ACADEMIES**

- (a) In accordance with Section 209-q of the General Municipal Law, the Auburn Police Department shall participate with the training programs of academies approved by the NYS DCJS and Municipal Police Training Council.
- (b) The Training and Planning Administrator shall establish and maintain an ongoing liaison with the training staffs of approved academies in order to provide input from this department and express our concern, appreciation and cooperation with the academies and their staff.
- (c) The Training and Planning Administrator shall monitor training results of department personnel to ensure minimum performance standards are being achieved.
- (d) If possible, the Training and Planning Officer shall make available, to academies, the facilities, staff and resources of this department in an effort to enhance the basic training program. However, the staffing, facilities, instructors and other resources required to operate these academies will be the responsibility of the other agency.
- (e) Tuition costs for training at these academies shall be paid by the Police Department.
- (f) The Police Department shall assume all normal liabilities of its personnel being trained at outside academies.
- (g) Recruits who incur physical injuries during scheduled training shall notify the Training and Planning Administrator and submit a report detailing the nature and extent of the injuries. The Training and Planning Administrator will then notify the Chief of Police of the circumstances.

# Air Support

## 418.1 PURPOSE AND SCOPE

The use of air support can be invaluable in certain situations. This policy specifies situations where the use of air support may be requested and the responsibilities for making a request.

## 418.2 POLICY

It is the policy of the Auburn Police Department to prioritize requests for air support to enhance law enforcement objectives and provide additional safety to officers and the community.

## 418.3 REQUEST FOR AIR SUPPORT

If a supervisor or officer in charge of an incident determines that the use of air support would be beneficial, a request to obtain air support may be made.

### 418.3.1 CIRCUMSTANCES FOR REQUESTS

Law enforcement air support may be requested under conditions that include, but are not limited to:

- (a) When the safety of officers or the community is in jeopardy and the presence of air support may reduce such hazard.
- (b) When the use of air support will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to officers or the community.
- (c) When air support is needed to locate a person who is lost and whose continued absence constitutes a serious health or safety hazard.
- (d) Vehicle pursuits.
- (e) Pre-planned events or actions that require air support.
- (f) Due to a request under an existing mutual aid agreement.
- (g) When the Shift Commander or equivalent authority determines a reasonable need exists.

### 418.3.2 ALLIED AGENCY REQUEST

After consideration and approval of the request for air support, the Shift Commander or the authorized designee will call the closest agency having available and suitable air support and will apprise that agency of the specific details of the incident prompting the request.

## Contacts and Temporary Detentions

### 419.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

#### 419.1.1 DEFINITIONS

Definitions related to this policy include:

**Consensual encounter** - When an officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the officer is voluntary. For purposes of this policy, consensual encounters include level 1 (request for information) and level 2 (common law right of inquiry) contacts.

**Field interview (FI)** - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the officer's suspicions.

**Field photographs** - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio/Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

**Pat-down search** - A type of search used by officers in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the officer, the detainee, or others.

**Reasonable suspicion** - When, under the totality of the circumstances, an officer has articulable facts that criminal activity may be at hand and a particular person is connected with that possible criminal activity.

**Temporary detention** - When an officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an officer actually restrains a person's freedom of movement.

### 419.2 POLICY

The Auburn Police Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the officer, the decision to temporarily detain a person and complete an FI, pat-down search or field photograph shall be left to the officer based on the totality of the circumstances, officer safety considerations and constitutional safeguards.

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##### **419.3 FIELD INTERVIEWS**

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the officer's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Auburn Police Department to strengthen community involvement, community awareness and problem identification.

##### **419.3.1 INITIATING A FIELD INTERVIEW**

When initiating the stop, the officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act.
- (b) Actions suggesting that he/she is engaged in a criminal activity.
- (c) Presence in an area at an inappropriate hour of the day or night.
- (d) Presence in a particular area is suspicious.
- (e) Carrying of suspicious objects or items.
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon.
- (g) Location in proximate time and place to an alleged crime.
- (h) Physical description or clothing worn that matches a suspect in a recent crime.
- (i) Prior criminal record or involvement in criminal activity as known by the officer.

##### **419.4 PAT-DOWN SEARCHES**

Once a valid stop has been made, and consistent with the officer's training and experience, an officer may pat a suspect's outer clothing for weapons if the officer has a reasonable, articulable suspicion the suspect may pose a safety risk (CPL § 140.50). The purpose of this limited search is not to discover evidence of a crime, but to allow the officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of weapons is involved.
- (b) Where more than one suspect must be handled by a single officer.
- (c) The hour of the day and the location or area where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.
- (e) The actions and demeanor of the suspect.



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- (f) Visual indications which suggest that the suspect is carrying a firearm or other dangerous weapon.

Whenever practicable, a pat-down search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.

#### 419.4.1 CONSENSUAL PAT-DOWNS

Asking for consent to conduct a pat-down search can elevate an encounter to a level 2 common-law right to inquire encounter. Officers should have a founded suspicion that the person is involved in criminal activity before asking for consent.

#### 419.5 FIELD PHOTOGRAPHS

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the officer shall carefully consider, among other things, the factors listed below.

##### 419.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent.

##### 419.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct.

If, prior to taking a photograph, the officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

##### 419.5.3 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the Shift Supervisor with associated documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.



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##### **419.5.4 SUPERVISOR RESPONSIBILITIES**

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

##### **419.6 WITNESS IDENTIFICATION AND INTERVIEWS**

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

- (a) Identifying all persons present at the scene and in the immediate area.
  - 1. When feasible, a written/recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.
  - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a written/recorded statement. Such witnesses, if willing, may be transported by department members.
  - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

# Criminal Organizations

## 420.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Auburn Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

### 420.1.1 DEFINITIONS

Definitions related to this policy include:

**Criminal intelligence system** - Any record system that receives, stores, exchanges or disseminates information that has been evaluated and determined to be relevant to the identification of a criminal organization or enterprise, its members or affiliates. This does not include temporary information files.

## 420.2 POLICY

The Auburn Police Department recognizes that certain criminal activities, including, but not limited to gang crimes and drug trafficking, often involve some degree of regular coordination and may involve a large number of participants over a broad geographical area.

It is the policy of this department to collect and share relevant information while respecting the privacy and legal rights of the public.

## 420.3 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to or obtain information from a criminal intelligence system unless a designee of the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

Designated command staff personnel will be responsible for maintaining each criminal intelligence system that has been approved for department use. The supervisor or the authorized designee should ensure the following:

- (a) Members using any such system are appropriately selected and trained.
- (b) Use of every criminal intelligence system is appropriately reviewed and audited.
- (c) Any system security issues are reasonably addressed.

### 420.3.1 SYSTEM ENTRIES

It is the designated command staff personnel's responsibility to approve the entry of any information from a report, field interview (FI), photo or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open or public source documents or documents that are on file at another agency, the designated command staff personnel should ensure copies of those documents are retained by the Records Bureau. Any supporting documentation for an entry shall be retained by

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the Records Bureau in accordance with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated command staff personnel should ensure that any documents retained by the Records Bureau are appropriately marked as intelligence information. The Records Supervisor may not purge such documents without the approval of the designated command staff personnel.

#### 420.3.2 STATE-SPECIFIC SYSTEM ENTRIES

Entries into the eJusticeNY Integrated Justice Portal shall comply with system requirements and security provisions (see the Protected Information Policy) (9 NYCRR § 6051.2).

#### **420.4 TEMPORARY INFORMATION FILE**

No member may create or keep files on individuals that are separate from the approved criminal intelligence system. However, members may maintain temporary information that is necessary to actively investigate whether a person or group qualifies for entry into the department-approved criminal intelligence system only as provided in this section. Once information qualifies for inclusion, it should be submitted to the supervisor responsible for consideration of criminal intelligence system entries.

##### 420.4.1 FILE CONTENTS

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

- (a) Must only be included upon documented authorization of the responsible departmentcommand staff personnel supervisor.
- (b) Should not be originals that would ordinarily be retained by the Records Bureau or Identification Bureau, but should be copies of, or references to, retained documents, such as copies of reports, FI forms, Dispatch records or booking forms.
- (c) Shall not include opinions. No person, organization or enterprise shall be labeled as being involved in crime beyond what is already in the document or information.
- (d) May include information collected from publicly available sources or references to documents on file with another government agency. Attribution identifying the source should be retained with the information.

##### 420.4.2 FILE REVIEW AND PURGING

The contents of a temporary information file shall not be retained longer than one year. At the end of one year, the contents must be purged.

The designated command staff personnel supervisor shall periodically review the temporary information files to verify that the contents meet the criteria for retention. Validation and purging of files is the responsibility of the supervisor.

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##### **420.5 INFORMATION RECOGNITION**

Department members should document facts that suggest an individual, organization or enterprise is involved in criminal activity and should forward that information appropriately. Examples include, but are not limited to:

- (a) Gang indicia associated with a person or residence.
- (b) Information related to a drug-trafficking operation.
- (c) Vandalism indicating an animus for a particular group.
- (d) Information related to an illegal gambling operation.

Department supervisors who utilize an authorized criminal intelligence system should work with the Training and Planning Administrator to train members to identify information that may be particularly relevant for inclusion.

##### **420.6 RELEASE OF INFORMATION**

Department members shall comply with the rules of an authorized criminal intelligence system regarding inquiries and release of information.

Information from a temporary information file may only be furnished to department members and other law enforcement agencies on a need-to-know basis and consistent with the Records Maintenance and Release Policy.

When an inquiry is made by the parent or guardian of a juvenile as to whether that juvenile's name is in a temporary information file, such information should be provided by the supervisor responsible for the temporary information file, unless there is good cause to believe that the release of such information might jeopardize an ongoing criminal investigation.

##### **420.7 CRIMINAL STREET GANGS**

The Detective Bureau supervisor should ensure that there are an appropriate number of department members who can:

- (a) Testify as experts on matters related to criminal street gangs, and maintain an above-average familiarity with gang assault.
- (b) Coordinate with other agencies in the region regarding criminal street gang-related crimes and information.
- (c) Train other members to identify gang indicia and investigate criminal street gang-related crimes.

##### **420.8 TRAINING**

The Training and Planning Administrator should provide training on best practices in the use of each authorized criminal intelligence system to those tasked with investigating criminal organizations and enterprises. Training should include:

- (a) The protection of civil liberties.

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- (b) Participation in a multi-agency criminal intelligence system.
- (c) Submission of information into a multi-agency criminal intelligence system or the receipt of information from such a system, including any governing federal and state rules and statutes.
- (d) The type of information appropriate for entry into a criminal intelligence system or temporary information file.
- (e) The review and purging of temporary information files.

# Shift Commanders

## 421.1 PURPOSE AND SCOPE

This policy provides guidelines for the designation of a Shift Commander and, as needed, an acting Shift Commander for each shift.

## 421.2 POLICY

Each shift will be directed by a Shift Commander capable of making decisions and managing in a manner consistent with the mission of the Auburn Police Department. To accomplish this, a Captain/Lieutenant shall be designated as the Shift Commander for each shift.

## 421.3 DESIGNATION AS ACTING SHIFT COMMANDER

Generally when a Captain/Lieutenant is unavailable for duty as Shift Commander, a qualified lower-ranking member shall be designated as acting Shift Commander.

## 421.4 SHIFT COMMANDER RESPONSIBILITIES

The Shift Commander shall have overall responsibility and accountability for the operation of this department on an assigned shift. Duties may include, but are not limited to:

- (a) Ensuring at least one uniformed patrol supervisor is deployed during each shift.
- (b) Ensuring sufficient members are on-duty to accomplish the mission of the Auburn Police Department.
- (c) Providing command-level oversight of major crime scenes, tactical situations or disasters.
- (d) Establishing service-level priorities.
- (e) Providing job-related training and guidance to subordinates.
- (f) Acquiring outside resources or providing assistance to other agencies, when applicable.
- (g) Handling service inquiries or complaints from the public.
- (h) Acting as the Public Information Officer when appropriate.
- (i) Managing risk exposure.
- (j) Ensuring the security of all department facilities.
- (k) Ensuring the proper equipment and vehicles are available for member use.
- (l) Representing the Department at community functions.
- (m) Serving as a temporary Commander when so designated.
- (n) Supervisors shall ensure that employees under their command perform their full duty. Supervisors shall provide efficient, effective and meaningful direction to employees in order to train and sustain such employee in a positive and beneficial manner to the employee and the department.

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- (o) Supervisors must provide a good example in both conduct and appearance, have a thorough understanding of the rules and procedures of the department, and shall assist and instruct employees in the proper performance of their duties.
- (p) Supervisors must ensure that the officers have the needed knowledge of laws, policies, procedures, directives and other applicable orders to competently exercise their duties.
- (q) Supervisors shall not overlook or condone ineffective or incompetent work by employees. Supervisors who fail to act accordingly are committing nonfeasance and are neglecting their duty.
- (r) Supervisors are accountable for creating a positive work environment through setting the example of treating employees considerably, with respect, and encouraging employees to develop and improve.

## Mobile Data Terminal Use

### 422.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use and application of the Mobile Data Terminal (MDT) system in order to ensure proper access to confidential records from local, state and national law enforcement databases, and to ensure effective electronic communications between department members and Dispatch.

The security of the department's computer system is of paramount importance in maintaining an efficient and well-guarded database for referencing computerized information. Users will strictly adhere to the following guidelines on the usage of Mobile Data Terminals, regardless of type, make, or manufacturer and associated software, to ensure compliance with federal copyright laws and protection against computer viruses.

Mobile Data Terminals (MDT) regardless of type, make, or manufacturer, have been installed in police vehicles to assist officers in the execution of efficient police functions and to reduce the amount of radio traffic necessary to conduct police operations.

Officers have been trained in the use and care of both the M.D.T. and are expected to use this equipment in accordance with instructions provided. M.D.T.s were designed and have been programed to provide information from State and National computer files on persons, vehicles and other property as well as access to the internet, department email and other department database systems.

### 422.2 POLICY

Auburn Police Department members using the MDT shall comply with all appropriate federal and state rules and regulations and shall use the MDT in a professional manner, in accordance with this policy.

### 422.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

### 422.4 RESTRICTED ACCESS AND USE

MDT use is subject to the Information Technology Use and Protected Information policies.

Members shall not access the MDT system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDT by another member to their supervisors or Shift Commanders.

Use of the MDT system to access law enforcement databases or transmit messages is restricted to official activities, business-related tasks or communications that are directly related to the business, administration or practices of the Department. In the event that a member has questions



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about sending a particular message or accessing a particular database, the member should seek prior approval from his/her supervisor.

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

It is a violation of this policy to transmit a message or access a law enforcement database under another member's name or to use the password of another member to log in to the MDT system unless directed to do so by a supervisor. Members are required to log off the MDT or secure the MDT when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

#### **Mobile Data Terminal Procedure**

##### **422.4.1 USE WHILE DRIVING**

Use of the MDT by the vehicle operator should generally be limited to times when the vehicle is stopped. When the vehicle is in motion, the operator should only attempt to read messages that are likely to contain information that is required for immediate enforcement, investigative or safety needs.

Short transmissions, such as a license plate check, are permitted if it reasonably appears that it can be done safely. In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

##### **422.5 DOCUMENTATION OF ACTIVITY**

Except as otherwise directed by the Shift Commander or other department-established protocol, all calls for service assigned by a dispatcher should be communicated by voice over the police radio and electronically via the MDT unless security or confidentiality prevents such broadcasting.

MDT and voice transmissions are used to document the member's daily activity. To ensure accuracy:

- (a) All contacts or activity shall be documented at the time of the contact.
- (b) Whenever the activity or contact is initiated by voice, it should be documented by a dispatcher.
- (c) Whenever the activity or contact is not initiated by voice, the member shall document it via the MDT.

##### **422.5.1 STATUS CHANGES**

All changes in status (e.g., arrival at scene, meal periods, in service) will be transmitted over the police radio or through the MDT system.

Members responding to in-progress calls should advise changes in status over the radio to assist other members responding to the same incident. Other changes in status can be made on the MDT.

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##### **422.5.2 EMERGENCY ACTIVATION**

If there is an emergency activation and the member does not respond to a request for confirmation of the need for emergency assistance or confirms the need, available resources will be sent to assist in locating the member. If the location is known, the nearest available officer should respond in accordance with the Officer Response to Calls Policy.

Members should ensure a field supervisor and the Shift Commander is notified of the incident without delay.

Officers not responding to the emergency shall refrain from transmitting on the police radio until a no-further-assistance broadcast is made or if they are handling a different emergency.

##### **422.6 EQUIPMENT CONSIDERATIONS**

###### **422.6.1 NON-FUNCTIONING MDT**

Whenever possible, members will not use vehicles with malfunctioning MDTs. Whenever members must drive a vehicle in which the MDT is not working, they shall notify Dispatch. It shall be the responsibility of the dispatcher to document all information that will then be transmitted verbally over the police radio.

###### **422.6.2 BOMB CALLS**

When investigating reports of possible bombs, members should not communicate on their MDTs when in the evacuation area of a suspected explosive device. Radio frequency emitted by the MDT could cause some devices to detonate.

## Portable Audio/Video Recorders

### 423.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand-held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Auburn Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

### 423.2 POLICY

The Auburn Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

### 423.3 COORDINATOR

The Chief of Police or the authorized designee should designate a coordinator responsible for:

- (a) Establishing procedures for the security, storage and maintenance of data and recordings.
- (b) Establishing procedures for accessing data and recordings.
- (c) Establishing procedures for logging or auditing access.
- (d) Establishing procedures for transferring, downloading, tagging or marking events.

### 423.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity of this department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### 423.5 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in an official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

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#### *Portable Audio/Video Recorders*

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Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

#### **423.6 IDENTIFICATION AND PRESERVATION OF RECORDINGS**

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

#### **423.7 RETENTION OF RECORDINGS**

All recordings shall be retained for a period consistent with the requirements of the established records retention schedule but in no event for a period less than 180 days.

##### **423.7.1 RELEASE OF AUDIO/VIDEO RECORDINGS**

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

#### **423.8 REVIEW OF RECORDED MEDIA FILES**

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing a member's performance.

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#### *Portable Audio/Video Recorders*

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Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by a Command Officer prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court (Public Officers Law § 89).

## Public Recording of Law Enforcement Activity

### 424.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

### 424.2 POLICY

The Auburn Police Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Officers shall exercise restraint and should not resort to highly discretionary arrests for offenses such as obstructing governmental administration, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

### 424.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects (Civil Rights Law § 79-p).

- (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present.
- (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include but are not limited to:
  - 1. Tampering with a witness or suspect.
  - 2. Inciting others to violate the law.
  - 3. Being so close to the activity as to present a clear safety hazard to the officers.
  - 4. Being so close to the activity as to interfere with an officer's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the officer, him/herself, or others.

### 424.4 OFFICER RESPONSE

Officers should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or

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behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an officer could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

#### **424.5 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the officer and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of department members, such as how and where to file a complaint.

#### **424.6 SEIZING RECORDINGS AS EVIDENCE**

Officers should not seize recording devices or media unless (42 USC § 2000aa; Civil Rights Law § 79-p):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
  - 1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious physical injury or death of any person.
- (c) The person consents.
  - 1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.

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2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Identification Bureau Policy.



## Automated License Plate Readers (ALPRs)

### 425.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

### 425.2 POLICY

The policy of the Auburn Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

### 425.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Auburn Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery as well as Scoff Law violations for unpaid parking tickets.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Traffic Sergeant. The Traffic Sergeant will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

### 425.4 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members, both sworn and civilian shall not use, or allow others to use, the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official law enforcement business.
- (b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped vehicles to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.
- (e) No ALPR operator may access confidential department, state or federal data unless authorized to do so.

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#### *Automated License Plate Readers (ALPRs)*

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- (f) Prior to a tour of duty, members using an ALPR shall ensure that an upload of hot list data from the Tracs Mobile Transfer has been performed for that day.
- (g) If practicable, the officer should verify an ALPR response via Dispatch or through the eJusticeNY Integrated Justice Portal before taking enforcement action that is based solely on an ALPR alert.

##### 425.4.1 REQUIRED ENFORCEMENT ACTIONS

The LPR identifies such a large number of violations that a single patrol unit, especially one assigned to beat responsibilities, may not be able to address and enforce all noted violations, such as parked vehicles with suspended/revoked registrations. However, alarms that will require immediate investigation by members assigned to an LPR unit include LPR alarms for;

- (a) Potential presence of a wanted individual
- (b) Stolen auto
- (c) Stolen license plate
- (d) A vehicle reportedly associated with an unsolved crime
- (e) AMBER alerts
- (f) Any alarm indicating ongoing criminal activity or the presence of endangered individuals

##### 425.4.2 VERIFICATION AND REPORTING

- (a) Members are to operate under the pretense that the LPR is only an investigative tool and before any enforcement action takes place, verification must be made via NYSPIN, and/or the originating agency or other authority consistent with any other “hit” generated through the NYSPIN system. Only violations that are appropriately verified will be acted upon. No arrests or other enforcement actions will be based solely on the alarm generated by the LPR system.
- (b) All enforcement actions that are the result of an LPR alarm will be documented by noting the same on the related case report, arrest report, tow sheet or any other documentation by noting; “LPR Arrest”. Supervisors will be responsible in verifying that LPR related actions are noted on appropriate documentation. It will also be the responsibility of the member assigned to the LPR unit during their tour of duty to properly document the outcome of any and all alarms from the LPR system.
- (c) It will be the responsibility of all members assigned to the unit equipped with an LPR system to verify that it is on and functioning properly at the start of your tour of duty and that the system is completely powered down at the end of your shift. Any member noting damage or other conditions on the LPR that were not previously present are to notify the on-duty supervisor and traffic sergeant.
- (d) In order to maintain proper and accurate functionality of the reader, the member assigned to the unit equipped with the LPR system will ensure that the camera lenses are clean and free of any obstructions prior to the start of their tour of duty. If the camera lenses are in need of cleaning, the member will use a clean cloth and glass

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#### *Automated License Plate Readers (ALPRs)*

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cleaner to clean the lenses. These items will be stored in the trunk of the LPR unit and are not to be removed.

#### **425.5 DATA COLLECTION AND RETENTION**

The Traffic Sergeant is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data.

All stored ALPR data should be retained in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances, the applicable data should be downloaded onto portable media and booked into evidence, or printed and added to the case file.

#### **425.6 ACCOUNTABILITY AND SAFEGUARDS**

All data will be closely safeguarded and protected by both procedural and technological means. The Auburn Police Department will observe the following safeguards regarding access to and use of stored data:

- (a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
- (b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (c) ALPR system audits should be conducted on a regular basis.

#### **425.7 RELEASING ALPR DATA**

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

- (a) The agency makes a written request for the ALPR data that includes:
  - 1. The name of the agency.
  - 2. The name of the person requesting.
  - 3. The intended purpose of obtaining the information.
- (b) The request is reviewed by the Administration Commander or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.
- (d) The sharing of ALPR data is subject to the terms of any existing sharing agreement with the regional Crime Analysis Center.

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Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy.

# Homeless Persons

## 426.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that department members understand the needs and rights of the homeless, and to establish procedures to guide them during all contacts with the homeless, whether consensual or for enforcement purposes.

This policy establishes a liaison to the homeless community, addresses the responsibilities of the department member appointed to act as a liaison to the homeless, and details the need for special protection and services for homeless persons.

## 426.2 POLICY

It is the policy of the Auburn Police Department to protect the rights, dignity and private property of all members of the community, including people who are homeless. Abuse of authority to harass any member of the community will not be permitted. The Auburn Police Department will address the needs of homeless persons in balance with the overall mission of this department.

Homelessness is not a crime and members will not use homelessness as the sole basis for detention or law enforcement action.

## 426.3 LIAISON TO THE HOMELESS COMMUNITY

The Chief of Police shall delegate certain responsibilities to a liaison to the homeless community. The liaison shall be appointed by and directly responsible to the Chief of Police or the authorized designee.

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

- (a) Maintaining and making available to all department members a list of assistance programs and other resources that are available to homeless persons.
- (b) Meeting with social services and representatives of other organizations that render assistance to the homeless community.
- (c) Maintaining a list of the areas within and near the jurisdiction of this department that are used as frequent homeless encampments.
- (d) Remaining abreast of laws dealing with homelessness, including personal property rights.
- (e) Being present during any clean-up operation conducted by this department that involves the removal of personal property of the homeless. This is to ensure that the established rights of the homeless are not violated.
- (f) Developing training to assist members in understanding current legal and social issues relating to the homeless.

## 426.4 FIELD CONTACTS

Officers are encouraged to contact a homeless person to render aid, offer assistance or to check on the person's welfare. Officers also will take enforcement action when information supports a

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reasonable and articulable suspicion of criminal activity. However, such contacts shall not be used for harassment.

When encountering a homeless person who has committed a nonviolent minor offense and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, officers are encouraged to consider long-term solutions, such as shelter referrals and counseling, in lieu of an arrest and criminal charges.

Officers should provide homeless persons with resources and assistance information whenever it is reasonably apparent that such services may be appropriate.

#### **426.4.1 CONSIDERATIONS**

A homeless person will receive the same level and quality of service provided to other members of the community. The fact that a victim, witness or suspect is homeless can, however, require special consideration for a successful investigation and prosecution. When handling investigations involving victims, witnesses or suspects who are homeless, officers should consider:

- (a) Documenting alternate contact information. This may include obtaining addresses and telephone numbers of relatives and friends.
- (b) Documenting locations the person may frequent.
- (c) Providing victim/witness resources, when appropriate.
- (d) Obtaining sufficient statements from all available witnesses in the event that a victim cannot be located and is unavailable for a court appearance.
- (e) Arranging for transportation for investigation-related matters, such as medical exams and court appearances.
- (f) Whether a crime should be reported and submitted for prosecution, even when a victim who is homeless indicates that he/she does not desire prosecution.
- (g) Whether the person may be an adult abuse victim and, if so, proceed in accordance with the Adult Abuse Policy.

#### **426.4.2 INCLEMENT WEATHER**

Officers encountering homeless persons who are without shelter during freezing weather should direct or transport the person to the nearest shelter, as appropriate (Exec. Order 151 (2016)).

#### **426.5 MENTAL HEALTH ISSUES**

When mental health issues are evident, officers should consider referring the person to the appropriate mental health agency or providing the person with contact information for mental health assistance, as appropriate. In these circumstances, officers may provide transportation to a mental health facility for voluntary evaluation if it is requested or offered and accepted by the person, and approved by a supervisor. Officers should consider detaining the person under emergency admission when facts and circumstances reasonably indicate such a detention is warranted (see the Emergency Admissions Policy).

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##### **426.6 PERSONAL PROPERTY**

The personal property of homeless persons must not be treated differently than the property of other members of the community. Officers should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, officers should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, it should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the officer, a supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure it. It will be the supervisor's responsibility to coordinate its removal and safekeeping.

Officers should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor or the homeless liaison. When practicable, requests by the public for clean-up of a homeless encampment should be referred to the liaison.

Officers who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the liaison if such property appears to involve a trespass, is a blight to the community or is the subject of a complaint. It will be the responsibility of the liaison to address the matter in a timely fashion.

##### **426.7 ECOLOGICAL ISSUES**

Sometimes homeless encampments can have an impact on the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Officers are encouraged to notify other appropriate agencies or City departments when a significant impact to the environment has or is likely to occur. A significant impact to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

## Medical Cannabis

### 427.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this department with guidelines for investigating the acquisition, possession, transfer, transportation, delivery, administration, or use of cannabis under New York's medical cannabis laws (Cannabis Law § 1 et seq).

#### 427.1.1 DEFINITIONS

Definitions related to this policy include (Cannabis Law § 3):

**Allowable amount** - Possession of a 60-day dosage of medical cannabis by a certified patient or designated caregiver. This may include possession of the certified patient's next 60-day supply during the last seven days of any 60-day period (Cannabis Law § 31).

**Certified medical use** - The acquisition, possession, transportation, or other authorized use of medical cannabis by a certified patient or designated caregiver.

**Certified patient** - A person residing or receiving treatment in New York for a condition that qualifies the person to receive a certification from an authorized practitioner to use medical cannabis pursuant to Cannabis Law § 30.

**Designated caregiver** - A person designated by a certified patient in a registry application to assist the certified patient in the acquisition, possession, transportation, or other authorized use of medical cannabis, or an employee of a registered designated caregiver facility.

**Licensee or permittee** - A person granted a license or a permit to cultivate, process, distribute, deliver, or dispense cannabis, or a cannabis research license, by the Cannabis Control Board.

**Registered facility or organization** - A designated caregiver facility that is registered with the Office of Cannabis Management, or a business or organization registered by the Cannabis Control Board (Cannabis Law § 32; Cannabis Law § 33; Cannabis Law § 34).

**Registry identification card (RIC)** - The card that is issued in accordance with Cannabis Law § 32 based upon a certification provided by an authorized practitioner that identifies an individual as a certified patient or a designated caregiver.

### 427.2 POLICY

It is the policy of the Auburn Police Department to prioritize resources to avoid making arrests related to cannabis that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

New York medical cannabis laws are intended to provide protection from prosecution to those who acquire, possess, cultivate, use, or transport cannabis to mitigate the symptoms of medical conditions. However, New York medical cannabis laws do not affect federal laws and there is no medical exception under federal law for the possession or distribution of cannabis. The Auburn Police Department will exercise discretion to ensure laws are appropriately enforced without



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unreasonably burdening both those individuals protected under New York law and the resources of the Department.

#### **427.3 INVESTIGATION**

Investigations involving the possession, delivery, production, or use of cannabis generally fall into one of two categories:

- (a) Investigations when no person makes a medicinal claim.
- (b) Investigations when a medicinal claim is made by a person possessing an RIC.

##### **427.3.1 INVESTIGATIONS WITH NO MEDICAL CLAIM**

In any investigation involving the possession, delivery, production, or use of cannabis or drug paraphernalia where no person claims that the cannabis is used for medicinal purposes, the officer should proceed with a criminal investigation if the amount is greater than permitted for personal use (Penal Law § 222.00 et seq.). A medicinal claim may be raised later, so officers should document any statements and observations that may be relevant to whether the cannabis was possessed or produced for medicinal purposes.

##### **427.3.2 INVESTIGATIONS INVOLVING PERSONS WITH AN RIC**

Officers shall not take enforcement action against a certified patient or designated caregiver who is in possession of a valid RIC when (Cannabis Law § 32):

- (a) The certified patient or designated caregiver possesses an allowable amount of cannabis.
  - 1. A designated caregiver may possess the allowable amount of cannabis for up to four certified patients.
- (b) The form of medical cannabis that is possessed is in compliance with the recommended amount or limitation set by the medical practitioner who issued the patient's certification for the use of medical cannabis.
- (c) The medical cannabis is in the original package that it was dispensed in except for the portion removed for immediate consumption.

Officers should not take enforcement action if the officer can reasonably ascertain that the person otherwise has a valid RIC. The officer should document attempts to verify the existence and validity of an RIC issued to the patient or designated caregiver in a written report.

##### **427.3.3 ADDITIONAL CONSIDERATIONS**

Officers should consider the following when investigating an incident involving cannabis possession, delivery, production, or use:

- (a) Because enforcement of medical cannabis laws can be complex, time-consuming, and can call for resources unavailable at the time of initial investigation, officers may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:
  - 1. The suspect has been identified and can be easily located at another time.

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2. The case would benefit from review by a person with expertise in medical cannabis investigations.
  3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.
  4. Any other relevant factors exist, such as limited available department resources and time constraints.
- (b) Before proceeding with enforcement related to registered organizations or dispensing facilities that supply cannabis for patients, licensees, or permittees, officers should consider conferring with appropriate legal counsel (e.g., to discuss requested enforcement actions such as preliminary injunctions and temporary restraining orders and associated procedural requirements (Cannabis Law § 16-a)) (Cannabis Law § 134).
- (c) The Cannabis Control Board should be contacted should questions arise regarding cannabinoid hemp and hemp extract activity (Cannabis Law, Article 5; Cannabis Law § 109).
- (d) Cannabis involved in any way with conduct deemed to be lawful under New York State law is not subject to seizure and does not support the forfeiture of property as set forth in the Asset Forfeiture Policy (Penal Law § 222.05).
- (e) Questions regarding the validity of an RIC, a registered facility, or organization, licensee, or permittee should be referred to the New York State Cannabis Control Board (Cannabis Law § 32).

#### 427.3.4 EXCEPTIONS

This policy does not apply to the following offenses. Officers may take enforcement action if the person:

- (a) Consumes cannabis through smoking or vaporization in any location where smoking is prohibited by New York law, including but not limited to (Public Health Law § 1399-o):
1. Places of employment.
  2. Places of mass transportation.
  3. Child care facilities and all public and private educational institutions.
  4. Hospitals and residential health care facilities (unless use is in a designated smoking room for patients of such facilities).
  5. Within 100 feet of the entrance, exit, or outdoor area of a public or private elementary or secondary school.
- (b) Obtains, possesses, stores, or maintains an amount of cannabis in excess of the amount that the certified patient or designated caregiver is authorized to possess under New York's medical cannabis laws (Penal Law § 179.15).
- (c) Sells, trades, delivers, or otherwise provides medical cannabis to another person with knowledge or reasonable grounds to believe that the person is not registered under New York's medical cannabis laws (Penal Law § 179.11).

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- (d) Is a medical practitioner who issues a certification with knowledge or reasonable grounds to believe that the person to receive it has no medical need for it or that it is for a purpose other than to treat a condition (Penal Law § 179.10).
- (e) Consumes cannabis while in any motor vehicle (9 NYCRR § 113.19)

#### **427.4 FEDERAL LAW ENFORCEMENT**

Officers should provide information regarding a cannabis investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities pursuant to a valid court order (Cannabis Law § 127).

#### **427.5 IDENTIFICATION BUREAU RESPONSIBILITIES**

The Identification Bureau officer should ensure that cannabis, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical cannabis is not destroyed. Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Identification Bureau officer should as soon as practicable return to the person from whom it was seized any useable cannabis, drug paraphernalia or other related property.

The Identification Bureau officer should not destroy cannabis that was alleged to be for medical purposes except upon receipt of a court order.

The Identification Bureau officer may release cannabis to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Detective Bureau supervisor.

## Medical Aid and Response

### 428.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons in need of medical aid and establishes a law enforcement response to such situations.

### 428.2 POLICY

It is the policy of the Auburn Police Department that all officers be trained to provide emergency medical aid and to facilitate an emergency medical response.

#### 428.2.1 DEFINITIONS

**Opioid:** A medication or drug that is derived from the opium poppy or that mimics the effect of an opiate. Opiate drugs are narcotic sedatives that depress activity of the central nervous system; these will reduce pain, induce sleep, and in overdose, will cause people to stop breathing. First responders often encounter opiates in the form of morphine, methadone, codeine, heroin, fentanyl, Oxycodone (Oxycontin, Percocet,), and Hydrocodone (Vicodin).

**Naloxone:** A prescription medication that can be used to reverse the effects of an opiate overdose. Specifically, it displaces opioids from the receptors in the brain that control the central nervous system and respiratory system. It is marketed under various trademarks, including Narcan.

**Overdose Rescue Kit:** At minimum should include the following:

- (a) Two (2) prefilled luer-lock syringes, without needles, each containing 2mg of Naloxone in 2ml of solution, and within their manufacturer assigned expiration dates.
- (b) Two (2) mucosal atomizer device (MAD) tips, compatible with standard luer-lock syringes.
- (c) One (1) pair of disposable gloves.

### 428.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact Dispatch and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide Dispatch with information for relay to EMS personnel in order to enable an appropriate response, including:

- (a) The location where EMS is needed.

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- (b) The nature of the incident.
- (c) Any known scene hazards.
- (d) Information on the person in need of EMS, such as:
  - 1. Signs and symptoms as observed by the member.
  - 2. Changes in apparent condition.
  - 3. Number of patients, sex, and age, if known.
  - 4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
  - 5. Whether the person is showing signs of extreme agitation or is engaging in violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Member should not direct EMS personnel regarding whether to transport the person for treatment.

#### **428.4 TRANSPORTING ILL AND INJURED PERSONS**

Except in exceptional cases where alternatives are not reasonably available, members should not transport persons who are unconscious, who have serious injuries or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Officers should search any person who is in police custody before releasing that person to EMS for transport.

An officer should accompany any person in police custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes or when so directed by a supervisor.

#### **428.5 PERSONS REFUSING EMS CARE**

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an officer shall not force that person to receive medical care or be transported.

However, members may assist EMS personnel when EMS personnel determine the person lacks the mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the officer should consider proceeding New York State Mental Hygiene Law §9.39, Emergency Admission and in accordance with the Emergency Admission Policy.

If an officer believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The officer may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

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If the person who is in custody still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Members may sign as a witness to refusal-for-treatment forms and shall not sign forms accepting financial responsibility for treatment.

#### **428.6 MEDICAL ATTENTION RELATED TO USE OF FORCE**

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Conducted Energy Device policies.

#### **428.7 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION**

Only members who maintain current training as established by the opioid overdose program director may administer opioid overdose medication (10 NYCRR § 80.138).

##### **428.7.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES**

Members who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Members should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Training and Planning Administrator.

[Naloxone Use Procedure](#)

[Naloxone Quality Improvement Usage Report](#)

##### **428.7.2 OPIOID OVERDOSE MEDICATION REPORTING**

Any member administering opioid overdose medication should detail its use on an appropriate form as specified by the Municipal Police Training Council (MPTC) and forward it to the Training and Planning Administrator.

The member shall report all responses to victims of suspected drug overdose on the current state-specified form and to the opioid overdose program director or his/her designee (10 NYCRR § 80.138(c)(3)).

The Training and Planning Administrator shall ensure that all administrations of an opioid antagonist and the number of trained overdose responders are reported to the MPTC quarterly (10 NYCRR § 80.138). The Training and Planning Administrator shall ensure the Records Supervisor has a current list of officers trained as overdose responders.

##### **428.7.3 OPIOID OVERDOSE MEDICATION TRAINING**

The Training and Planning Administrator should ensure initial training is provided and refresher training or competency verification occurs every two years for members authorized to administer opioid overdose medication as specified by the MPTC (10 NYCRR § 80.138).

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#### **428.8 ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS**

The Patrol Commander may authorize the acquisition and storage of epinephrine auto-injectors for use by officers as provided by Public Health Law § 3000-c. The Patrol Commander shall ensure that a trained officer is assigned to be responsible for the storage, maintenance, control and general oversight of the epinephrine auto-injectors acquired by the Department (Public Health Law § 3000-c).

##### **428.8.1 EPINEPHRINE AUTO-INJECTOR USER RESPONSIBILITIES**

Officers who are qualified to administer an epinephrine auto-injector should handle, store and administer the medication consistent with their training. Officers should check the auto-injectors at the beginning of their shift to ensure they are not expired. Any expired medication should be removed from service and given to the Training and Planning Administrator.

An officer who administers an epinephrine auto-injector should contact Dispatch as soon as possible and request response by emergency medical services personnel.

##### **428.8.2 EPINEPHRINE AUTO-INJECTOR USE REPORTING**

Any member who administers an epinephrine auto-injector should detail its use in an appropriate report.

##### **428.8.3 EPINEPHRINE AUTO-INJECTOR TRAINING**

The Training and Planning Administrator should ensure that members authorized to administer epinephrine auto-injectors are provided with initial and refresher training that meets the requirements of Public Health Law § 3000-c.

#### **428.9 SICK OR INJURED ARRESTEE**

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers shall not transport an arrestee to a hospital without a supervisor's approval.

Nothing in this section should delay an officer from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the officer's training.

#### **428.10 FIRST AID TRAINING**

Subject to available resources, the Training and Planning Administrator should ensure officers receive periodic first aid training appropriate for their position.

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#### **428.11 ENGAGEMENT WITH COMMUNITY RESOURCES**

[General Order 19-011- Engagement with Community Resources](#)

#### **428.12 AUBURN INTERVENTION COURT**

This mission of the Auburn Intervention Court (AIC) is to save lives by addressing the local heroin, opioid and synthetic drug epidemic through immediate intervention, linkage to evidence-based treatment, and intensive supervision for those at risk of overdose. For this program to be successful, cooperation must occur within a network of systems to facilitate and achieve the mission, challenge and vision of the AIC.

[MOU - Auburn Intervention Court - 08-21-2020](#)



# First Amendment Assemblies

## 429.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

## 429.2 POLICY

The Auburn Police Department respects the rights of people to peaceably assemble. It is the policy of this department not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

## 429.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills, leafleting, disorderly conduct, unlawful assembly, inciting to riot, criminal interference with health care services or religious worship and loitering. However, officers shall not take action or fail to take action based on the opinions being expressed. Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors officers may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and to prevent the destruction of property. Officers should not:

- (a) Engage in assembly or demonstration-related discussion with participants.
- (b) Harass, confront or intimidate participants.
- (c) Seize the cameras, cell phones or materials of participants or observers unless an officer is placing a person under lawful arrest.

Supervisors should continually observe department members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

### 429.3.1 PHOTOGRAPHS, VIDEO RECORDINGS AND OTHER INFORMATION

Photographs, video recordings and other information may be collected at assemblies and demonstrations as they can serve a number of purposes, such as support of criminal prosecutions,

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assistance in evaluating department performance, serving as training material, recording the use of dispersal orders and facilitating a response to allegations of improper law enforcement conduct.

Photographs, video recordings and other information shall not be maintained on the political, religious or social activities, views or associations of any individual, group or organization unless those activities, views or associations directly relate to an investigation of criminal activity and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

#### **429.4 UNPLANNED EVENTS**

When responding to an unplanned or spontaneous public gathering, the first responding officer should conduct an assessment of conditions, including, but not limited to:

- Location.
- Number of participants.
- Apparent purpose of the event.
- Leadership (whether it is apparent and/or whether it is effective).
- Any initial indicators of unlawful or disruptive activity.
- Indicators that lawful use of public facilities, streets or walkways will be impacted.
- Ability and/or need to continue monitoring the incident.

Initial assessment information should be promptly communicated to Dispatch, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members.

#### **429.5 PLANNED EVENT PREPARATION**

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

##### **429.5.1 INFORMATION GATHERING AND ASSESSMENT**

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.
- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

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Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

#### 429.5.2 OPERATIONAL PLANS

An operational planning team with responsibility for event planning and management should be established. The planning team should develop an operational plan for the event.

The operational plan will minimally provide for:

- (a) Command assignments, chain of command structure, roles, and responsibilities.
- (b) Staffing and resource allocation.
- (c) Management of criminal investigations.
- (d) Designation of uniform of the day and related safety equipment (helmets, shields, etc.).
- (e) Deployment of specialized resources.
- (f) Event communications and interoperability in a multijurisdictional event.
- (g) An established liaison with demonstration leaders and external agencies.
- (h) An established liaison with City government and legal staff.
- (i) Media relations.
- (j) Logistics: food, fuel, replacement equipment, duty hours, relief, and transportation.
- (k) Traffic management plans.
- (l) First aid and emergency medical service provider availability.
- (m) Prisoner transport and detention.
- (n) Review of policies regarding public assemblies and use of force in crowd control.
- (o) Parameters for declaring an unlawful assembly.
- (p) Arrest protocol, including management of mass arrests, to be coordinated with the District Attorney's Office.
- (q) Protocol for recording information flow and decisions.
- (r) Rules of engagement, including rules of conduct, protocols for field force extraction and arrests, and any authorization required for the use of force.
- (s) Protocol for handling complaints during the event.
- (t) Parameters for the use of body-worn cameras and other portable recording devices.

#### 429.5.3 MUTUAL AID AND EXTERNAL RESOURCES

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination. The assigned Incident Commander should ensure that any required memorandums

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of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Outside Agency Assistance Policy).

[APD-CCSheriff Mutual Aid 2019](#)

#### **429.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS**

If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he/she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse of their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear, standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

#### **429.7 USE OF FORCE**

Use of force is governed by current department policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and TASER Energy Weapons should be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and the Conducted Energy Device policies).

Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

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Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

#### **429.8 ARRESTS**

The Auburn Police Department should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been or reasonably appear likely to be unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

- (a) Reasonable measures to address the safety of officers and arrestees.
- (b) Dedicated arrest, booking, and report writing teams.
- (c) Timely access to medical care.
- (d) Timely access to legal resources.
- (e) Timely processing of arrestees.
- (f) Full accountability for arrestees and evidence.
- (g) Coordination and cooperation with the prosecuting authority, jail, and courts (see the Appearance Tickets Policy).

#### **429.9 MEDIA RELATIONS**

The Public Information Officer should use all available avenues of communication, including press releases, briefings, press conferences and social media, to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

#### **429.10 DEMOBILIZATION**

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

#### **429.11 POST EVENT**

The Incident Commander should designate a member to assemble full documentation of the event, to include:

- (a) Operational plan.
- (b) Any incident logs.

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- (c) Any assignment logs.
- (d) Vehicle, fuel, equipment, and supply records.
- (e) Incident, arrest, use of force, injury, and property damage reports.
- (f) Photographs, audio/video recordings, and Dispatch records/tapes.
- (g) Media accounts (print and broadcast media).

#### **429.11.1 AFTER-ACTION REPORTING**

The Incident Commander should work with City legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used, to include:

- (a) Date, time and description of the event.
- (b) Actions taken and outcomes (e.g., injuries, property damage, arrests, costs).
- (c) Problems identified.
- (d) Significant events.
- (e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

#### **429.12 TRAINING**

Department members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management. The Department should, when practicable, train with its external and mutual aid partners.

## Civil Disputes

### 430.1 PURPOSE AND SCOPE

This policy provides members of the Auburn Police Department with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Violence Policy will address specific legal mandates related to domestic violence court orders. References in this policy to “court orders” apply to any order of a court that does not require arrest or enforcement by the terms of the order or by New York law.

### 430.2 POLICY

The Auburn Police Department recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this department will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

### 430.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial. If a determination is made that the complaint is strictly a civil matter, the complainant will be referred to Auburn City Court or the Cayuga County Center for Dispute Settlement (315) 252-4260, [www.cdsadr.org](http://www.cdsadr.org).

While the following is not intended to be an exhaustive list, members should give consideration to the following when handling civil disputes:

- (a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.
- (b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.
- (c) Members shall not provide legal advice; however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.
- (d) Members are reminded that they shall not enter a residence or other non-public location without legal authority.
- (e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

#### [Landlord / Tenant Disputes Procedure](#)



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#### General Order # 16-005 - Investigations Related to Temporary Tenants

##### **430.4 COURT ORDERS**

Disputes involving court orders can be complex. Where no probable cause exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document:

- (a) The person's knowledge of the court order or whether proof of service exists.
- (b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be obtained and attached to the report when available. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

##### **430.4.1 STANDBY REQUESTS**

Officers responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Officers should not order the other party to allow entry or the removal of any items. If there is an order of protection, restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order. In the event the issuing court authorizes a law enforcement escort for a party in retrieving property, such authorization should be clearly documented and subject to review by a supervisor before law enforcement assistance is rendered.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location.

All activity relating to property retrievals and requests for same shall be documented in an appropriate report.

##### **430.5 VEHICLES AND PERSONAL PROPERTY**

Officers may be faced with disputes regarding possession or ownership of vehicles or other personal property. Officers may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal



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property can be complex. Generally, officers should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented.

#### **430.6 REAL PROPERTY**

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

For matters concerning rent administration, housing operations, rent overcharges and security deposits, the member can refer the complainant to the New York State Attorney General's Office.

#### **430.7 TRAINING**

Landlord tenant issues are complex and the Department should develop and implement basic and ongoing training for officers on landlord and tenant rights with a focus on hotel/motel disputes.

# Suspicious Activity Reporting

## 431.1 PURPOSE AND SCOPE

This policy provides guidelines for reporting and investigating suspicious and criminal activity.

### 431.1.1 DEFINITIONS

Definitions related to this policy include:

**Involved party** - An individual who has been observed engaging in suspicious activity, as defined in this policy, when no definitive criminal activity can be identified, thus precluding the person's identification as a suspect.

**Suspicious activity** - Any reported or observed activity that a member reasonably believes may have a nexus to any criminal act or attempted criminal act. Race, ethnicity, national origin or religious affiliation should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions). Examples of suspicious activity may include, but are not limited to:

- Suspected pre-operational surveillance or intelligence gathering (e.g., photographing security features, asking questions about sensitive security-related subjects).
- Tests of security measures and response to incidents (e.g., "dry run," creating false alarms, attempts to enter secure areas without authorization).
- Suspicious purchases (e.g., purchasing large quantities of otherwise legal items, such as fertilizer, that could be used to create an explosive or other dangerous device).
- An individual in possession of such things as a hoax explosive or dispersal device, sensitive materials (e.g., passwords, access codes, classified government information), or coded or ciphered literature or correspondence.
- Suspicious transactions involving large cash payments, deposits, withdrawals, or transfers of money; bulk cash smuggling, suspected financial fraud; sale of counterfeit goods; or misleading charities.
- A person's presence in or around an area at an unusual time appearing in a manner that is indicative of criminal activity

**Suspicious Activity Report (SAR)** - A case report used to document suspicious activity.

## 431.2 POLICY

The Auburn Police Department recognizes the need to protect the public from criminal conduct and acts of terrorism and shall lawfully collect, maintain and disseminate information regarding suspicious activities, while safeguarding civil liberties and privacy protections.

## 431.3 RESPONSIBILITIES

The Detective Commander and the authorized designees will manage SAR activities. Authorized designees should include supervisors who are responsible for department participation in criminal intelligence systems as outlined in the Criminal Organizations Policy.

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The responsibilities of the Detective Bureau include but are not limited to:

- (a) Remaining familiar with those databases available to the Department that would facilitate the purpose of this policy.
- (b) Maintaining adequate training in the area of intelligence gathering to ensure no information is being maintained that would violate the law or civil rights of any individual.
- (c) Ensuring a process is available that would allow members to report relevant information. The process should be designed to promote efficient and quick reporting, and should not be cumbersome, duplicative, or complicated.
- (d) Ensuring that members are made aware of the purpose and value of documenting information regarding suspicious activity, as well as the databases and other information resources that are available to the Department.
- (e) Ensuring that SAR information is appropriately disseminated to members in accordance with their job responsibilities.
- (f) Coordinating investigative follow-up, if appropriate.
- (g) Coordinating with any appropriate agency or fusion center.
- (h) Ensuring that, as resources are available, the Department conducts outreach that is designed to encourage community members to report suspicious activity and that outlines what they should look for and how they should report it (e.g., website, public service announcements).

#### **431.4 REPORTING AND INVESTIGATION**

Any department member receiving information regarding suspicious activity should take any necessary immediate and appropriate action, including a request for tactical response or immediate notification of specialized entities, when applicable. Any civilian member who receives such information should ensure that it is passed on to an officer in a timely manner.

If the suspicious activity is not directly related to a reportable crime, the member should prepare a SAR and include information about the involved parties and the circumstances of the incident. If, during any investigation an officer becomes aware of suspicious activity that is unrelated to the current investigation, the information should be documented separately in a SAR and not included in the original incident report. The report number of the original incident should be included in the SAR as a cross reference. A SAR should be processed as any other incident report.

#### **431.5 HANDLING INFORMATION**

If appropriate, the Records Bureau Supervisor will forward copies of SARs, in a timely manner, to:

- Detective Bureau supervisor.
- Central New York Crime Analysis Center - see *Outside Agency Assistance* policy for MOU
- Other authorized designees.
- The Joint Terrorism Task Force.

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- NYS Intelligence Counter Terrorism Center
  - [ctcenter@nysic.ny.gov](mailto:ctcenter@nysic.ny.gov), or
  - 866-723-3697

## Body-Worn Cameras

### 432.1 PURPOSE AND SCOPE

Body-Worn Cameras (BWCs) allow for additional documentation of police contact with the public, arrests, and critical incidents. BWCs enhance the accountability of all individuals during police encounters and provide supplemental documentation of crime and accident scenes.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at an Auburn Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

#### 432.1.1 DEFINITIONS

**Body Worn Camera (BWC)** – Overt mobile audio and video-capture device issued by the Auburn Police Department designed to be worn by Officers in the course of their duties.

**BWC Program Manager** – A sworn member assigned to the Identification Bureau who is responsible for the operation, oversight and coordination of the administrative duties associated with managing the BWC program.

**BWC Recording** – Audio and video recordings and associated metadata from BWCs.

**BWC System** – The body-worn camera and all associated equipment and software installed on APD workstations and/or laptops.

**BWC System Administrator** – A sworn Member of APD who has been granted full access and data management rights within the BWC data storage system. He/she can assign and track equipment, manage passwords, oversee needed repairs, delete non-evidentiary recordings, conduct audits and quality control reviews, and assists the BWC Program Manager.

**Critical Incident** – An unusual occurrence or event that requires a coordinated law enforcement response to protect potential victims, general public safety, and police. This includes barricaded armed subjects, active killers or snipers, hostage situations, violent protests, demonstrations or other civil disturbances, transportation disasters, weather disasters, and major HAZ MAT situations.

**Digital Media Evidence (DME)** – BWC recordings and associated metadata that may be utilized as evidence.

**Docking Station** – Hardware connected to APD's network that is designed to offload recordings contained on the BWC.

**Enforcement Related Activities** - Situations during an Officer's official duties that include, but are not limited to:

1. Calls for service;
2. Detentions/Stops of Persons & Vehicles (person stops, traffic stops, and field interviews);
3. Search Warrants;

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4. Arrests & Prisoner Transports (including the issuance of appearance tickets and mental hygiene arrests);
5. Pursuits (both vehicle and foot);
6. Investigatory activities;
7. Confrontational/adversarial citizen contacts;
8. Use of Force (use of physical force or deadly physical force);
9. At an Officer's discretion, if they feel the situation could result in an issue where recording would be beneficial.

**Metadata** – Data entered into or generated by the BWC that provides context or additional information about BWC recordings.

**Serious Incident** – Any incident or event which involves use of deadly physical force by a police Officer or results in serious physical injury or death to any person as a result of police action or involvement, including use of force or deadly physical force, vehicle or foot pursuits, motor vehicle accidents, other accidental injury or death, or any death or serious physical injury occurring while in police custody.

**Prohibited Recording** – An event or incident for which BWC recording is prohibited.

**Tag** – The process used to label an individual BWC recording using Axon cloud service, and Evidence.com software and issued equipment in accordance with retention categories established by APD and with the assigned associated incident number.

#### **432.2 POLICY**

This policy provides guidelines for the use of Body Worn Cameras by members of this department while in the performance of their duties. The Auburn Police Department provides members with BWCs for use during the performance of their duties. The use of BWCs is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public. It is the policy of the Auburn Police Department that Officers shall activate the BWC when activation is appropriate for the individual Officer's performance of duties where the recordings are consistent with policy and the law.

#### **432.3 BODY-WORN CAMERA PROGRAM MANAGEMENT**

##### **432.3.1 ADMINISTRATION OF THE BWC PROGRAM**

The Office of the Chief Police will designate a BWC Program Manager responsible for the following duties and responsibilities including but not limited to:

- (a) Liaison with BWC vendor(s) including return, repair, and replacement of BWCs and liaison with the City IT Department;
- (b) Maintaining an accurate and up-to-date inventory of BWCs to include personnel and location assigned;

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- (c) Providing access or copies of BWC recordings and components to APD personnel authorized by department policy and/or the office of the Chief of Police or his/her designee;
- (d) Coordinating with the legal counsel, the District Attorney, responding to subpoenas, court orders, Freedom of Information Law (FOIL) requests, and other requests for copies of BWC recordings in accordance with established procedures;
- (e) Re-categorizing, assigning categories, and assigning security levels to BWC recordings;
- (f) Redacting sensitive, confidential, privileged, or otherwise protected portions of BWC recordings as needed;
- (g) Responding as directed to serious incidents or other events to assist with access to, and/or copies of, BWC recordings;
- (h) Conducting quarterly audits to assess compliance with established policies and procedures relating to the BWC Program and coordinating additional audits by designated APD personnel;
- (i) Compiling reports and documentation relating to the BWC Program;
- (j) Coordinating the review of stored BWC recordings in accordance with established policies and procedures;
- (k) Reviewing the BWC program, technology, systems, policies, and procedures and recommending improvements;
- (l) Managing the Department's Axon and Evidence.com account;
- (m) Other duties related to the BWC Program as assigned by the Office of the Chief of Police or his/her designee.

#### 432.3.2 USE OF BWCS

- (a) APD will utilize BWCs in accordance with law, this policy, and other applicable Department policies and procedures.
- (b) BWCs, all associated equipment and software, and all recordings and other data produced by the BWC system are the sole property of APD and exist for the sole use of APD.
- (c) Members who are issued BWCs will use them in accordance with this policy and other applicable Department policies and procedures.
- (d) Members may use BWCs only for official APD duties. Members may not use BWCs for personal reasons, additional employment, or any other purpose not related to APD business.
- (e) BWC recordings will not replace required reports or the required documentation.
- (f) No video or audio recording produced by a BWC will be copied, duplicated, downloaded, converted, or retained except as authorized for official APD purposes.

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- (g) Members will not post BWC recordings to the Internet, social media sites, or the media, or otherwise disseminate BWC recordings in any way unless specifically authorized to do so by APD policy.
- (h) APD will review and retain BWC recordings in accordance with the retention schedule established in Appendix A of this policy.
- (i) No APD personnel will change the settings and functions of a BWC or alter the operation of any BWC or attempt to do the same unless assigned as a BWC system administrator and specifically authorized to do so by APD policy.
- (j) APD personnel are prohibited from using any electronic device or any other means in order to intentionally interfere with or alter the capability or operation of a BWC or any component of the BWC system.
- (k) APD personnel are not permitted to alter, tamper with, delete, damage, or destroy any BWC or BWC recording or attempt to do the same unless assigned as a system administrator and specifically authorized to do so by APD policy.
- (l) APD personnel will not wear or use a privately owned BWC or any other BWC not issued by the Department, while performing any duties on behalf of APD.
- (m) APD personnel are permitted to utilize "stealth" and "sleep" modes on their assigned BWC as the current situation dictates, however once it is safe/applicable to do so the BWC must be returned to its normal operating status.
- (n) The BWC Program Manager will be responsible for the administration of the APD's BWC Program and will be assigned to the Identification Bureau.
- (o) A supervisor/officer assigned to the Command Desk will be logged in to evidence.com and have the Axon Respond Map displayed on a monitor at the Command Desk at all times.
- (p) APD personnel who are assigned department vehicles are not required to wear their assigned BWC while traveling to and from work.

#### Procedure for Use of Body-Worn Cameras

#### Appendix A - Categories and Retention Schedule

#### **432.4 RECORDING REQUIREMENTS & RESTRICTIONS**

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity of this department, with any recording device, regardless of ownership, shall remain the property of the Department.

In general, BWCs should be used for investigative purposes or field use only. Therefore, surreptitious recording of communications with or between other officers without the explicit permission of the Office of the Chief of Police is not authorized. The purposeful activation of BWCs during personal conversations which are immaterial to investigation or field use and conversations involving counseling, guidance sessions, or personnel evaluations is prohibited unless all parties present agree to be recorded. Privacy restrictions related to BWC recordings also extend to their



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use in restrooms, locker rooms, and other places where there is a similar expectation of privacy. An exception is when the location is the scene of an incident.

BWCs attached to an officer's person, and any use of the camera in a surreptitious manner by removing it and using it to monitor a situation remotely is prohibited without the express consent of an involved subject of the recording in accordance with NYS law.

Additional situations where BWCs should not be activated due to safety or confidentiality concerns include, but are not limited to:

- (a) During encounters with undercover officers or confidential informants;
- (b) When tactical planning is being conducted;
- (c) During a strip or body cavity search; and
- (d) When discussions occur between individuals with privilege, such as attorneys, members of the clergy, peer support counselors, and medical professionals.

Members will activate and record with the BWC preferably upon being dispatched and prior to exiting their police vehicle, or prior to commencing any activity if on foot patrol, as set forth below.

Members will immediately activate the BWC when required unless it is not safe and practical, i.e., the member cannot immediately activate the BWC due to an imminent threat to the member's safety, physical resistance, flight, or other factors rendering immediate activation impractical. In such cases, **the member will activate the BWC as soon as possible**.

#### [Appendix B - BWC Recording Requirements](#)

##### 432.4.1 MANDATORY BWC RECORDING

- (a) Members assigned a BWC (as defined in 433.6 of this policy) will activate it and record all activities and contact with persons, in the course of performing or when present at any enforcement activity, or upon direction of a supervisor, as soon as it is safe and practical to do so as set forth in this Manual. This includes all calls for service and self-initiated police activity unless listed as Optional below.
- (b) Members will immediately activate the BWC when required unless it is not safe and practical (e.g. the Member cannot immediately activate the BWC due to an imminent threat to the Member's safety, physical resistance, flight, or factors rendering immediate activation impractical.) In such cases, **the Member will activate the BWC as soon as possible and must document the reason for delay**.
  - 1. **There are no exceptions to the requirement to record mandatory events.**
- (c) "Enforcement activities" are:
  - 1. **Arrests and prisoner transports** (including issuance of appearance tickets and mental hygiene arrests);
  - 2. **Pursuits and pursuit driving**
    - (a) Members will activate the BWC and record any involvement or assistance with a vehicle or foot pursuit, including direct involvement in the pursuit,

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deploying a tire deflation device, blocking traffic or taking a traffic point, paralleling, following from a distance, responding to the general area to provide assistance if needed, and responding to and while present at the apprehension/arrest site;

3. **Detentions/stops of persons and vehicles** (includes street stops, traffic stops, persons on bicycles, and field interviews;
4. **During any use of physical force or deadly physical force.**

#### 432.4.2 EXCEPTIONS TO RECORDING REQUIREMENTS

Sensitive Locations. Members will **not** record with BWCs in the following locations **unless Members anticipate or are engaging in a law enforcement activity** as defined in this policy:

- (a) Victim support or advocacy agencies;
- (b) In any courtroom or grand jury room;
- (c) Locker rooms, bathrooms, or other locations where persons are expected to be disrobed or in a state of undress.

#### 432.4.3 PROHIBITED BWC RECORDING

Members will not activate or record with a BWC under the following circumstances and will deactivate and stop recording if any of these circumstances arise:

- (a) Members **shall not** record with BWCs internal police conversations either openly or surreptitiously. This includes conversations among Members or other APD employees, conversations between supervisors and subordinates, conversations relating to personnel matters including but not limited to: conversations that are immaterial to investigations or in the field use, performance evaluations, selection interviews, discipline, or counseling;
- (b) Members **shall not** record with BWCs conversations with representatives of the Police Union that are related to representing its Members or any official union meeting;
- (c) Members **shall not** record with BWCs interviews relating to internal Department investigations being conducted by supervisory personnel or by any other agency performing similar functions (e.g. "farmed-out" investigations);
- (d) Members **shall not** record with BWCs while in a locker room or bathroom at any location;
- (e) Members **shall not** record with BWCs personal non-police conversations with other Members or other City employees that do not occur in the course of an official police duty (e.g. conversations during personal breaks);
- (f) Members **shall not** utilize BWCs in lieu of using the designated recording facilities in an approved interview room while recording custodial interviews or interrogations. However, in the event of a malfunction or other unavailability of a designated recording facility, a supervisor may authorize the use of a BWC if necessary to comply with established recording requirements. In such cases, the Member will note the circumstances in his/her report, including the identity of the approving supervisor;

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1. In the event that a BWC is used to record a custodial interview or interrogation, the investigating Member will secure assistance from the BWC Program Manager to limit access to the BWC recording as needed.
- (g) Members **shall not** record with a BWC while attending internal APD meetings or and other law enforcement meetings with members of partnering law enforcement agencies.

#### 432.4.4 CIVILIAN REQUESTS TO RECORD

If a civilian requests that their interaction be recorded, Members will do so unless it is prohibited under this policy.

#### 432.4.5 SPECIAL CIRCUMSTANCES

- (a) Members are not required to record meetings or conversations with **compensated confidential informants, street sources, or non-compensated informants**.
- (b) Members are not required to wear or use BWCs while engaged in **undercover activities, decoy operations, plainclothes surveillance, or other non-uniform or covert police activities**.
- (c) Members are not required to record the victim of a sex offense with their BWC if recording makes the victim uncomfortable or appears to make them hesitant to disclose incident details.
- (d) Members will not record with BWCs roll calls or operational briefings unless directed by a supervisor. If BWC recording is authorized, the supervisor will clearly inform Members that the BWCs are recording.
- (e) Members responding or assigned to a Critical Incident will follow the BWC recording requirements in this policy to the extent possible under the circumstances or follow supervisory directives regarding the use of BWCs.
- (f) Members assigned to the Emergency Response Team (ERT) (e.g. SWAT, Bomb Unit, Crisis Response Unit etc.) may record with a BWC while engaged in Team operational activities only with the express authorization from ERT designated Team Leaders or the Office of the Chiefs of Police.
  1. Members assigned to the ERT that are assigned a BWC will follow BWC policy during normal patrol functions.
- (g) Personnel assigned to crowd control situations, including protests, demonstrations, and civil disorder situations, will record with assigned BWCs unless otherwise directed by a Commanding Officer or the Chief of Police or his/her designee.
- (h) Members assigned to a Command Post will record with a BWC only if specifically directed to do so by the Incident Commander or the Chief of Police or his/her designee. If BWC recording is authorized, the Incident Commander will clearly inform all persons in the Command Post that BWC(s) are recording.
- (i) Members may use the BWC to record Department training activities if authorized by the supervisor.

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- (j) Members assigned a BWC will activate the BWC and record during raids, search warrant executions, and arrest warrant executions, and continue to record in accordance with standard policy (e.g. guarding prisoners and transports).
  - 1. Members will check their assigned BWCs prior to the operation to ensure they are working properly; if not, the Member will replace the BWC before the operation commences.
  - 2. Operational plans will note which participating Members are assigned BWCs.
  - 3. During pre-operation briefings, supervisors will remind Members assigned BWCs to activate and record during the operation.
- (k) Members assigned a BWC will record while guarding prisoners (e.g. at a hospital or a police facility) subject to the following guidelines:
  - 1. Members will record whenever in the direct presence of the prisoner, and during all conversations or interactions with the prisoner;
  - 2. Members will adhere to the following procedures for long-term prisoner guard details (e.g. in excess of one (1) hour) at a hospital or medical facility:
    - (a) Members are not required to record when not in the direct presence of the prisoner and not otherwise conversing with or interacting with the prisoner (e.g. prisoner is sleeping in the hospital).
    - (b) Prior to having direct contact or interaction with the prisoner, the Member will activate the BWC and record the contact or interaction.
    - (c) Members will monitor the charge level and remaining storage capacity of the assigned BWC during the prisoner guard detail. If the charge becomes low, the BWC is nearing its storage capacity, or any other problems arise with the proper operation of the BWC, the Member will notify a supervisor, who will make appropriate arrangements (e.g. arrange a switch to another BWC) as soon as possible to ensure the Member has a functioning BWC for the duration of the prisoner guard assignment.
  - 3. In all situations, if the Member stops recording during a prisoner guard assignment in accordance with this policy, the Member must resume recording as soon as possible if he/she anticipates or commences an enforcement activity and must document the reason the recording stopped.

#### 432.4.6 RECORDING NOTICE GUIDELINES

- (a) While not specifically required by law, members are encouraged to inform the person they are recording with a BWC that they are being recorded, unless they encounter physical resistance, flight, or other factors rendering such notice unsafe or impractical.
- (b) If an individual asks a Member if he/she is being recorded by a BWC the Member will answer truthfully unless factors exist that would render such notice unsafe or impractical.
- (c) Members should, as practicable, inform personnel from other law enforcement agencies and other first responders that the Member or Members are interacting with

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(e.g. firefighters, emergency medical personnel, etc.) that the Member or Members are recording with a BWC.

#### **432.5 PROHIBITED USE OF BODY-WORN CAMERAS**

Members are prohibited from using department-issued BWCs, portable recorders, and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in an official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

#### **432.6 ASSIGNMENT OF BODY-WORN CAMERAS**

- (a) The following personnel will be assigned BWCs as available:
  - 1. Uniformed Police Officers and command personnel assigned to the Patrol division and/or are assigned to patrol duties.
  - 2. Police Officers and command personnel assigned to the following:
    - (a) Tactical Unit;
    - (b) Traffic Enforcement or any uniformed detail;
    - (c) Canine Unit; and
    - (d) School Resource Officers;
  - 3. Other personnel as directed by the Chief of Police.
- (b) Members not assigned a BWC, but wishing to utilize one, may request voluntary assignment of a BWC by submitting an Inter-Department Memo to Office of the Chief of Police through their chain of command. The BWC Program Manager will determine whether to issue the BWC in consultation with the Member's Commanding Officer and the Office of the Chief of Police and taking into account the availability of BWCs.
- (c) The BWC Program Manager will determine if a Member who is assigned a BWC and is expected to be absent from full duty for an extended period of time (e.g. injury, illness, limited duty, military leave, leave of absence, etc.) should be collected and returned to the pool of spare BWCs.
- (d) Members assigned to investigative units, including but not limited to, the Detective Bureau and the Finger Lakes Drug Task Force, will have BWCs assigned. Due to the nature of investigative duties, it is not practical to wear a BWC at all times. The

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member of the investigative unit will utilize the BWC when practicable to achieve the purpose and scope of this policy, and enhance accountability.

- (e) It is the responsibility of the member to monitor the condition of their BWC and any issued accessories such as uniform mounts and Signal Sidearms, including batteries. If anything is found to be damaged or in need of replacement the member must notify their supervisor and the BWC Program Manager so the issue can be rectified.

#### **432.7 APD MEMBER'S ACCESS TO BWC RECORDINGS**

- (a) Members may review and use BWC recordings only for official APD duties, to include:
  - 1. Members may view BWC recordings from their assigned BWC if available to assist in accurate report writing;
    - (a) **Note: the purpose of using BWC recordings in writing reports is to maximize the accuracy of the report—not to replace the member's independent recollection and perception of an event.**
    - (b) In the case of serious incidents involving officer use of force, to prevent their independent recollection and perception of the event from being affected, the officer shall complete their statement and reports prior to reviewing their BWC video.
      - 1. Following completion of initial statements and reports the Officer will be allowed to review their BWC video, preferably close in time to the force event as this may help reduce the potential risk that video details could replace memories that degrade with time. While watching the video, the Officer should note any items that they did not perceive in real-time or anything that they perceived in real-time but is not reflected in the video. This will allow for the Officer to provide a second statement, if necessary, to address any differences between their memory of the event and what is depicted in their BWC video. It is to be expected that the Officer's overall observations and immediate perceptions may differ from what is observable within the confines of the BWC video. This policy recognizes that entirely honest Officer statements may not completely align with some video recordings as video can have limited view, lack human senses, and often times is not able to relay all information an Officer has of the events leading to the recorded moment in time.
  - 2. Conducting criminal investigations;
  - 3. Conducting supervisory duties;
  - 4. Preparing for testimony relating to their official police duties;
  - 5. Managing the BWC recordings, e.g., tagging;
  - 6. Training upon approval of a Command Officer;
  - 7. Assist with training and evaluation in the department's Field Training and Evaluation Program; and,



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8. Performing other official APD duties as authorized by departmental policy or by competent authority.
- (b) Department Investigations of Members
  1. Personnel assigned to conduct internal investigations will be given access to the BWC System through the BWC Program Manager and are authorized to access and copy BWC recordings as needed to perform such duties. Command Officers may also allow civilians to view BWC recordings in handling complaints against Department personnel.
- (c) Any member who reviews a BWC recording in evidence.com shall enter a note to explain why the video was reviewed. This will be done every time and will provide clarity for the audit trail.

#### **432.8 BWC RECORDING REVIEWS**

- (a) At a minimum of a monthly basis, the BWC Program Manager or another designee of the Chief's Office will randomly review BWC recordings retained within the BWC system to monitor that the BWC equipment is operating properly, that the Officers are using the devices appropriately, in accordance with policy, and identify any areas in which additional training or guidance is required. Any identified need for training or corrective measure will be brought to the attention of the training office as well as the Chief's Office.

## **Chapter 5 - Traffic Operations**



# Traffic

## 500.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for improving public safety through education and enforcement of traffic-related laws.

## 500.2 POLICY

It is the policy of the Auburn Police Department to educate the public on traffic-related issues and to enforce traffic laws. The efforts of the Department will be driven by such factors as the location and/or number of traffic accidents, citizen complaints, traffic volume, traffic conditions and other traffic-related needs. The ultimate goal of traffic law enforcement and education is to increase public safety.

## 500.3 DEPLOYMENT

Enforcement efforts may include such techniques as geographic/temporal assignment of department members and equipment, the establishment of preventive patrols to deal with specific categories of unlawful driving and a variety of educational activities. These activities should incorporate methods that are suitable to the situation; timed to events, seasons, past traffic problems or locations; and, whenever practicable, preceded by enforcement activities.

Several factors will be considered in the development of deployment schedules for department members. State and local data on traffic accidents are a valuable resource. Factors for analysis include, but are not limited to:

- Location.
- Time.
- Day.
- Violation factors.
- Requests from the public.
- Construction zones.
- School zones.
- Special events.

Department members assigned to uniformed patrol or traffic enforcement functions will emphasize the enforcement of violations that contribute to traffic accidents, and also will consider the hours and locations where traffic accidents tend to occur. Members will take directed enforcement action on request, and random enforcement action when appropriate. Members shall maintain high visibility while working general enforcement, especially in areas where traffic accidents frequently occur.

The Department may use speed measuring devices in traffic enforcement operations. Members must be properly trained in the use and operation of such devices. The Department will ensure

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that all such equipment is properly calibrated and that all necessary records are maintained so as to ensure that speed measurements are legally admissible.

#### **500.4 ENFORCEMENT**

Traffic enforcement will be consistent with applicable laws and take into account the degree and severity of the violation committed. This department does not establish ticket quotas. The number of arrests or tickets issued by any member shall not be used as the sole criterion for evaluating member overall performance.

Traffic enforcement should be focused on the reduction of traffic accidents.

##### **500.4.1 WARNINGS**

Warnings are a non-punitive option that may be considered by the member when circumstances warrant, such as when a minor violation was inadvertent.

##### **500.4.2 TICKETS**

Tickets should be issued when a member believes it is appropriate. When issuing a ticket for a traffic violation, it is essential that the rights and requirements imposed on motorists be fully explained. At a minimum, motorists should be provided with:

- (a) The officer's rank and last name
- (b) An explanation of the violation or charge.
- (c) The court appearance procedure, including the optional or mandatory appearance by the motorist.
- (d) A notice of whether the motorist can enter a plea and pay the fine by mail or at the court.

##### **500.4.3 PHYSICAL ARREST**

Officers should exercise discretion as well as consultation with their immediate supervisor in determining whether a physical arrest is appropriate for criminal traffic offenses (see the Appearance Tickets Policy for additional guidance).

#### **500.5 SUSPENDED OR REVOKED LICENSES**

If an officer contacts a traffic violator who is also driving on a suspended or revoked license, the officer should issue a traffic ticket or make an arrest as appropriate.

An officer shall tow a vehicle for aggravated unlicensed operation of a motor vehicle in the first or second degree if (Vehicle and Traffic Law § 511-b):

- (a) The driver is the registered owner of the vehicle.
- (b) The vehicle is not properly registered.
- (c) Proof of financial security/insurance is not produced.
- (d) The driver is not the registered owner of the vehicle, and no other licensed driver authorized to drive the vehicle is present.

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If the driver is not the owner, the Department is required to notify the owner of the vehicle as soon as reasonably possible (Vehicle and Traffic Law § 511-c).

#### **500.6 TRAFFIC PROCEDURES MANUAL**

The Traffic Coordinator is responsible for developing, maintaining and reviewing detailed procedures for the enforcement of traffic laws. Traffic procedures shall include, but are not limited to:

- Roadside safety checks.
- Stopping and approaching vehicles.
- Required information provided to violators.
- High- and unknown-risk traffic stops.

The Traffic Coordinator is responsible for developing and maintaining violator procedures for traffic law violations committed by, but not limited to:

- Non-residents of the department jurisdiction.
- Juveniles.
- Foreign diplomats and consular representatives (see the Foreign Diplomatic and Consular Representatives Policy).

[Traffic\\_Procedures](#) (refer to procedure 501)

#### [Road Checks and Traffic Checkpoints Procedure](#)

#### **500.7 HIGH-VISIBILITY VESTS**

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

##### **500.7.1 REQUIRED USE**

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests will be worn when increased visibility would improve the safety of the department member or when the member will be exposed to the hazards of passing traffic or will be maneuvering or operating vehicles, machinery and equipment.

Examples of when high-visibility vests should be worn include traffic control duties, traffic accident investigations, lane closures and disaster scenes.

When emergency conditions preclude the immediate donning of the vest, members should retrieve and wear the vest as soon as conditions reasonably permit.

Use of the vests shall also be mandatory when directed by a supervisor.

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##### 500.7.2 CARE AND STORAGE

High-visibility vests shall be issued to each officer upon employment, and will be their responsibility for care and maintenance.

A supply of high-visibility vests will be maintained and made available for replacement of damaged or unserviceable vests. The Traffic Coordinator should be promptly notified whenever the supply of vests needs replenishing.

# Traffic Accidents

## 501.1 PURPOSE AND SCOPE

This policy provides guidelines for responding to and investigating traffic accidents.

## 501.2 POLICY

It is the policy of the Auburn Police Department to respond to traffic accidents and render or summon aid to injured victims as needed. The Department will investigate and complete a MV-104a Report with the goal of reducing the occurrence of accidents by attempting to identify the cause of the accident and through enforcing applicable laws. Unless restricted by law, traffic accident reports will be made available to the public upon request.

## 501.3 RESPONSE

Upon arriving at the scene, the responding member should assess the need for additional resources and summon assistance as appropriate. Generally, the member initially dispatched to the scene will be responsible for the investigation and report, if required, unless responsibility is reassigned by a supervisor.

A supervisor should be called to the scene when the incident:

- (a) Is within the jurisdiction of this department and there is:
  - 1. A life-threatening injury.
  - 2. A fatality.
  - 3. An Auburn Police Department involved vehicle.
  - 4. Involvement of an on-duty member of this department.
- (b) Is within another jurisdiction and there is:
  - 1. A City of Auburn vehicle involved.
  - 2. Involvement of an on-duty member of this department.

### 501.3.1 MEMBER RESPONSIBILITIES

Upon arriving at the scene, the responding member should consider and appropriately address:

- (a) Traffic direction and control.
- (b) Proper placement of emergency vehicles, cones, roadway flares or other devices if available to provide protection for members, the public and the scene.
- (c) First aid for any injured parties if it can be done safely.
- (d) The potential for involvement of hazardous materials.
- (e) The need for additional support as necessary (e.g., traffic control, emergency medical services, fire department, hazardous materials response, tow vehicles).
- (f) Clearance and cleanup of the roadway.

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##### **501.4 NOTIFICATION**

If a traffic accident involves a life-threatening injury or fatality, the responding officer shall notify a supervisor. Any supervisor may assign an accident investigator or other appropriate personnel to investigate the incident. The supervisor will notify the Deputy Chief, Chief of Police, or his designee along with the affected Commander and the Detective Supervisor, if that bureau is affected, in accordance with the Major Incident Notification Policy.

##### **501.4.1 NOTIFICATION OF FAMILY**

In the event of a life-threatening injury or fatality, the supervisor responsible for the incident should ensure notification of the victim's immediate family or coordinate such notification with the Coroner, department chaplain or another suitable person. Notification should be made as soon as practicable following positive identification of the victim.

The identity of any person seriously injured or deceased in a traffic accident should not be released until notification is made to the victim's immediate family.

##### **501.5 MINIMUM REPORTING REQUIREMENTS**

An accident report shall be taken when:

- (a) A fatality, any injury (including complaint of pain), or any property damage to any vehicle or hit-and-run is involved.
- (b) An accident involves a commercial vehicle that has been towed (Vehicle and Traffic Law § 603).
- (c) An on-duty member of the City of Auburn is involved.
- (d) The accident results in any damage to any City-owned or leased vehicle.
- (e) The accident involves any other public agency driver or vehicle.
- (f) There is damage to public property.
- (g) There is damage to any vehicle to the extent that towing is required.
- (h) Prosecution or follow-up investigation is contemplated.
- (i) Directed by a supervisor.

##### **501.5.1 CITY VEHICLE INVOLVED**

A traffic accident report shall be taken when a City vehicle is involved in a traffic accident that results in property damage or injury.

An incident report may be taken in lieu of a traffic accident report at the direction of a supervisor when the incident occurs entirely on private property or does not involve another vehicle.

Whenever there is damage to a City vehicle, a vehicle damage report shall be completed and forwarded to the appropriate Commander. The traffic investigator or supervisor at the scene shall mandate that photographs be taken of the scene and the vehicle damage.

All accident reports involving City vehicles will be forwarded to Corporation Counsel.

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When an accident involves a police vehicle, all involved officers must complete an incident report. Another member, at least one rank higher, must investigate any accidents involving police vehicles.

When the vehicle is a patrol vehicle, the accident will be investigated by a member at least one rank higher assigned to the patrol division. When the vehicle is assigned to a member other than patrol, the supervisor of that unit will be responsible for investigating that accident when that supervisor is on duty. When that supervisor is not on duty, the accident will be investigated by the on-duty patrol supervisor.

Members will not investigate an accident in which he/she is involved.

#### **501.5.2 INJURED AND KILLED ANIMALS**

Department members should refer to the Animal Control Policy when a traffic accident involves the disposition of an injured animal. The driver of the striking vehicle is required to notify the owner of the animal if it is a horse, dog, cat or animal classified as cattle. If the driver cannot find the owner then he/she is required to notify an officer and provide license, insurance and the vehicle license number (Vehicle and Traffic Law § 601).

In the event a deer, moose or bear is unintentionally killed in a traffic accident, a member may issue a permit to the driver permitting him/her to possess the carcass and transfer it to a designated person. If the driver declines possession, the member may issue the permit to another requesting party (Environmental Conservation Law § 11-0915).

#### **501.6 INVESTIGATION**

When a traffic accident meets minimum reporting requirements the investigation should include, at a minimum (Vehicle and Traffic Law § 603-a):

- (a) Identification and interview of all involved parties.
- (b) Identification and interview of any witnesses.
- (c) A determination of whether a violation of law has occurred and the appropriate enforcement action.
- (d) Identification and protection of items of apparent evidentiary value.
- (e) Documentation of the incident as necessary (e.g., statements, measurements, photographs, collection of evidence, reporting) on the appropriate forms.

#### **501.6.1 ACCIDENTS INVOLVING SERIOUS INJURY OR DEATH**

An officer investigating an accident involving a serious injury or death will request a preliminary breath test from any driver involved in the accident if there are reasonable grounds to believe that the driver committed a serious traffic violation as provided in Vehicle and Traffic Law § 603-a. The result of such test or the driver's refusal of such test shall be included in the accident investigation report (Vehicle and Traffic Law § 603-a).

In the event of a positive result from such test, officers shall proceed as provided in the Impaired Driving Policy.

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##### **501.6.2 INVESTIGATION BY OUTSIDE LAW ENFORCEMENT AGENCY**

The Traffic Coordinator or on-duty Shift Commander should request that an outside law enforcement agency investigate and complete a traffic accident investigation when a life-threatening injury or fatal traffic accident occurs within the jurisdiction of the Auburn Police Department and involves:

- (a) An on- or off-duty member of the Department.
  - 1. The involved member shall complete the department traffic accident form. If the member is unable to complete the form, the supervisor shall complete it.
  - 2. Criminal investigations involving a fatal incident should be coordinated with the Office of Special Investigations (see the Officer-Involved Shootings and Deaths Policy).
- (b) An on- or off-duty official or employee of the City of Auburn.

Department members shall promptly notify a supervisor when any department vehicle is involved in a traffic accident. The accident investigation and report shall be completed by the agency having jurisdiction.

##### **501.7 ENFORCEMENT ACTION**

After a thorough investigation in which physical evidence or independent witness statements indicate that a violation of a traffic law contributed to the accident, authorized members should issue a traffic summons or arrest the offending driver, as appropriate.

More serious violations, such as driving under the influence of drugs or alcohol, vehicular manslaughter or other felonies, shall be enforced. If a driver who is subject to enforcement action is admitted to a hospital, a supervisor shall be contacted to determine the best enforcement option.

##### **501.8 REPORTS**

Department members shall utilize forms approved by the New York State Department of Motor Vehicles (DMV) (i.e., NY MV-104A and any required addendums) as required for the reporting of traffic accidents. All such reports shall be forwarded to the appropriate supervisor for approval and Records Office for filing.

For all accidents involving a fatality, the Early Notification of a Fatal Accident form (MV-104EN) and the Report for Motor Vehicle Accident form (MV-104D) should be submitted to the DMV.

###### **501.8.1 REPORT MODIFICATION**

A change or modification of a written report that alters a material fact in the report may be made only by the member who prepared the report, and only prior to its approval and distribution. Once a report has been approved and distributed, corrections shall only be made by way of a written supplemental report. A written supplemental report may be made by any authorized member.

##### **501.9 COLLISION REVIEW PROCESS**

The primary purpose of the collision review process is to examine the facts surrounding a motor vehicle collision and determine if it was avoidable, preventable, identify contributing factors, and to



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recommend any potential preventive measures that may be taken to prevent this type of incident from occurring in the future.

- (a) A motor vehicle collision occurs when a vehicle collides with another vehicle, pedestrian, animal, road debris, or other stationary obstruction, such as a tree or utility pole. Traffic collisions may result in injury, death and property damage.
- (b) The department collision review process will begin with the command officer reporting the collision, then forwarded to his/her immediate supervisor (if a Sgt. completed the initial investigation). The report shall then be forwarded to the traffic coordinator, and then submitted to the Deputy Chief and Chief for final review.
- (c) The duties of each level of review will be as follows:
  - 1. Review all reports, sketches, photographs and any other materials pertaining to the accident and interview witnesses if needed.
  - 2. Examine the cause/contributing factors to the accident.
  - 3. Examine the result of the accident with regard to the severity of injury and damage to property.
  - 4. Review all findings to determine if the accident could have been prevented. Recommend measures to be taken to prevent this type of accident from occurring in the future, if any are applicable.
- (d) The accident review process will be followed anytime a police vehicle is involved in a collision.
- (e) The accident review process must be completed and submitted to the Deputy Chief within 10 days from the date of the collision.
- (f) It is the responsibility of the Command Officer overseeing the initial review of the collision and the report to identify the cause of the collision. If the Command Officer determines a need for training or disciplinary action is warranted for the Officer involved, this shall be documented and forwarded with the collision reports.
- (g) Disciplinary and/or criminal action to be taken against the officer must comply with the policies of the department, provide for the rights of the employee under the City of Auburn and Council 82 Local 195 labor agreement, NYS Civil Service law and the NYS Criminal Procedure Law.

## Vehicle Towing

### 502.1 PURPOSE AND SCOPE

This policy provides guidance related to vehicle towing. Nothing in this policy shall require a member of this department to tow a vehicle.

### 502.2 POLICY

The Auburn Police Department will tow vehicles when appropriate and in accordance with the law.

### 502.3 REMOVAL OF VEHICLES DUE TO HAZARD

When a vehicle should be towed because it presents a hazard, the owner or operator should arrange for the towing. Department members may assist by communicating requests through Dispatch to expedite the process.

If the owner or operator is unable to arrange for towing and the vehicle presents a hazard, the vehicle may be towed at the direction of the department member (Vehicle and Traffic Law § 1204).

Vehicles that are not the property of the City should not be driven by department members unless it is necessary to move the vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or comply with posted signs.

#### 502.3.1 CODE ENFORCEMENT

Officers are authorized to tow, or to assist with the towing of vehicles deemed in violation of Chapter 27 of the Auburn City Code, upon proof of proper issuance of a violation order and notice by an authorized Code Enforcement Officer of the City of Auburn. The wrecker service rotational list will be utilized for all such vehicles towed by the Auburn Police Department.

### 502.4 ARREST SCENES

Whenever the owner or operator of a vehicle is arrested, the arresting officer should provide reasonable safekeeping by leaving the vehicle secured and lawfully parked at the scene or, when appropriate, by having the vehicle towed, such as when the vehicle presents a traffic hazard or the vehicle would be in jeopardy of theft or damage if left at the scene.

Officers are not required to investigate whether alternatives to towing a vehicle exist after an arrest. However, a vehicle should not be towed if reasonable alternatives exist. When considering whether to leave a vehicle at the scene, officers should take into consideration public safety as well as the reasonable safety of the vehicle and its contents.

The following are examples of situations where a vehicle should not be towed:

- The vehicle can be legally parked, left in a reasonably secure and safe location and is not needed as evidence.
- The vehicle is parked on private property, on which the arrestee or owner is legally residing, or the property owner does not object to the vehicle being parked at that location.

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- The arrestee or owner of the vehicle requests that it be released to a person who is present, willing and able to legally take control of the vehicle.
- The vehicle is legally parked and the arrestee or owner requests that it be left at the scene. In such cases the requester should be informed that the Department will not be responsible for theft or damages.

#### **502.5 VEHICLES RELATED TO CRIMINAL INVESTIGATIONS**

Officers should tow vehicles that are needed for the furtherance of an investigation or prosecution of a case, or that are otherwise appropriate for seizure as evidence. Officers should make reasonable efforts to return a recovered stolen vehicle to its owner rather than have it towed, so long as the vehicle is not needed for evidence.

Members of the Auburn Police Department will tow vehicles incident to any controlled substance arrests under Article 220 of the New York State Penal Law if there is reasonable cause to believe that the driver or owner of the vehicle knew that:

- (a) The person being arrested was in possession of a controlled substance
- (b) Vehicle was being used to transport a controlled substance

Narcotics officers will file claim in contemplation of forfeiture proceedings for such vehicles which are deemed by the Chief of Police to be appropriate for forfeiture. Narcotics officers will handle all required follow-up investigations of seized vehicles, processing, coordination with and delivery of paperwork to other agencies and departments as required by law and current directives.

#### **502.6 RECORDS**

The 911 Center shall ensure that pertinent data regarding a towed vehicle is promptly entered into the Tow Log.

A vehicle towed after an arrest or upon the issuance of a summons or an appearance ticket for the crime of aggravated unlicensed operation of a motor vehicle shall be entered into E-Justice Integrated Portal (Vehicle and Traffic Law § 511-b).

##### **502.6.1 VEHICLE STORAGE REPORT**

Department members towing a vehicle will ensure the 911 Center completes a vehicle tow report. The report should be submitted to the Records Bureau as soon as practicable after the vehicle is towed.

##### **502.6.2 REPORT OF VEHICLES TO E-JUSTICE**

If the vehicle has been reported stolen, the officer ordering the tow shall ensure the theft, recovery or impound is reported to E-JusticeNY. The report shall, if possible, include (Vehicle and Traffic Law § 424):

- (a) The VIN.
- (b) The date of theft, recovery and impound of the vehicle.
- (c) The license plate number.

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- (d) The name, address and telephone number of the location where the vehicle is being stored.
- (e) The location of the theft and location of the recovery.

#### **502.7 TOWING SERVICES**

Members will not show preference among towing services that have been authorized for use by the Department. A rotation or other system established by the Department for tow services will be followed.

- (a) Wrecker services desiring to be included on the Auburn Police Department rotational wrecker service list must sign a contract with the City of Auburn, renewable yearly, agreeing to the following criteria:
  - 1. The service must maintain a reasonably secure storage facility within the Auburn city limits, for vehicles towed as a result of Auburn Police Department calls.
  - 2. The service must agree to a structured maximum towing fee schedule for towing and storage.
  - 3. The service must agree to maintain at least a minimum of \$50,000 general liability insurance, for the purposes of providing protection for any and all liability that may result from the operations of the towing service. The policy must name the City of Auburn as co-insured, and the service must provide proof of same before placement upon the list.
  - 4. The service must agree to be responsive to police calls within a reasonable time as befits the emergency nature of the service, on a 24 hour basis.
  - 5. The service must agree to comply with section 1219 (c) of the Vehicle and Traffic Law regarding the removal of debris from accident scenes upon the towing of a vehicle from same.
  - 6. The service must agree to comply with section 1224 of the Vehicle and Traffic Law and the policy and procedures of the Auburn Police Department regarding the towing, storage, and disposal of towed and/or impounded vehicles.
- (b) A wrecker service may be removed from the rotational wrecker service list by the Chief of Police for cause, based upon the terms of this agreement. Such a determination may be appealed to the city manager, whose decision in such a matter shall be final and binding.

#### **502.8 VEHICLE INVENTORY**

The contents of all vehicles impounded at the request of department members will be inventoried and listed on the inventory report. When reasonably practicable, photographs may be taken to assist in the inventory.

- (a) An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, any unlocked glove box, other accessible areas under or within the dashboard area, any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats.

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- (b) In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in any other type of unlocked compartments that are a part of the vehicle, including unlocked vehicle trunks and unlocked car top containers.
- (c) Any locked compartments including, but not limited to, locked glove compartments, locked vehicle trunks, locked hatchbacks and locked car-top containers should be inventoried, provided the keys are available and released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.
- (d) Closed containers located either within the vehicle or any of the vehicle's compartments will be opened for inventory purposes if the container can be opened without damaging it.

Members should ask the occupants whether the vehicle contains any valuables or hazardous materials. Responses should be noted in the inventory report.

When practicable and appropriate, cash, jewelry or other small valuables located during the inventory process should be removed from the vehicle and given to the owner, or booked into property for safekeeping, in accordance with the Identification Bureau Policy. A copy of the Identification Bureau property receipt should be given to the person in control of the vehicle or, if that person is not present, left in the vehicle.

These inventory procedures are for the purpose of protecting the vehicle owner's property, providing for the safety of department members and protecting the Department against fraudulent claims of lost, stolen or damaged property.

Towing a vehicle in order to perform an inventory should not be used as a pretext for an evidence search. Nothing in this policy prevents the towing of a vehicle that would occur for reasons independent of any suspicion that the vehicle may contain evidence if it is otherwise justified by law or this policy.

#### **502.9 SECURITY OF VEHICLES AND RETRIEVAL OF PROPERTY**

If the search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, the department member conducting the search shall take such steps as are reasonably necessary to secure or protect the vehicle or property from such hazards.

Unless it would cause an unreasonable delay in towing the vehicle or create an issue of officer safety, reasonable accommodations should be made to permit the owner, operator or occupant to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

Members who become aware that a vehicle may have been towed by the Department in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the owner or his/her agent to request a hearing to contest the tow.

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##### **502.10 PARKING ENFORCEMENT (BOOT AND TOW PROGRAM)**

The Boot and Tow Program will be an enforcement remedy against habitual offenders who ignore the penalties of parking violations. Booting is an extreme measure taken to gain the cooperation of vehicle owners with outstanding parking citations. The city will use booting as an alternative to initiating court proceedings.

- (a) Any driver with parking ticket fines exceeding \$100.00 may be subject to having his/her vehicle booted. The boot is a mechanical device which immobilizes a vehicle. When utilized, the boot prohibits vehicle movement.
  - 1. In order to have the boot removed, the violator will pay outstanding parking fines and penalties along with an administration fee of \$100.00 (plus sales tax), which covers the cost of installing and removing the boot device which is placed on and removed by a private contractor hired by the City of Auburn.
- (b) Parking Enforcement Officers will identify vehicles subject to booting by use of a master sheet prepared by the Treasurer's Office or by utilization of the Auburn Police Department's license plate reader (LPR). When such a vehicle is identified, parking enforcement officers will:
  - 1. Contact the Treasurer's Office at city hall at 255-4145 to verify the outstanding fine.
  - 2. Officers will then contact the Cayuga County 911 Dispatch Center and request that the 911 Center contact the current boot vendor responsible and to bring a boot to the requested location, and apply it to the vehicle.
- (c) An immobilization notice explaining the procedures to follow in order to release the boot will be placed on the vehicles driver's side door or window. A conspicuous warning will be included advising that any attempt to move the vehicle with the boot in place may result in damages to the vehicle or to the boot, for which the offender is responsible. Immobilization notices are kept in a folder, in the trunk of any LPR vehicle.
- (d) If full payment is not made within 72 hours from the day the vehicle is immobilized, the officer will arrange for the vehicle to be towed (by the same vendor who booted the vehicle). If the officer responsible for having the boot placed on the vehicle is not working, he shall make arrangements for the vehicle to be towed. Should towing become necessary, the offender will be responsible for towing and storage fees.
- (e) The owner or custodian of the vehicle may appeal the immobilization to the City Treasurer's Office within ten (10) calendar days. Submitting an appeal is not a substitute for payment.
- (f) If the fines are paid within 72 hours, the Treasurer's Office will issue a receipt to the offender for same. The offender can then notify the boot vendor and make arrangements for the removal of the boot. If the vendor requests, a police officer will respond to the location with the vendor and stand by while the immobilization device is removed.

## Impaired Driving

### 503.1 PURPOSE AND SCOPE

This policy provides guidance to those department members who play a role in the detection and investigation of driving while impaired (DWI).

#### 503.1.1 DEFINITIONS

**Motor vehicle** - Every vehicle operated or driven upon a public highway which is propelled by and power other than muscular power, except:

- (a) Electrically-driven mobility assistance devices operated by persons with a disability
- (b) Vehicles which run only upon rail or tracks
- (c) Snowmobiles as defined in Article 47 of the NYS V&T Law
- (d) All-terrain vehicles as defined in Article 48-B of the NYS V&T Law

**BAC** - Blood Alcohol Content

### 503.2 POLICY

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

### 503.3 INVESTIGATIONS

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

The Traffic Coordinator will develop and maintain, in consultation with the district attorney, report forms with appropriate checklists to assist investigating officers in documenting relevant information and maximizing efficiency. Any DWI investigation will be documented using these forms. Information documented elsewhere on the form does not need to be duplicated in the report narrative. Information that should be documented includes, at a minimum (Vehicle and Traffic Law § 603-a; Vehicle and Traffic Law § 1194):

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



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- (f) Any prior related convictions in New York or another jurisdiction.
- (g) The reasons for the stop and all present charges.
- (h) Whether the subject consumed alcohol after the stop.
- (i) Chemical test information.
- (j) An incident report will be completed for all DWI arrests.
- (k) DRE Investigation - see Drug Recognition Expert Utilization Policy

#### [Custodial Stage Procedure](#)

#### [DWI Arrest Instrument blank](#)

#### [DWI Investigative Note Card](#)

### 503.3.1 DWI CRASH INVESTIGATION

#### [DWI Crash Investigation Procedure](#)

#### [Crashes Involving Death or Serious Physical Injury Procedure](#)

### 503.4 FIELD TESTS

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

#### 503.4.1 FIELD INVESTIGATIONS

- (a) Officers must develop probable cause in order to effect an authorized arrest for the charge of DWI. The following procedures shall be used by officers during their investigation:
  - 1. Observe the suspect vehicle. Indications of driver impairment may include:
    - (a) Improper speed (e.g., is driving too slowly or too fast).
    - (b) Improper lane usage (e.g., weaving, failing to keep right, driving on the shoulder).
    - (c) Improper passing (e.g., crossing solid double lines, leaving too much or too little clearance).
    - (d) Driver inattention (e.g., failing to signal, disregarding traffic control devices).
    - (e) Poor or impaired judgment (e.g., turning wide or narrow, stopping short or overshooting intersections, improper starts, erratic movements).
    - (f) Motor vehicle crash (i.e., reported crash with operator at the scene or with reason to believe that the operator had been involved in a crash, etc.).
    - (g) Alcoholic beverage containers, drug containers, and/or drug paraphernalia in and/or around the vehicle.
  - 2. Use caution when stopping a potentially impaired driver due to the unpredictable effects of alcohol and drugs on individuals. Note all unusual actions of the vehicle



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and operator during the stop, including length of time to stop the vehicle after activation of lights and/or siren.

3. Confirm the identity of the person operating the vehicle and gather evidence to show that the suspect is the only person who could have operated the vehicle.
4. Note all indications of intoxication exhibited by the suspect. Indications may include:
  - (a) An odor of an alcoholic beverage and/or drug emitting from the operator's breath.
  - (b) Impaired speech (e.g., slurred, slobbery, poor enunciation).
  - (c) Facial coloring (e.g., pale, flushed, ruddy).
  - (d) Clothing condition (e.g., dirty, disheveled, sloppy, unkempt).
  - (e) Appearance of eyes (e.g., bloodshot, watery, glassy, squinting).
  - (f) Unusual demeanor (e.g., belligerent, excited, sleepy, polite, fighting, crying).
  - (g) Inaccurate orientation (e.g., time, place, destination).
  - (h) Impaired psycho-motor ability (e.g., difficulty finding and producing documents, difficulty exiting vehicle).
5. Question the operator as to his whereabouts and destination. Ask if the operator had been drinking or taking drugs, and if so, what and how much was consumed.
6. Question the operator regarding the status of his driver's license. If the license is suspended or revoked, ask the operator if he knew of the suspension or revocation.

#### 503.4.2 FIELD TEST ADMINISTRATION

- (a) When appropriate and applicable, conduct the following standardized field sobriety tests:
  1. Horizontal Gaze Nystagmus (if the officer is qualified to administer this procedure).
  2. Walk and turn.
  3. One-leg stand.
- (b) When appropriate, conduct additional field sobriety tests as follows:
  1. Recitation of the alphabet.
  2. Alco-sensor test.
  3. Finger-to-nose.
- (c) Make note of any admission, confession, identification evidence, and psychiatric evidence relating to the operator, include them in the police report, and Pre-Trial Notices shall be completed on all investigations, when appropriate.

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##### **503.4.3 DRUG RECOGNITION EXPERTS**

Drug Recognition Experts (DRE) who are certified by the State of New York may be used to investigate cases in which impairment due to drugs is suspected.

If a department DRE is not available, a DRE from another agency may be contacted with permission of the Shift Commander to conduct an evaluation.

All evaluations will be documented on authorized DRE forms.

Refer to Policy 506 - Drug Recognition Expert Utilization for further.

##### **503.5 CHEMICAL TESTS**

A person implies consent under New York law to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Vehicle and Traffic Law § 1194):

- (a) The arresting officer has probable cause to believe the person was driving a motor vehicle while under the influence of alcohol or drugs, including consideration of the results of a portable breath test (PBT), as provided in Vehicle and Traffic Law § 1192.
- (b) An officer has stopped a person under the age of 21 and has probable cause to believe the person was operating a motor vehicle after having consumed alcohol.
  - 1. A person under 21 years of age is presumed to have consumed alcohol only if his/her blood alcohol content is 0.02 percent or more but less than 0.07 percent by weight (Vehicle and Traffic Law § 1192-a).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the officer should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

Chemical testing shall be completed within two hours of arrest, administration of a PBT, or determination that a person under the age of 21 has operated a vehicle after having consumed alcohol. However, if the person consents to the chemical testing within the two-hour period, the time restriction does not apply and the test may be administered outside of the two-hour period.

#### [Chemical Tests Procedure](#)

##### **503.5.1 BREATH SAMPLES**

#### [Breath Test Procedure](#)

- (a) **DWI Chemical Test Instruments and Records**
  - 1. The Traffic Coordinator of the department will be responsible for the maintenance, custody and control over all breath-testing instruments, records, logs, certificates, memoranda, and other official correspondence relating to the operation of this equipment. The Traffic Coordinator will maintain breath testing instruments and records in the regular course of business as required. Those records, maintained in the regular course of business shall include, but are not limited to:
    - (a) Test Arrest Record for breath test instrument(s).

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- (b) Driving While Intoxicated Arrest Procedural Guidelines Checklist.
  - (c) Record of Calibration for breath test instrument(s).
  - (d) Certifications regarding simulator reference solution for breath test instrument(s).
2. The Traffic Coordinator, or a designee, will prepare appropriate certifications pursuant to CPLR 4518 attesting to the aforesaid breath test instrument and documents in the regular course of business and the authenticity of any photo copy of records, logs, memoranda, certificates and other official correspondence.
- (a) The Traffic Coordinator, or a designee, will be responsible for the weekly simulation of the breath test instrument maintained by the Auburn Police Department.
  - (b) The Traffic Coordinator, or a designee, will be responsible for procuring all necessary supplies, report forms and packets, and will make arrangements for breath test instrument repairs.
  - (c) The Traffic Coordinator, or a designee, will ensure that all breath test instruments are calibrated through simulation by an outside government agency (New York State Division of Criminal Justice Services/Office of Public Safety or other qualified agency) on an biannual basis.

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

#### 503.5.2 BLOOD SAMPLES

It shall be the policy of the Auburn Police Department to collect the necessary blood evidence, in accordance with section 1194 of the New York State Vehicle and Traffic law, and secure the samples so that they can be sent to a New York State Police laboratory for analysis.

- (a) In all cases involving:
  - 1. D.W.I. alcohol/drugs,
  - 2. When a breath test is impractical because a suspect is unable to submit to a breath test,
  - 3. Or in all serious personal injury and fatal motor vehicle accidents, officers shall utilize a blood test. The investigating officer shall provide a blood specimen kit to "Qualified Medical Personnel", as defined in section 1194 sub 4 of the Vehicle and Traffic Law for collection of the necessary blood evidence. According to VTL 1194, the blood samples from the defendant must be drawn within two (2) hours from the time of arrest or the time of a positive breath screening test, whichever is later.
- (b) The blood specimen collection kits are located in the supply cabinet in the Evidence Room or the designated Evidence Technician patrol vehicle. These kits are approved by the New York State Police laboratories and no other substitutes shall be used

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unless one of these designated kits is not available. The Officer will reference the Auburn Police Department Blood Collection Kit Instruction Checklist for further instructions on collection. (See "Blood Collection Kit Checklist" attachment below)

- (c) Pursuant to N.Y.S. V.T.L. 1194-4(a) 1(i), Once a "Person Authorized to Withdraw Blood" has collected the necessary samples the investigating officer will:
  - 1. Take custody of the blood specimen collection kit;
  - 2. The kit will be sealed and initialed by the collecting officer;
  - 3. The officer will log the evidence (blood specimen collection kit) into the BEAST Evidence Management System
  - 4. The officer will complete the NYS Police Crime Laboratory Toxicology Submission Form (See "Toxicology Submission Form" attachment below), which came inside the Blood Specimen Collection Kit.
    - (a) Forward the white and pink copy of the Toxicology Submission Form (See attachment) to the Identification Bureau.
    - (b) Yellow and Gold Copies can go to the Records Bureau.
    - (c) The Auburn Police Department Blood Collection Kit Checklist goes to the Records Bureau.
  - 5. The officer will then place the blood specimen kit in the evidence refrigerator located in the Evidence Room, and secure the padlock on the door of the refrigerator.
- (d) No blood evidence will be analyzed by any hospital laboratory. All blood evidence will be submitted by the Auburn Police Department-Identification Bureau to the appropriate New York State Police laboratory for analysis.

#### [Blood Collection Kit Checklist](#)

#### [Toxicology Submission Form](#)

### 503.5.3 GENERAL TESTING REQUIREMENTS

Requirements for testing include:

- (a) Only a New York State-certified breath test operator will administer a test to obtain a breath sample.
- (b) Testing shall be done in accordance with the operator's training and New York State Department of Health rules and regulations, as applicable.
- (c) Testing equipment must be certified.
- (d) All testing and results will be documented in the appropriate report.

### 503.6 REFUSALS

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

- (a) Advise the arrestee of the requirement to provide a sample (Vehicle and Traffic Law § 1194).

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- (b) Complete Form AA-134, "Report of Refusal to Submit to Chemical Test"
- (c) Audio- and/or video-record the admonishment and the response when it is practicable.
- (d) Document the refusal in the appropriate report.
- (e) Provide the refusal report to the court upon arraignment (15 NYCRR § 139.3).

##### 503.6.1 OFFICER RESPONSIBILITIES UPON REFUSAL

Upon a person's refusal to submit to chemical testing, no test shall be given unless a court order is authorized and obtained. The officer shall prepare a written report on the form prescribed by the New York State Department of Motor Vehicles (DMV) (Vehicle and Traffic Law § 1194; 15 NYCRR § 139.2).

If the person is under 21 and alleged to have operated a vehicle after having consumed alcohol, the officer shall provide the person with an administrative hearing date, a waiver form and any other information the DMV may require (Vehicle and Traffic Law § 1194).

##### 503.6.2 CHEMICAL TESTS WITHOUT CONSENT

A chemical sample may be obtained from a person who refuses a chemical test when a court order has been obtained (Vehicle and Traffic Law § 1194).

##### 503.6.3 FORCED SAMPLES

Whenever a crash results in a serious physical injury or death to a person other than the suspect, a chemical test may be administered without the consent of the suspect.

- (a) If the suspect refuses to submit to a chemical test for alcohol and/or drugs under these circumstances, the investigating officer shall:
  - 1. Contact the on-call District Attorney and advise the ADA of the circumstances involving the investigation and arrest. The Assistant District Attorney will respond to the officer's location, review the facts with the officer, and if it appears that reasonable cause exists to justify the issuance of a court order, assist the officer with filing the appropriate paperwork/warrant request and assist with contacting a Judge for issuance of a court order authorizing the chemical test.
  - 2. If the court orders the withdrawal of the blood sample, a qualified medical personnel as defined in section 1194 sub 4 of the NYS Vehicle and Traffic Law will be ordered to withdraw the blood sample. The investigating officer shall then provide a blood specimen kit to the qualified medical personnel. These kits can be found in the Patrol Evidence Room. These kits have been approved by the New York State Police Laboratory and no other substitutes shall be used, including those supplied by the hospital. The blood sample may then be taken. The subject/operator cannot refuse to submit to this chemical test after the appropriate court order has been obtained and the subject/operator may be compelled to submit by the use of reasonable physical force, if necessary. The officer shall witness the removal of the blood by the qualified medical personnel and then take custody of the blood specimen kit. The kit shall be sealed and initialed by the officer taking custody of the kit. The officer shall then complete the evidence label on the back of the specimen kit. The officer will then

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enter evidence into the BEAST system and place the blood specimen kit in the refrigerator located in the Patrol Evidence Room. The refrigerator will then be locked by the officer and the key deposited in the evidence key lock box located on the side of the evidence lockers.

- (a) No blood evidence will be analyzed by any hospital laboratory. All blood evidence will be submitted by the Identification Bureau to the appropriate New York State Police Laboratory for analysis.

If the defendant is admitted to the hospital, responsible medical authorities should be advised that the subject is under arrest for offenses of the Vehicle and Traffic Law and/or the Penal Law. Authorities should be requested to contact this department when the defendant is conscious and coherent enough to understand the nature of the charges. The decision as to whether to place an officer with the defendant while hospitalized shall be made by the Shift Supervisor who will subsequently advise the Patrol Captain or the Office of the Chiefs of Police.

The arresting officer must indicate on the UTT issued to the defendant that a death or serious injury has occurred. If the defendant is unconscious or not accessible due to medical treatment, the officer must serve the UTTs on the defendant as soon as possible.

#### **503.7 ARREST AND INVESTIGATION**

##### **503.7.1 ARREST AUTHORITY**

In addition to arrest authority under CPL § 140.10, an officer may arrest for a DWI violation coupled within an accident regardless of whether the DWI violation occurred in the officer's presence (Vehicle and Traffic Law § 1194).

A person under the age of 21 alleged to have operated a vehicle after having consumed alcohol in violation of Vehicle and Traffic Law § 1192-a shall not be arrested but may be temporarily detained solely for the purpose of administering chemical tests and released to a responsible third party (Vehicle and Traffic Law § 1194) (see the Temporary Custody of Juveniles Policy).

##### **503.7.2 RIGHT TO ATTORNEY CONTACTS**

The arrestee has no absolute right to consult with an attorney prior to conducting FSTs or a chemical test. However, the officer shall allow the arrestee to consult with an attorney if requested and the attorney is present or can be readily reached by phone as long as it does not hinder the investigation. Officers shall not intentionally prevent an arrestee from communication with an attorney. Officers who are aware that an attorney is attempting to communicate with an arrestee shall inform the arrestee of that fact. Officers should document all of the above information in the related case report.

##### **503.7.3 CHILD PROTECTIVE SERVICES**

If the person arrested for an aggravated DWI violation is the parent, custodian or legal guardian of an occupant of the vehicle who is 15 years of age or younger, the officer shall contact the Office of Children and Family Services, Child Protective Services (CPS) and file an appropriate report

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(Vehicle and Traffic Law § 1192). Officers shall also make other such reports as required by the Child Abuse Policy.

#### **503.8 RECORDS BUREAU RESPONSIBILITIES**

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

#### **503.9 ADMINISTRATIVE HEARINGS**

The Records Bureau will ensure that all appropriate reports and documents related to administrative license suspensions are forwarded to the DMV.

Any officer who receives notice of required attendance at a DWI refusal hearing or an administrative license suspension hearing should promptly notify the prosecuting attorney.



## Traffic and Parking Tickets

### 504.1 PURPOSE AND SCOPE

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

### 504.2 POLICY

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

### 504.3 RESPONSIBILITIES

The Traffic Coordinator shall be responsible for the supply and accounting of all traffic and parking tickets issued to members of this department.

Members of the Auburn Police Department shall only use department-approved traffic and parking ticket forms.

#### 504.3.1 WRITTEN OR VERBAL WARNINGS

Verbal warnings may be issued for traffic violations when the department member believes it is appropriate. Written or verbal warnings may be issued for parking violations when the department member believes it is appropriate.

### 504.4 TRAFFIC TICKETS

#### 504.4.1 TRACS TICKETS AND UNIFORM TRAFFIC TICKETS AND SUPPORTING DEPOSITIONS PROCEDURE

[TraCS Tickets / Uniform Traffic Tickets and Supporting Depositions Procedure](#)

#### 504.4.2 CORRECTION

When a traffic ticket is issued but is in need of correction, the member issuing the ticket shall submit the ticket to his/her immediate supervisor requesting a specific correction. Once approved, the supervisor will send an email to the Traffic Coordinator with the corrections that were made.

#### 504.4.3 VOIDING

Voiding a traffic ticket may occur when the ticket has not been completed or when it is completed but not issued. All copies of the voided ticket shall be presented to a supervisor for approval. Employees shall not, except as provided by the Criminal Procedure Law and current directives, withdraw traffic charges unless approved by their commanding officer; whether the arrest or charges were made while the requestor is on or off duty

#### 504.4.4 DISMISSAL

Members of this department do not have the authority to dismiss a traffic ticket once it has been issued. Only the court has that authority. Any request from a recipient to dismiss a ticket shall be referred to the District Attorney's Office.



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##### 504.4.5 DISPOSITION

The court and file copies of all handwritten uniform traffic tickets (non-TraCS tickets) issued by members of this department shall be made available to the shift supervisor by the end of each shift. The ticket copies shall then be filed with the Records Bureau.

Upon separation from appointment or employment with this department, all members who were issued traffic ticket books shall return any unused tickets to the Traffic Coordinator.

##### 504.4.6 JUVENILE TICKETS

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

#### **504.5 PARKING TICKET APPEALS**

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

#### **504.6 ELECTRONIC TICKET SYSTEM PROCEDURES**

##### 504.6.1 ELECTRONIC TICKET SYSTEMS ADMINISTRATOR

An electronic ticket system administrator will be the Traffic Coordinator.

##### 504.6.2 DUTIES OF THE ADMINISTRATOR

The electronic ticket system administrator is responsible for:

- Coordinating routine and periodic software updates of the ticketing software.
- Updating the system databases including, but not limited to, all violation codes in use, bail schedule and court appearance information.
- Completing routine maintenance and damage repair of devices.
- Overseeing the periodic upgrade and replacement of devices as wear and system requirements mandate.
- Monitoring data transfers from the ticketing devices to the Auburn Police Department servers, to the courts of jurisdiction for the issued ticket and to any state-mandated receiver. This includes the timely transmittal of the data as per the defined schedule.
- Reviewing data on common user error and providing feedback for use at briefings.
- Analyzing data on common system errors and providing feedback to the system vendor for correction.

##### 504.6.3 INOPERABLE TICKETING DEVICE

At the beginning of every tour of duty, every member who is issued a ticketing device should run a system check to validate that the device functions properly. If not running properly, member should notify a supervisor.

## Disabled Vehicles

### 505.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for department members who provide assistance to motorists in disabled vehicles within the primary jurisdiction of the Auburn Police Department.

### 505.2 POLICY

It is the policy of the Auburn Police Department to assist motorists with disabled vehicles until those vehicles are safely removed from the roadway. Members should take appropriate action to mitigate potential problems when a vehicle constitutes a traffic hazard or the safety of the motorist is a concern.

### 505.3 RESPONSIBILITIES

When an on-duty member of this department sees a disabled vehicle on the roadway, the member should make a reasonable effort to provide assistance. If this is not reasonably possible, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance. The dispatcher should then assign another department member to respond as soon as practicable.

### 505.4 ASSISTANCE

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

#### 505.4.1 RELOCATION OF DISABLED VEHICLES

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

#### 505.4.2 RELOCATION OF DISABLED MOTORIST

The relocation of a disabled motorist should only occur with the person's consent and should be suggested when conditions reasonably indicate that immediate movement is necessary to mitigate a potential hazard. The department member may stay with the disabled motorist or transport him/her to a safe area to await pickup.

# Drug Recognition Expert Utilization

## 506.1 PURPOSE AND SCOPE

This policy provides guidelines for the utilization of the training and expertise for the department's Drug Recognition Experts (DRE). The DRE program is established as a resource for officers that are involved in investigations in which drug related impairment is evident. The DRE is trained to recognize impairment in drivers under the influence of drugs other than, or in addition to alcohol.

## 506.2 DEFINITIONS

**Drug Recognition Expert (DRE):** An individual who has successfully completed all phases of training requirements for certification established by the International Association of Chiefs of Police and the National Highway Traffic Safety Administration.

**Standardized Field Sobriety Test (SFST):** The Standardized Field Sobriety Tests include three tests that were developed and validated through a series of controlled experiments supported by research grants from NHTSA. The three tests include Horizontal Gaze Nystagmus (HGN); Walk and Turn (WAT); and One Leg Stand (OLS).

**Blood/Breath Alcohol Concentration (BAC):** The concentration of alcohol in a person as measured by blood or breath.

**Drug:** Any substance that, when taken into the human body, can impair the ability of the person to operate a vehicle safely.

**Rule-out:** A determination made by a DRE that an individual's impairment is other than drug related (i.e. medical).

## 506.3 POLICY

The Auburn Police Department's Drug Recognition Expert is to be utilized to assist with an investigation requiring the detection of drug impaired individuals. The DRE will primarily be utilized in cases involving suspected drug impaired driving investigation.

It is important to note that while the primary goal of the DRE is to enforce drug impaired driving crimes, the drug evaluation is not limited to driving offenses. The drug evaluation may be performed on anyone that is found under the influence of a substance. This includes but is not limited to: breaches of probation/parole, sexual assaults, assaults, reckless endangerment, negligent homicide, and other criminal offenses.

It is also recognized that the DRE is available as a resource to other police agencies and to the community regarding drug impairment and identification.

## 506.4 DRE RESPONSIBILITIES

When called upon, the DRE will conduct examinations of suspected drug-impaired drivers. Based upon the information obtained, the DRE will form an expert opinion as to whether the person is impaired, whether the impairment is due to drugs, and which category or combination of categories of drugs is the most likely source of the impairment. The examinations conducted will

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be systematic. The DRE will observe and record signs and symptoms. The examinations will also be standardized; the examination will be conducted using the same methods, each time.

The examinations will take place in a controlled environment. Examinations will not take place roadside, because the measurements and observations that need to be made cannot accurately be performed under roadside conditions.

In some cases, the people examined will be drivers that the DRE personally arrested. However, it is likely that most of the time the people will be arrested by other officers.

The DRE will be available when on regular duty or during overtime assignments. The DRE will be available for call-in, but is not on-call.

Prior to calling upon the DRE officers must be observant of the following:

- (a) Drugs or paraphernalia in the vehicle
- (b) Drugs or paraphernalia on the suspect's person
- (c) Observations of suspect's speech, eyes, mannerisms and/or balance
- (d) Needle marks or scratch marks on suspect
- (e) Distinctive odor
- (f) Lack of odor of alcohol beverages
- (g) Behaviors indicating the use of legal or illegal substances leading to impairment

During DWI / DWAI investigation, the officer should begin the investigation as normal and administer the Standardized Field Sobriety Test (SFST) battery and preliminary breath test (PBT).

It is recommended that a DRE be contacted to assist in investigating cases under any or all of the following circumstances.

- (a) During a DWI / DWAI investigation, if the results of the SFST (and/or other field sobriety tests) and the observed impairment is not consistent with the results of the preliminary breath test (PBT).
- (b) If any signs of drug ingestion are identified
- (c) The subject has not performed the SFSTs (and/or other field sobriety tests) as directed and demonstrated by a Certified SFST/ARIDE trained officer.
- (d) When the driver of a vehicle involved in a crash has been placed under arrest for DWI/DWAI, or criminally related charges, and physical evidence developed during the investigation reveals drug use as a possible cause of impairment.
- (e) If a crash results in a fatality or serious physical injury, and based upon the opinion of the supervisor, a DRE is needed to determine drug, alcohol, or medical condition.
- (f) During the investigation of a serious crime, the opinion of the detective or supervisor, a DRE is needed to establish possible impairment based on drug use by a subject.
- (g) During a DWI/DWAI investigation where a chemical breath test is refused in order for the DRE to gather further observations during the evaluation.

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- (h) The shift Supervisor may notify or request a DRE for any other purpose or investigation they deem necessary to establish whether drug influence is present.

Once a DRE is notified, they will determine whether to respond to the scene or have the arresting officer transport the arrestee to the police station, or hospital for the drug evaluation.

When the DRE begins the twelve-step drug evaluation, the arresting officer must remain on scene and is ultimately responsible for the arrestee.

When the evaluation is complete, the DRE will notify the arresting officer of their opinion.

The DRE will subsequently complete and file completed DRE Face report and submit for review to the Sgt. assigned as the traffic coordinator.

All requests for utilization of a DRE will be directed through the on-duty command officer for consideration.

If a request for a DRE is received from an outside agency and one is on duty, the on-duty command officer will allow our DRE to conduct an evaluation whenever manpower needs allow based on the availability of the DRE(s).

If no DRE is on duty at the time a DRE evaluation is needed or requested, the on-duty command officer will coordinate with the DRE.

- (a) The Shift Supervisor will keep in mind that the department will be reimbursed by NYS Stop DWI for up to four (4) hours of the DRE's time and a half rate of pay for a DRE call out.
- (b) The hours will be reimbursed to the Auburn Police Department for any overtime incurred for a DRE call out for:
  - 1. The Auburn Police Department.
  - 2. Any police department within Cayuga County or any county adjoining Cayuga County.

All written overtime submissions for DRE utilization must be forwarded to and approved by the Sgt. assigned as Traffic Coordinator.

#### **506.5 REPORTING**

Every drug evaluation shall be documented on the Drug Influence Evaluation Report Face Sheet tablet provided and this report will be submitted to the Sgt. assigned as the Traffic coordinator for review. Upon approval the report will be forwarded to the APD records bureau and attached to the records management case file.

#### **506.6 EVIDENCE COLLECTION**

For the purpose of DWAI-drug enforcement, a chemical test, preferably blood, shall be offered for the toxicology confirmation and will be taken by the DRE or designee. A blood test may be offered for toxicology confirmation and will be conducted by proper hospital or medical personnel.

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All evidence as part of a drug evaluation shall be handled and preserved in accordance with department policy and procedure.

##### **506.7 JUVENILES**

DRE evaluations that are to be conducted on juveniles suspected of impairment shall be conducted with consent of and in front of their parent, legal guardian or adult responsible for that juvenile.

##### **506.8 SCHOOL EVALUATIONS**

DRE may conduct a DRE evaluation when requested by a command officer or the School Resource Officer command officer. This evaluation may be utilized to assist school personnel as well as parents in helping to attain the overall safety school with regards to the physical and mental health of the student.

When an evaluation is conducted on a student in this manner, any or all parts of the twelve step DRE evaluation may be administered to determine impairment except the securing of a toxicological sample. If a parent of the student wishes a toxicological sample be completed to further determine impairment, then such test shall be the responsibility of the parent or legal guardian and shall not be conducted by the DRE.

The DRE shall report directly to his or her first-line supervisor. The DRE program coordinator shall be the Sgt. assigned as the traffic coordinator.

The DRE shall maintain certification. The National Standards of the Drug Evaluation and Classification Program (as written by the IACP Advisory Committee on Highway Safety of the International Association of Chiefs of Police [IACP]) requires DRE's to renew their certificates of continuing proficiency every two years. Continuing proficiency is defined as follows:

- (a) Performing a minimum of four (4) acceptable evaluations since the date of last certification, all of which shall be reviewed and approved by a certified DRE instructor and one (1) of which shall be witnessed by a certified DRE instructor;
- (b) Completing a minimum of eight hours of IACP recertification training since the date of the DRE's most recent certification;
- (c) Presenting an updated resume and rolling activity log to the agency coordinator for an annual review; and
- (d) Sending the rolling activity log via e-mail to a national database, where it will also be reviewed by the IACP.

## **Chapter 6 - Investigation Operations**

# Investigation and Prosecution

## 600.1 PURPOSE AND SCOPE

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

### 600.1.1 DEFINITIONS

**Computer Forensic Examiner:** A sworn member of the agency specially trained in the techniques of computer data seizure and recovery. Required training normally consists of the successful completion of the courses offered by the National White Collar Crime Center (NW3C), United States Secret Service National Computer Forensics Institute, Search Computer Crimes Computer Course, International Association of Law Enforcement Computer Investigative Specialist (IACIS) Computer Forensic Investigation classes, or similar training. Investigators will also continue to train intensively in forensic computer crime investigation after they begin serving in this capacity.

**Computer System:** Including but not limited to: personal digital assistants (or PDA's), cellular telephones, digital cameras, computer monitor, CPU, hard drive, i/o device, modem, CDROM or floppy drive configured to work together as a unit or cabled together externally.

**Custodial Interrogation:** An interview in which a reasonable person would consider himself/herself in custody in view of the circumstances, and during which questions asked are reasonably likely to elicit an incriminating response.

**Custodial Interview:** An interview in which a reasonable person would consider himself/herself in custody in view of the circumstances, and during which the questions asked are non-incriminating in nature Ex. (Rapport building, Exchange of information, etc.)

**Custody:** When a normal person would consider that they are not free to leave because of a specific police action.

- (a) If they aren't free to leave, they are in custody.
  - 1. Under arrest, handcuffed to wall (ring), placed in the back seat or handcuffed in a patrol car.

**Electronic Recording:** A digital, electronic, audio, video or other recording.

- (a) Video (Only) Electronic Recording: Video only with no sound.
- (b) Audio (Only) Electronic Recording: Audio only with no video (aka: audio recordings)
- (c) Video /Audio Electronic Recording: Video and audio (via DVR, etc.)

**In Its Entirety:** A recording that begins with the individual entering the room, the commencement of the custodial interview, includes a police officer giving the subject his/her Miranda warning, and ends when the interview / interrogation is completely finished and the individual (subject) leaves the room.

**Interrogation:**



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- (a) Express questioning
- (b) Any words or actions on the part of the police that are reasonably likely to elicit an incriminating response
- (c) The fact-finder (the police) is asking guilt seeking/ direct questions in regards to the suspect's involvement in the alleged crime.
- (d) A person does not have to be in custody to be interrogated.
- (e) The person being interrogated is almost always the suspect in this case.

**Interview:** A non-confrontational situation wherein a fact-finder attempts to elicit answers to questions regardless of the location or setting and regardless of whether the person being interviewed is a suspect, witness, etc.

#### **Miranda Warnings / Constitutional Rights:**

- (a) Requirements - Both must be met:
  - 1. Custody
  - 2. Interrogation
- (b) However, when nothing precludes an officer from advising a person of their "Miranda Warnings"
  - 1. When in doubt, once can administer Miranda

**Qualified (Electronic Recording Equipment) Operator (aka: "Qualified Operator"):** Those members of the Auburn Police Department trained /qualified in the use of the APD Interview Room's electronic recording equipment

**Recording Device:** Including, but not limited to: CD-ROM, DVD, floppy drive, tape drive, zip drive, jazz drive, magneto-optical drive or hard drive used to store data that is not currently connected to an operating system.

**Recorded Media:** Audio and/or video signals recorded on any of several storage media, including analog tape (VHS, SVHS, Hi 8mm), audio only tapes, digital tape (DV), or other portable digital storage media (CD, DVD, hard drive, etc.).

**Recording Media:** Including but not limited to: floppy disks, jazz, zip or magneto-optical disks, memory cards, usb or "thumb drives", any tape or other type of media used to store data.

- (a) Video (Only) Electronic Recording: Video only with no sound.
- (b) Audio (Only) Electronic Recording: Audio only with no video (aka: audio recordings)
- (c) Video /Audio Electronic Recording: Video and audio (via DVR, etc.)

**Subject:** A person who is being interviewed and/or interrogated.

**Unrecorded Statement:** Means a statement during a custodial interview and/or custodial interrogation that is not electronically recorded

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### **600.2 POLICY**

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

### **600.3 INITIAL INVESTIGATION**

#### **600.3.1 OFFICER RESPONSIBILITIES**

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

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
  - 1. An initial statement from any witnesses or complainants.
  - 2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the officer shall:
  - 1. Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
  - 2. Determine whether additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
  - 3. If assistance is warranted, or if the incident is not routine, notify a supervisor or the Shift Commander. This shall include incidents where the information available indicates the circumstances warrant the intervention of a specialized unit and/or personnel with specialized training.
  - 4. Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
  - 5. Collect any evidence.
  - 6. Take any appropriate law enforcement action.
  - 7. Complete and submit the appropriate reports and documentation which will include all information gathered and actions taken.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary and what other resources may be available, and advise the informant or complainant of this information.
- (d) If circumstances prohibit an officer from completing a preliminary investigation, this shall be indicated in the appropriate report and a supervisor or Shift Commander shall be notified.
- (e) Any investigation forwarded to the Detective Bureau shall be assigned by the Detective Bureau supervisor.

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##### 600.3.2 SCENE/INCIDENT PROCESSING RESPONSIBILITIES

The following scene processing actions should be carried out, depending upon the nature and seriousness of the scene/incident, by the investigating member or other assigned personnel. The assigned member will use the department-provided equipment for:

- Scene photography.
- Scene sketch.
- Video or digital recording of a scene.
- The collecting, documenting, tagging, cataloging and safekeeping of evidence.
- Processing of latent fingerprint evidence.

Members shall use the appropriate forms for documentation of scene/incident processing, including:

- An investigative incident report or supplement / ET Report detailing the scene under investigation, the nature of the evidence processing work conducted, and other notable observations that are not otherwise reflected in other reports or log sheets prepared by the investigating member.

When handling and preserving items of evidence, members will ensure that items are properly marked or labeled, including:

- A description of the item along with any relevant item number and case/incident number.
- The source from which the item was obtained or seized.
- The date, time and location where the item was obtained or seized.
- The name of the member collecting the item.

All items of evidence will be securely stored, with their location documented in all relevant reports. Whenever an item of evidence is removed from secure storage for any reason, the member and/or evidence custodian shall ensure that the following information is documented:

- The date and time of the transfer.
- The name of the member/other receiving the evidence.
- The reason for the transfer.
- The name and location where the evidence was transferred.
- Any examinations performed.

Members processing the scene of an incident for evidence must have proper training commensurate to the special duties performed.

##### 600.3.3 CIVILIAN MEMBER RESPONSIBILITIES

A civilian member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take

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any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an officer shall be requested.

#### 600.3.4 CASE MANAGEMENT AND TRACKING

The Auburn Police Department shall use a records management system that, at a minimum, includes:

- (a) The lead investigator.
- (b) The date of assignment.
- (c) A schedule of supervisory review.
- (d) The current case status (e.g., open, closed, suspended).
- (e) The method of closure (e.g., closed by investigation, closed by arrest, other).

#### 600.4 CUSTODIAL INTERROGATION REQUIREMENTS

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

##### 600.4.1 GENERAL REQUIREMENTS

All "Qualified Operators" of the Auburn Police Department should, whenever possible, utilize the video/audio electronic recording systems located within the Auburn Police Department's Detective Bureau's designated Interview Rooms, or the Patrol Division's "Interview Room #4", whenever questioning someone in custody that is suspected of committing an Offense deemed serious by the Captain of Detectives or the Patrol Officer's immediate supervisor. Keep in mind that this system can also be used when interviewing those subjects not in custody, as well as interviews of victims as well as witnesses.

Other sworn members of the Auburn Police Department may also utilize the Auburn Police Department's designated Interview Room's to conduct an interview and record said interview via the video/audio electronic recording system, when all of the following conditions are met:

- (a) When approved by a supervisor,
- (b) When a "Qualified Operator" of the audio/video recording equipment is available,
- (c) When all procedures and guidelines as set forth in this policy are followed.

##### 600.4.2 AUDIO/VIDEO RECORDINGS

Any custodial interrogation of an individual who is suspected of having committed a qualifying class A-1 felony, a qualifying predatory sexual assault, or a qualifying class B violent felony shall be recorded (audio and video) in its entirety (including the administration of Miranda rights) when the interrogation takes place at any Auburn Police Department facility with the following exceptions (CPL § 60.45; Family Court Act § 344.2):

#### EXCEPTIONS

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- (a) Electronic recording is not feasible;
- (b) Electronic recording equipment malfunctions;
- (c) Interview Room already in use;
- (d) Spontaneous statements are made, which are not in response to an interview, or which take place outside the custodial interrogation;
- (e) Statements are made in response to questions that are routinely asked during the process of the arresting person;
- (f) Statements are given during a custodial interrogation at a time when the interviewer is unaware that a serious crime has occurred;
- (g) An interview is conducted by a non-qualified officer who has not been trained on the electronic recording system;
- (h) Statements are made during a custodial interrogation that is conducted at another location, such as:
  - 1. Out-of state
  - 2. Subject in a correctional facility not equipped with recording devices
  - 3. Other location where the subject cannot be moved from
  - 4. The reasons for using that location are not to circumvent this policy;
- (i) Statements are given at a time when the subject of the custodial interrogation has indicated, verbally or in writing, or, in a recording that he/she will participate in an interview and/or interrogation only if it is not recorded;
- (j) If the person being interviewed requests the interview take place somewhere other than the Police Department;
- (k) The failure to record was due to an inadvertent error or oversight and was not the result of the intentional conduct of law enforcement personnel; or
- (l) Members assigned to the Finger Lakes Drug Task Force may be exempted from this policy when said interviews are based on confidentiality and sensitivity relative to the sale and distribution of narcotics and other illegal substances.

If any interrogation involving a qualifying felony is not recorded, the reason for not making a video-recording should be documented.

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

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

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

Recordings should not take the place of a thorough report and investigative interviews. Written statements from suspects should continue to be obtained when applicable. Timely notice of intent to use any statement must be made to the defendant who has been arraigned (CPL § 710.30).

#### [Interview and Interrogation Procedure](#)

#### [Preservation of Evidence and Discovery Requests](#)

##### **600.4.3 NOTICE TO PROSECUTION OF ELECTRONIC RECORDINGS**

Assigned personnel from the Auburn Police Department will promptly notify the prosecutor's office, in writing (via the Case Document Inventory (CDI), when there is a reasonable belief that an electronic recording of a 9-1-1 call, or other audio or video recording was made or received in connection with a criminal investigation (CPL § 245.55). The notification should be retained in the case file.

##### **600.4.4 ELECTRONIC RECORDING VIEWING / MONITORING**

No person is authorized to randomly monitor, review or otherwise record an interview unless directly involved in the case investigation or without prior approval from the Detective Bureau Captain or Command Officer overseeing the case. This includes Auburn Police Department personnel, civilian personnel, members of the DA's office, and/or any other law enforcement agency members.

##### **600.4.5 MAINTENANCE AND REPAIR OF RECORDING EQUIPMENT**

The Detective Bureau / Identification Bureau shall be responsible for maintaining the recording device and those members shall:

- (a) Routinely inspect the equipment;
- (b) Routinely clean the equipment according to the manufacturer's guidelines;
- (c) Notify the Office of the Chief of Police and/or his designee if the equipment requires servicing or repair.

##### **600.5 USE OF POLYGRAPH EXAMINER**

The administration of a polygraph examination may be conducted by an outside agency, in conjunction with departmental investigations, per the procedure outlined below:

#### [Polygraph Examination Procedure](#)

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

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

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- (a) All reasonable investigative efforts have been exhausted, there is no reasonable belief that the person who committed the crime can be identified and the incident has been documented appropriately.
- (b) The victim withdraws their complaint, or does not wish prosecution.
- (c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.
- (d) The case has been submitted to the appropriate prosecutor; charges have been filed; further investigation is not reasonable, warranted or requested; and there is no need to take the suspect into custody.
- (e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted or requested.
- (f) Investigation has proved that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

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

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

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

#### [Computer Crimes Investigations Procedure](#)

#### **600.8 TECHNICAL AIDS FOR DETECTION OF DECEPTION**

Technical aids for the detection of deception, owned by the Department or another entity, may be used as investigative tools in criminal investigations. The Department shall only use the services of equipment operators, internally or externally, who are certified to conduct such examinations.

Services provided by an external entity shall be approved by the Detective Bureau supervisor. A written report of the results by the certified examiner will be required and maintained in the original investigative file.

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

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



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

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

##### **600.9.1 ACCESS RESTRICTIONS**

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

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

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

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

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

##### **600.9.2 INTERCEPTING ELECTRONIC COMMUNICATION**

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

##### **600.10 IDENTITY THEFT**

A report should be taken any time a person living within the jurisdiction of the Auburn Police Department reports that he/she has been a victim of identity theft. This includes:

- (a) Taking a report, even if the location of the crime is outside the jurisdiction of this department or has not been determined.
- (b) Providing the victim with the appropriate information, as set forth in the Victim and Witness Assistance Policy. Department members should encourage the individual to review the material and should assist with any questions.



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A report should also be taken if a person living outside department jurisdiction reports an identity theft that may have been committed or facilitated within this jurisdiction (e.g., use of a post office box in Auburn to facilitate the crime) (CPL § 20.40; CPL § 20.50).

A member investigating a case of identity theft should ensure that the case is referred to the appropriate agency if it is determined that this department should not be the investigating agency (e.g., an identity theft ring working from out of state). The victim should be advised that the case is being transferred to the agency of jurisdiction. The appropriate entries should be made into any databases that have been authorized for department use and are specific to this type of investigation.

#### **600.11 MODIFICATION OF CHARGES FILED**

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

# Sexual Assault Investigations

## 601.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims (Executive Law § 838-a).

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

### 601.1.1 DEFINITIONS

Definitions related to this policy include:

**Sexual assault** - Any crime or attempted crime of a sexual nature, to include, but not limited to, offenses defined in Article 130 of the Penal Law.

**Sexual Assault Response Team (SART)** - A multidisciplinary team generally comprised of advocates (SAVAR); law enforcement officers; forensic medical examiners, including sexual assault forensic medical examiners (SAFEs) and/or sexual assault nurse examiners (SANEs), if possible; forensic laboratory personnel; and prosecutors.

## 601.2 POLICY

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

## 601.3 QUALIFIED INVESTIGATORS

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

- (a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations (Executive Law § 838-a).
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies, and medical personnel as needed.
- (e) Provide referrals to therapy services, victim advocates, and support for the victim.
- (f) Participate in or coordinate with SART or other multidisciplinary investigative teams as applicable.

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#### *Sexual Assault Investigations*

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##### **601.4 REPORTING**

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

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

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

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

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

When possible, interviews of juvenile victims should be conducted at a Child Advocacy Center (Executive Law § 642-a).

All victims of sex offenses and/or incest should be interviewed in a private setting that provides for sight and sound separation from outside of the room. Only those persons relevant to the investigation should be allowed in the room, as provided by law (Executive Law § 642(2-a)).

No opinion of whether the case is unfounded should be included in a report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; CPL § 160.45).

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

##### **601.5.1 SEXUAL ASSAULT VICTIM'S RIGHTS**

Prior to the initial victim interview, or at the time a sexual offense evidence kit is collected, whichever is sooner, officers shall (Public Health Law § 2805-i; Executive Law § 838-a):

- (a) Provide the victim with a copy of the victim's bill of rights handout created by the Department of Health;
- (b) Offer to explain those rights or provide reasonable assistance to the victim with understanding the rights;
- (c) If a sexual offense evidence kit is collected, provide contact information for the crime victim liaison and the qualified investigator (if one has been assigned), to whom the victim could inquire about the status of testing.

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

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

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

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

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

##### **601.6.1 TESTING REQUIREMENTS**

Members investigating sexual assaults or handling related evidence shall submit all sexual offense evidence kits to an appropriate forensic laboratory for testing within 10 days of receipt (Executive Law § 838-a).

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

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

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

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

The Auburn Police Department may temporarily delay the release of DNA match information that has been requested by a victim upon consultation with the prosecutor's office if all of the following circumstances are met (Public Health Law § 2805-i):

- (a) The information would be released prior to the arrest of a suspect.
- (b) The member documents the reason releasing information would compromise the investigation in a report.
- (c) The member provides written notification to the victim that releasing the information may compromise the investigation.

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##### **601.6.3 REPORTING REQUIREMENTS**

A Detective Bureau supervisor shall ensure that a quarterly report is submitted to the Division of Criminal Justice Services containing the number of (Executive Law § 838-a):

- (a) Sexual offense kits received.
- (b) Sexual offense kits submitted for testing and how much time it took to submit each kit.
- (c) Sexual offense kits in the department's possession that have not been submitted for testing.

##### **601.6.4 ELECTRONIC TRACKING OF SEXUAL OFFENSE KITS**

The Detective Bureau supervisor shall establish procedures for the timely submission, tracking, and updating of sexual offense kits in the statewide electronic tracking system according to the rules and guidelines developed by the Division of Criminal Justice Services (Public Health Law § 2805-i).

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

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

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

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

The Detective Bureau supervisor will ensure cases are reviewed on a periodic basis, and all cases with physical evidence shall be submitted for DNA analysis.

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

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

##### **601.10 TRAINING**

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

- (a) Members who are first responders. This includes, but is not limited to:
  - 1. Initial response to sexual assaults.
  - 2. Legal issues.
  - 3. Victim advocacy.

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

## Asset Forfeiture

### 602.1 PURPOSE AND SCOPE

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

#### 602.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

**Forfeiture reviewer** - The Finger Lakes Drug Task Force Supervisor assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and acting as the liaison between the Department and the Corporation Counsel in applicable federal and state agencies.

**Property subject to forfeiture** - Property subject to forfeiture may include the proceeds or an instrumentality of a felony offense that has resulted in conviction.

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

### 602.2 POLICY

The Auburn Police Department recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential of revenue shall not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations or any person's due process rights.

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

### 602.3 ASSET SEIZURE

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

#### 602.3.1 PROPERTY SUBJECT TO SEIZURE

Property subject to forfeiture may be seized by court order or when it could otherwise be legally seized as evidence of an offense.

Whenever practicable, obtaining a search warrant or court order for seizure prior to making a seizure of property subject to forfeiture is the preferred method.

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

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

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

- (a) Complete the applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the officer must leave the copy in the place where the property was found, if it is reasonable to do so.
- (b) Complete and submit a report and original seizure forms within 72 hours of the seizure, if practicable.
- (c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The officer will book seized property as evidence with a notation that the property is seized and subject to forfeiture..

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

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

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

The Identification Bureau supervisor is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
- (b) All property received for forfeiture is checked to determine whether the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.
- (e) Forfeitable property is retained until such time as its use as evidence is no longer required.



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#### *Asset Forfeiture*

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##### **602.6 FORFEITURE REVIEWER**

The Chief of Police will appoint a forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a course approved by the Department on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

- (a) Remaining familiar with forfeiture laws, particularly the forfeiture laws of CPLR § 1310 et seq. and Penal Law § 480.00 et seq. and the forfeiture policies of the forfeiture counsel.
- (b) Serving as the liaison between the Department and the Corporation Counsel and applicable federal and state agencies, and ensuring prompt legal review of all seizures.
- (c) Serving as claiming agent under the forfeiture laws of CPLR § 1310 et seq.
- (d) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing, and tracking forfeitures.
- (e) Reviewing each seizure-related case and deciding whether the seizure is more appropriately made under state or federal seizure laws. The forfeiture reviewer should contact federal authorities when appropriate.
- (f) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.
- (g) Ensuring that seizure forms are available and appropriate for department use. These should include notice forms, a receipt form, and a checklist that provides relevant guidance to officers. The forms should be available in languages appropriate for the region and should contain spaces for:
  - 1. Names and contact information for all relevant persons and law enforcement officers involved.
  - 2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
  - 3. A space for the signature of the person from whom cash or property is being seized.
  - 4. Issue a property receipt to the person the property is being seized from. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure and a detailed description of the items seized.
- (h) Ensuring that officers who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs), or General Orders. The training should cover this policy and address any relevant statutory changes and court decisions.
- (i) Reviewing each asset forfeiture case to ensure that:

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1. Written documentation of the seizure and the items seized is in the case file.
  2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
  3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property.
  4. Property is promptly released to those entitled to its return.
  5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
  6. Any cash received is deposited with the fiscal agent.
  7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
  8. Current minimum forfeiture thresholds are communicated appropriately to officers.
  9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.
- (j) Ensuring that a written plan is available that enables the Chief of Police to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement personnel and attorneys who may assist in these matters is available.
- (k) Ensuring that the process of selling or adding forfeited property to Department inventory is in accordance with all applicable laws and consistent with the use and disposition of similar property.
- (l) Upon completion of any forfeiture process, ensuring that no property is retained by the Auburn Police Department unless the Chief of Police authorizes in writing the retention of the property for official use.

Forfeiture proceeds should be maintained by the Comptroller in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures (CPLR § 1349; General Municipal Law § 6-v).

#### [City of Auburn, Department of Justice Equitable Sharing Program Policy and Procedure](#)

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives.

#### **602.7 DISPOSITION OF FORFEITED PROPERTY**

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

# Informants

## 603.1 PURPOSE AND SCOPE

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

### 603.1.1 DEFINITIONS

Definitions related to this policy include:

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

## 603.2 POLICY

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

## 603.3 USE OF INFORMANTS

### 603.3.1 INITIAL APPROVAL

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

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

### 603.3.2 SPECIAL CI APPROVAL REQUIREMENTS

Certain individuals who are being considered for use as a CI require special consideration and approval. They include the following classes of individuals:

- (a) **Juveniles:** The use of a juvenile under the age of 18 as a CI may only be undertaken with the advance approval of the department supervising member of the Finger Lakes Drug Task Force and the District Attorney's Office. Authorization for such use should be granted only when a compelling public interest can be demonstrated.
- (b) **Individuals obligated by legal privilege of confidentiality:** This class of individuals includes, but may not be limited to, attorneys, physicians, and members of the media. The office of the prosecutor and the Deputy Chief of Police and Chief of Police shall be consulted before any officers use such individuals as CI's.
- (c) **Government officials** - This included persons in high-level and highly sensitive local, state, or federal government positions. The office of the prosecutor and the Deputy

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Chief of Police and Chief of Police shall be consulted before any offices use such individuals as CI's.

#### **603.3.3 JUVENILE INFORMANTS**

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

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

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

#### **603.3.4 INFORMANT AGREEMENTS**

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

#### **603.4 INFORMANT INTEGRITY**

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

- (a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Finger Lakes Drug Task Force supervisor or their authorized designees.
  - 1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.
- (b) Criminal activity by informants shall not be condoned.
- (c) Informants shall be told they are not acting as police officers, employees or agents of the Auburn Police Department, and that they shall not represent themselves as such.
- (d) The relationship between department members and informants shall always be ethical and professional.
  - 1. Members shall not become intimately involved with an informant.
  - 2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Finger Lakes Drug Task Force supervisor.
  - 3. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
- (e) Officers shall not meet with informants in a private place unless accompanied by at least one additional officer or with prior approval of the Finger Lakes Drug Task Force supervisor.
  - 1. Officers may meet informants alone in an occupied public place, such as a restaurant.

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2. Officers will not meet with informants of the opposite gender unless accompanied by another officer.
- (f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.
- (g) In all instances when department funds are paid to informants, a voucher shall be completed, itemizing the expenses.
- (h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

#### **603.4.1 UNSUITABLE INFORMANTS**

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

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

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

#### **603.5 INFORMANT FILES**

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

Informant files shall be maintained in a secure area within the Finger Lakes Drug Task Force. The Finger Lakes Drug Task Force supervisor or the authorized designee shall be responsible for

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maintaining informant files. Access to the informant files shall be restricted to the Chief of Police, Finger Lakes Drug Task Force supervisor or their authorized designees.

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

Sworn personnel may review an individual's informant file only upon the approval of the supervising member of the Finger Lakes Drug Task Force. 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. Such officers shall not remove, copy, or disseminate information from the file; all informant files shall be reviewed only in designated areas of the Finger Lakes Drug Task Force.

All disclosures or access to informant files shall be recorded by the supervising member of the Finger Lakes Drug Task Force to include information such as the requesting officer or agency, the purpose of access or disclosure, the information conveyed, and the date and time of access or dissemination.

The name of a CI shall not be included in an affidavit for a warrant unless judicial authority is obtained to seal the document from public record or the CI is a subject of the investigation upon which the affidavit is based. Additionally, officers shall systematically avoid providing details of CI actions or involvement in investigative and arrest reports or any other documents available to the public.

No portion of a CI's file shall be entered into any other electronic or related database without controls sufficient to exclude access to all but authorized personnel with a need and a right to know.

Handlers are responsible for ensuring that information of potential value to other elements of the department are provided promptly to the supervising member of the Finger Lakes Drug Task Force.

Employees leaving employment with the department have a continuing obligation to maintain as confidential the identity of any CI and the information he or she provided unless obligated to reveal such identity or information by law or court order.

#### 603.5.1 FILE SYSTEM PROCEDURE

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

- (a) Name and aliases
- (b) Date of birth

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- (c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features
- (d) Photograph
- (e) Current home address and telephone numbers
- (f) Current employers, positions, addresses and telephone numbers
- (g) Vehicles owned and registration information
- (h) Briefs of information provided by the informant and his/her subsequent reliability
  - 1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.
- (i) Name of the officer initiating use of the informant
- (j) Signed informant agreement
- (k) Update on active or inactive status of informant

#### **603.6 INFORMANT PAYMENTS**

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

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

The Finger Lakes Drug Task Force supervisor will determine the level of pay based on the above factors.

##### **603.6.1 PAYMENT PROCESS**

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

- (a) Payments of \$500 and under may be paid in cash from a Finger Lakes Drug Task Force buy/expense fund.
  - 1. The Finger Lakes Drug Task Force member shall sign the voucher for cash payouts from the buy/expense fund.
- (b) To complete the payment process for any amount, the officer delivering the payment shall complete a cash receipt.
  - 1. The cash transfer form shall include:
    - (a) Date.

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- (b) Payment amount.
- (c) Auburn Police Department case number.
- 2. The cash transfer form shall be signed by the informant.
- 3. The cash transfer form will be retained in FLDTF financial records.

#### 603.6.2 AUDIT OF PAYMENTS

The Finger Lakes Drug Task Force supervisor or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

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



# Eyewitness Identification

## 604.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this department employ eyewitness identification techniques.

### 604.1.1 DEFINITIONS

Definitions related to this policy include:

**Administrator** - The person who is conducting the identification procedure.

**Blind Procedure** - An identification procedure where the administrator does not know the identity of the suspect.

**Blinded Procedure** - An identification procedure where the administrator may know who the suspect is, but by virtue of the procedure's administration, the administrator does not know where the suspect is in the array viewed by the witness. This procedure is designed to prevent the administrator from being able to inadvertently provide cues to the witness.

**Confidence Statement** - A statement from an eyewitness immediately following their identification regarding their confidence or certainty about their identification. The witness should be asked to provide their level of certainty in their own words as opposed to using a numerical scale.

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

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

**Filler** - A person, other than the suspect, who is used in either a live line-up or a photo array.

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

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

**Suspect** - Person the police believe has committed the crime.

## 604.2 POLICY

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

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#### *Eyewitness Identification*

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##### **604.3 INTERPRETIVE SERVICES**

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

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

##### **604.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM**

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

##### **Photo Array Checklist**

The process should include appropriate forms or reports that provide:

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.
- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
- (j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.

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

##### **Photo Array Procedure**

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##### 604.4.1 STATE PROTOCOL

The Identification Officer should confirm that the process and forms used for eyewitness identifications comply with the protocols established by the Division of Criminal Justice (Executive Law § 837).

##### **604.5 EYEWITNESS IDENTIFICATION**

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

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

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

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

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

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness (CPL § 60.25; CPL § 60.30; Family Court Act § 343.3; Family Court Act § 343.4). Techniques to achieve this include randomly numbering photographs, shuffling folders or using a computer program to order the persons in the lineup.

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

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

##### **604.7 FIELD IDENTIFICATION CONSIDERATIONS-SHOW UP**

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

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

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- (a) Obtain a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering:
  - 1. The length of time the witness observed the suspect.
  - 2. The distance between the witness and the suspect.
  - 3. Whether the witness could view the suspect's face.
  - 4. The quality of the lighting when the suspect was observed by the witness.
  - 5. Whether there were distracting noises or activity during the observation.
  - 6. Any other circumstances affecting the witness's opportunity to observe the suspect.
  - 7. The length of time that has elapsed since the witness observed the suspect.
- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
- (d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.
- (e) The person who is the subject of the show-up should not be shown to the same witness more than once.
- (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.
- (g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.
- (h) If a witness positively identifies a subject of a show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow-up, if necessary.

#### **604.8 DOCUMENTATION**

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

If a photographic lineup is utilized, the photographic lineup presented to the witness should be logged as evidence.

## Brady Information

### 605.1 PURPOSE AND SCOPE

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

#### 605.1.1 DEFINITIONS

Definitions related to this policy include:

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

### 605.2 POLICY

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

### 605.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

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

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

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

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

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#### *Brady Information*

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##### **605.4 BRADY PROCESS**

The Chief of Police shall select a member of the Department to coordinate requests for *Brady* information. This person shall be directly responsible to the Administration Commander or the authorized designee.

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

- (a) Working with the appropriate prosecutors' offices and the Corporation Counsel's office to establish systems and processes to determine what constitutes *Brady* information and the method for notification and disclosure.
- (b) Maintaining a current list of members who have *Brady* information in their files or backgrounds.
  - 1. Updating this list whenever potential *Brady* information concerning any department member becomes known to the Department or is placed into a personnel or internal affairs file.

##### **605.5 DISCLOSURE OF REQUESTED INFORMATION**

If *Brady* information is located, the following procedure shall apply (CPL § 245.20):

- (a) The coordinator should notify the prosecuting attorney and department member whose file contains the potential *Brady* information.
- (b) The coordinator should seek appropriate counsel to review the file and determine whether any further court review would be appropriate before sensitive, confidential, or immaterial information within the file is released.
  - 1. The Records Access Officer shall accompany all relevant personnel files during any court hearing and address any issues or questions raised by the court in determining whether any information contained in the files is discoverable to the criminal defendant (Civil Rights Law § 50-a; CPL § 245.70).
  - 2. If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.
- (c) If a court has determined that relevant *Brady* information is contained in a member's file in any case, the coordinator should notify the prosecutor of that fact in all future cases involving that member.
- (d) If no court review is requested or pending, the coordinator should work with the appropriate counsel to determine which records should be disclosed to the prosecutor.
- (e) Prior to the release of any information pursuant to this process, a protective order should be requested from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

##### **605.6 INVESTIGATING BRADY ISSUES**

If the Department receives information from any source that a member may have issues of credibility or dishonesty or has been engaged in an act of moral turpitude or criminal conduct,

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the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

#### **605.7 SUBPOENA PROCESSING**

The individual processing subpoenas (or the supervisor of the subpoenaed member) shall check the subpoenaed member's name against the current list of those who are known to have *Brady* information in their files or background, and shall alert the coordinator if a person on the list is subpoenaed.

#### **605.8 TRAINING**

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

# Unmanned Aerial System

## 606.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS.

### 606.1.1 DEFINITIONS

Definitions related to this policy include:

**Digital Media Evidence (DME):** Digital recordings of images, sounds, and associated data.

**Certified Remote Pilot (CRP):** Is a sworn member who has successfully obtained a Remote Pilot Certificate from the Federal Aviation Administration (FAA). The department's (CRP) is also the individual with the final authority and responsibility for operation and safety of an UAS operation.

**Unmanned aerial system (UAS) -** An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

**Visual Observer:** A UAS flight crew member designated by the (CRP) to assist with the responsibility to identify and avoid other air traffic or objects in the air or on the ground.

## 606.2 POLICY

UAS systems are to be utilized to enhance the law enforcement objectives, providing additional public safety when other means are less effective. Duly trained and authorized agency personnel may deploy small unmanned aircraft system (drones) when such use is appropriate in the performance of their official duties, and where deployment and use, and the collection and use of any audio/video recordings or other data originating from or generated by the small unmanned aircraft system(s), conform with the policy provisions provided herein, and the constitutional and Federal Aviation Administration regulations.

## 606.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

## 606.4 PROGRAM COORDINATOR

The Chief of Police will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations, and best practices and will have the following additional responsibilities:



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- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current, and/or coordinating compliance with FAA Part 107 Remote Pilot Certificate, as appropriate for department operations.
- Ensuring that all authorized operators and required observers have completed all required FAA and department-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.
- Developing uniform protocol for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents. Deployment of a UAS shall require written authorization of the Chief of Police or the authorized designee, depending on the type of mission.
- Coordinating the completion of the FAA Emergency Operation Request Form in emergency situations, as applicable (e.g., natural disasters, search and rescue, emergency situations to safeguard human life).
- Developing protocols for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAS deployment.
- Developing operational protocols governing the deployment and operation of a UAS including but not limited to safety oversight, use of visual observers, establishment of lost link procedures, and secure communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAS inspection, maintenance, and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates, and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief of Police.
- Maintaining familiarity with FAA regulatory standards, state laws and regulations, and local ordinances regarding the operations of a UAS.

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##### **606.5 USE OF UAS**

Only authorized operators who have completed the required training shall be permitted to operate the UAS.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

UAS operations should only be conducted consistent with FAA regulations.

##### [List of UAS \(Drone\) Authorized Operators](#)

##### **606.5.1 DIGITAL MEDIA UAS DATA**

Trained UAS operators shall handle and store captured Digital Media Evidence (DME) in accordance with existing agency procedure for storing digital files and applicable statutes regarding, but not limited to, evidence discovery and disclosure pursuant to the Freedom of Information Law (FOIL). Any requests for DME disclosure should be reviewed by the agency's legal advisor and in consultation with the local Office of the District Attorney.

Trained UAS operators shall securely download all captured DME at the completion of each mission. Each DME file shall be given a unique label, including but not limited to, case number, date, time, location, involved personnel and other mission identifiers.

##### **606.6 DEPLOYMENT REQUIREMENTS**

- Obtain applicable authorizations, permits, or certificates required by the Federal Aviation Administration (FAA) prior to deploying or operating the unmanned aircraft system, and these authorizations, permits, and certificates shall be maintained and current.
- The unmanned aircraft system will be operated only by Unmanned Aircraft Pilot(s) who have been trained and certified in the operation of the system.
- Only certified personnel shall inspect and test unmanned aircraft system equipment prior to each deployment to verify the proper functioning of all equipment and the airworthiness of the device.
- The unmanned aircraft system equipment is the responsibility of the UAS pilot and will be used with reasonable care to ensure proper functioning.
- Equipment malfunctions shall be brought to the attention of the UAS Program Coordinator.
- The unmanned aircraft system equipment and all data, images, video, and data captured, or otherwise produced by the equipment is the sole property of the department.
- All missions will be documented in an applicable written report, and all mission time shall be accurately recorded.

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1. Each deployment of the unmanned aircraft system shall include information regarding the reason for the mission; the time, date, and location of the mission.
2. The name of the supervisor approving the deployment and the staff assigned.
3. A summary of the activities covered, actions taken, and outcome of the deployment.

#### UAS Deployment Procedures

##### **606.7 FEDERAL AVIATION ADMINISTRATION (FAA) OPERATIONAL LIMITATIONS**

- (a) Flight operations shall be visual line-of-sight (VLOS) only.
  1. At all times, the unmanned aircraft must remain close enough to the operator or visual observer (VO) to see the aircraft with vision unaided by any device other than corrective lenses.
- (b) For those operations where it is necessary to operate over a human being in order to safeguard human life, the remote pilot in command must not operate any lower or in proximity to human beings necessary to accomplish the operation.. See COA for further.
- (c) Small UAS operations may be conducted at night, as defined in 14 CFR § 1.1 See COA for further.
- (d) The unmanned aircraft must yield right-of-way to other aircraft, manned or unmanned.
- (e) The unmanned aircraft shall not exceed a maximum airspeed of 100 mph (87 knots).
- (f) The I unmanned aircraft must remain below an altitude of 400 feet above ground level.
- (g) No UAS Flight Crew member may operate more than one unmanned aircraft operation at one time.

#### FAA Form 7711-1 UAS Certificate of Waiver or Authorization Attachment

##### **606.8 COMPLAINT INVESTIGATIONS**

- (a) Should there be a complaint alleging inappropriate use of the UAS, the complaint shall be handled in accordance with agency protocols for internal investigations.
- (b) Any complaint alleging a violation of a person's civil rights by use of the UAS shall be documented and be investigated through this agency's policy regarding investigation of complaints.
- (c) Unauthorized or inappropriate use of a UAS shall result in strict accountability, in accordance with established disciplinary procedures.

##### **606.9 PROHIBITED USE**

The unmanned aircraft shall not be operated in an unsafe manner. The UAS shall not be modified in any manner from the manufacturer's specifications or fitted with additional equipment without the authorization of the UAS Coordinator or a designee.

The UAS video surveillance equipment shall not be used for:

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- To conduct random surveillance activities,
- To target a person based solely on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

#### **606.10 EMERGENCY PROCEDURES**

##### [UAS \(Drone\) Emergency Procedures](#)

#### **606.11 TRAINING**

- (a) Members assigned to operate a department UAS must complete an agency-approved training program and meet all conditions of the COA issued by the FAA.
- (b) Authorized agency personnel assigned to operate shall participate in quarterly training to ensure continued effective use, operation, calibration and performance of UAS and to incorporate changes, updates, revisions and advances in policies and procedures in the deployment and use of UASs.
- (c) All personnel with responsibilities related to the Unmanned Aerial System (UAS) shall be trained in applicable local and federal laws, regulations, and the policies and procedures defined herein which govern the deployment of UASs.

## Warrant Service

### 607.1 PURPOSE AND SCOPE

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

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

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

### 607.2 POLICY

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

### 607.3 SEARCH WARRANTS

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

#### [Search Warrants Procedure](#)

### 607.4 ARREST WARRANTS

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

If the warrant is classified as high risk, service will be coordinated by the appropriate supervisor. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

### 607.5 WARRANT PREPARATION

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

- (a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime or no-knock warrant execution (CPL § 690.35).

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1. No-knock warrant applications shall be consistent with the requirements of state law (CPL § 690.35).
  - (b) A clear explanation of the affiant's training, experience and relevant education.
  - (c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.
  - (d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
  - (e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
  - (f) A specific description of the location to be searched, including photographs of the location, if reasonably available.
  - (g) A sufficient description of the items to be seized.
  - (h) Full disclosure of any known exculpatory information relevant to the warrant application. (refer to the *Brady* Information Policy)
  - (i) If an "all persons present" endorsement is requested, the affidavit shall describe the type of premises (e.g., private or public access), the anticipated number and behavior of the persons expected at the time of warrant execution and whether persons with no connection to the suspected activity may be present (CPL § 690.15).

#### Warrant Management System Procedure

#### Intra-Departmental Memo: Warrant Types - Execution/Processing Procedures

##### **607.6 DUE DILIGENCE**

Officers should exercise due diligence in serving a warrant. This includes making timely and reasonable efforts to locate a suspect (e.g., conducting neighborhood checks, examining previous criminal or field contact records) and attempt service. If service is not initially successful, officers should continue to undertake reasonable efforts to locate the suspect and conduct reasonable additional attempts of service at varying times and days.

The date, time, and circumstances of each attempt to locate the suspect and/or serve the warrant shall be documented.

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

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

- (a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution

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of a search warrant. The images should include the surrounding area and persons present (see Unmanned Aerial System policy).

- (b) The warrant service may be audio- and video-recorded.
- (c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.
- (d) Reasonable efforts are made during the search to minimize damage to the location.
- (e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.
- (f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).
- (g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.
- (h) A copy of the search warrant shall be shown to the property owner upon request.
- (i) The condition of the property is documented with video recording or photographs after the search.

#### **607.8 NO-KNOCK ENTRIES**

No-knock entries are only authorized if a no-knock warrant has been obtained or if exigent circumstances arise at the scene such that knocking and announcing the officer's presence would create an imminent threat of physical violence to the officer or another person.

#### **607.9 DETENTIONS DURING WARRANT SERVICE**

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

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

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

#### **607.10 ACTIONS AFTER WARRANT SERVICE**

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



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

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

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

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

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

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

##### **607.12 MEDIA ACCESS**

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

##### **607.13 DOCUMENTATION**

Documentation related to the service of a warrant shall be maintained in accordance with the established records retention schedule.

##### **607.14 TRAINING**

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



# Operations Planning and Deconfliction

## 608.1 PURPOSE AND SCOPE

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

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

### 608.1.1 DEFINITIONS

Definitions related to this policy include:

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

## 608.2 POLICY

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

## 608.3 INCIDENT COMMANDER

The Chief of Police will designate members of this department to be the incident commander.

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

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

## 608.4 RISK ASSESSMENT

### 608.4.1 RISK ASSESSMENT FORM PREPARATION

Officers assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk matrix.

When preparing the matrix, the officer should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems (such as SAFETnet), firearm records, commercial databases and property records. Where appropriate, the officer should also submit information to these resources.

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

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- (a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.
- (b) Maps of the location.
- (c) Diagrams of any property and the interior of any buildings that are involved, if available.
- (d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).
- (e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).
- (f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).
- (g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).
- (h) Other available options that may minimize the risk to officers and others (e.g., making an off-site arrest or detention of the subject of investigation).
- (i) If the operation is for a high-risk warrant service, the officer will enter the address of where the warrant is to be served into the Secure Automated Fast Event Tracking Network (SAFETNet), a statewide deconfliction mapping application, via the FLDTF members.

#### 608.4.2 RISK ASSESSMENT REVIEW

Officers will present the risk assessment matrix and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the Incident Commander.

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

#### [Risk Assessment Matrix](#)

#### 608.4.3 HIGH-RISK OPERATIONS

If the Incident Commander, after consultation with the involved supervisor, determines that the operation is high risk, the Incident Commander should:

- (a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:
  - (a) Emergency Response Team (ERT)
  - (b) Additional personnel

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- (c) Outside agency assistance
- (d) Special equipment
- (e) Medical personnel
- (f) Persons trained in negotiation
- (g) Additional surveillance
- (h) Canines
- (i) Identification Bureau or analytical personnel to assist with cataloguing seizures
- (j) Forensic specialists
- (k) Specialized mapping for larger or complex locations
- (b) Contact the appropriate department members or other agencies as warranted to begin preparation.
- (c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.
- (d) Delegate to ERT/other specialized units when needed.

#### 608.4.4 PRE-PLANNED EVENT (I.E. WARRANT SERVICE)

- (a) The person requesting ERT support will complete a written pre-printed "Threat Matrix" which will be stored with the case file. The purpose of the Threat Matrix is to make an initial determination, using pre-established risk factors, as to whether tactical support is appropriate.
- (b) The ERT commander, or his designee, will be notified first.
- (c) If the determination is made to call in team members, the ERT commander, or his designee, will request the dispatcher to contact team personnel through the established protocol.

#### 608.4.5 RESPONSIBILITIES OF THE INVESTIGATIVE OFFICERS

Upon the stabilization of the incident, a detective(s) or officers will attempt to ascertain the following information:

- (a) Floor diagrams
- (b) Diagrams of neighboring areas, buildings or apartments as needed.
- (c) Suspect(s) identification, physical description and personal history.
- (d) Hostage(s) identification, physical description and relation to suspect(s), if any.
- (e) Attempt to locate persons who may be familiar with the suspect(s) and witnesses to the incident
- (f) Reason for the incident

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##### **608.5 DECONFLICTION**

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

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

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

##### **608.6 OPERATIONS PLAN**

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

The plan should address such issues as:

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

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1. When appropriate, an adequate number of uniformed officers should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.
  2. How all participants will be identified as law enforcement.
- (e) Whether deconfliction submissions are current and all involved individuals, groups and locations have been deconflicted to the extent reasonably practicable.
  - (f) Identification of all communications channels and call-signs.
  - (g) Use of force issues.
  - (h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).
  - (i) Plans for detaining people who are not under arrest.
  - (j) Contingencies for handling children, dependent adults, animals and other people who might be at the location in accordance with the Child Abuse, Adult Abuse, Child and Dependent Adult Safety and Animal Control policies.
  - (k) Communications plan.
  - (l) Responsibilities for writing, collecting, reviewing and approving reports.

#### [Auburn ERT Standard Operating Procedure Manual](#)

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

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

##### **608.7 OPERATIONS BRIEFING**

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

- (a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.
- (b) All participants should have access to review a copy of the operations plan and search warrant, if applicable. Any items to be seized should be identified at the briefing.
- (c) The Incident Commander shall ensure that all participants are visually identifiable as law enforcement officers.
  1. Exceptions may be made by the Incident Commander for officers who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.

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- (d) The briefing should include details of the communications plan.
  - (a) It is the responsibility of the Incident Commander to ensure that Dispatch and the on-duty patrol supervisor is notified of the time and location of the operation.
  - (b) The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

#### **608.8 ERT PARTICIPATION**

If the Incident Commander determines that ERT participation is appropriate, the Incident Commander and the ERT supervisor shall work together to develop a written plan. The ERT supervisor shall assume operational control until all persons at the scene are appropriately detained and it is safe to begin a search. When this occurs, the ERT supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the officers present.

#### **608.9 MEDIA ACCESS**

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

#### **608.10 OPERATIONS DEBRIEFING**

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

#### **608.11 TRAINING**

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

## **Chapter 7 - Equipment**

## Department-Owned and Personal Property

### 700.1 PURPOSE AND SCOPE

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

### 700.2 POLICY

Members of the Auburn Police Department shall properly care for department property assigned or entrusted to them. Department-owned property that becomes damaged shall be promptly replaced. Members' personal property that becomes damaged during the performance of assigned duties will be reimbursed in accordance with this policy.

### 700.3 DEPARTMENT-ISSUED PROPERTY

The Chief of Police shall approve all authorized department property and may delegate responsibility for the issuance, management and accountability for department property to the respective Commander.

All property and equipment issued by the Department shall be documented in the appropriate issued property sheet. Receipt of issued items shall be acknowledged by the receiving member's signature. Upon separation from the Department, all issued property and equipment shall be returned. Documentation of the return shall be acknowledged by the signature of a supervisor.

[Issued Uniform Equipment Receipt](#)

[ERT Issued Equipment Form](#)

[ET Equipment Issue Form](#)

#### 700.3.1 CARE OF PROPERTY

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

Intentional or negligent abuse or misuse of department property may lead to discipline including, but not limited to, the cost of repair or replacement.

- (a) Members shall promptly report, through their chain of command, any loss, damage to, or unserviceable condition of any department-issued property or equipment.
  - 1. A supervisor receiving such a report shall conduct an investigation and direct a memo to the appropriate Commander, which shall include the result of the investigation and whether misconduct or negligence caused the loss, damage or unserviceable condition.
  - 2. A review by command staff should determine whether additional action is appropriate.



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- (b) The use of damaged or unserviceable property should be discontinued as soon as practicable, and the item replaced with a comparable item as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or otherwise reasonable by circumstances, department property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Department property shall not be thrown away, sold, traded, donated, destroyed or otherwise disposed of without proper authority. The City of Auburn Procurement Policy will be followed
- (e) A supervisor's approval is required before any attempt to repair damaged or unserviceable property is made by a member.

#### [2020 Procurement Policy](#)

##### 700.3.2 LOANED EQUIPMENT

Police equipment will not be loaned to any individual, organization, or agency without the permission of the Chief of Police or acting Chief of Police. The Officer in Charge may authorize lending of equipment to another law enforcement agency in emergency situations.

Receipts will be obtained for all police equipment which is loaned to any police agency, civilian agency, or private individual.

#### **700.4 PERSONAL PROPERTY**

##### 700.4.1 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage to, or loss of, personal property must be made on the proper form. This form is submitted to the member's immediate supervisor. The supervisor may require a separate written report.

The supervisor receiving such a report shall investigate, and after a finding that no misconduct was involved, repair or replacement may be recommended by the Chief of Police, who will then forward the claim to the City department responsible for issuing payments.

#### [Replacement of Damaged Uniforms and Personal Items Procedure](#)

#### [Damaged Property Reimbursement Request Memo](#)

##### **700.5 DAMAGE TO PROPERTY OF ANOTHER PERSON**

Anyone who intentionally or unintentionally damages or causes to be damaged the real or personal property of another person while performing any law enforcement function shall promptly report the damage through his/her chain of command.

The supervisor receiving such a report shall investigate, and after a finding that no misconduct was involved, repair or replacement may be recommended by the Chief of Police, who will then forward the claim to the City department responsible for issuing payments.

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#### *Department-Owned and Personal Property*

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

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

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

The supervisor receiving such a report shall conduct an investigation and direct a memo to the appropriate Commander, which shall include the result of the investigation and whether misconduct or negligence caused the loss, damage or unserviceable condition.

## Personal Communication Devices

### 701.1 PURPOSE AND SCOPE

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

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

### 701.2 POLICY

The Auburn Police Department allows members to utilize department-issued PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations.

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

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

### 701.3 PRIVACY EXPECTATION

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

Members need to be cognizant that when using department issued cell phones (text messages), instant messaging (IM) systems, email systems or any other departmental computer systems used to message, chat or otherwise communicate with others concerning the details of a specific case, these communications may be subject to Rosario and Brady rules and should be copied and made a part of the original case file which would later be subject to disclosure as would any case notes that are taken as part of your investigation.

### 701.4 DEPARTMENT-ISSUED PCD

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue a PCD for the member's use to facilitate on-duty performance. Department-issued PCDs may not be used for personal business either on- or off-duty unless authorized by the Chief of Police or the authorized designee. Such devices and the associated telephone number, if any,

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shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

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

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

- (a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.
- (b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) The PCD and any associated services shall be purchased, used and maintained solely at the member's expense.
- (d) The device may be used for work-related purposes in exigent circumstances only. Members will have a reduced expectation of privacy when using a personally owned PCD in the workplace.
- (e) The device may be utilized to record photographs, video or audio in exigent circumstances.
- (f) The transmittal or disclosure of departmental business shall not be made without the approval of the appropriate supervisor.
- (g) Use of a personally owned PCD for work-related business constitutes consent for the Department to access the PCD to access and copy data to meet the needs of the Department, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Department with the telephone number of the device.
- (h) All work-related documents, photographs, recordings or other public records created or received on a member's personally owned PCD should be transferred to the Auburn Police Department and deleted from the member's PCD as soon as reasonably practicable.

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

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

- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.
- (b) All PCDs in the workplace shall be set to silent or vibrate mode.
- (c) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.

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- (d) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.
- (e) Members are prohibited from taking pictures, audio or video recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or the authorized designee, may result in discipline.
- (f) Members will not access social networking sites for any purpose that is not official department business.
- (g) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

#### **701.7 SUPERVISOR RESPONSIBILITIES**

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

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

#### **701.8 OFFICIAL USE**

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted.

#### **701.9 USE WHILE DRIVING**

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD (Vehicle and Traffic Law § 1225).

# Vehicle Maintenance

## 702.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that department vehicles are appropriately maintained.

## 702.2 POLICY

The Auburn Police Department will service department vehicles to ensure they remain operational and maintain their appearance, as resources allow.

## 702.3 GENERAL DUTIES

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

## 702.4 DEFECTIVE VEHICLES

When a vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service. Proper documentation shall be promptly completed by the member who becomes aware of the defective condition and forwarded for action.

Documents describing the correction of the safety issue shall be promptly filed with the vehicle history.

### 702.4.1 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

### 702.4.2 SEVERE USE

Vehicles operated under severe-use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

### 702.4.3 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle and properly secured in the department armory prior to the vehicle being released for maintenance, service or repair.

## 702.5 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles.

### 702.5.1 PATROL (MARKED/UNMARKED) VEHICLES

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

- 12 emergency road flares
- 1 roll crime scene barricade tape

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- 1 first-aid kit
- 1 blanket
- 1 fire extinguisher
- Universal Precaution Kit
- Spare tire, jack and lug wrench
- Active Shooter Level IV Response Kit (helmet, vest)
- Tire deflation systems (all beat cars)

#### **702.5.2 ASSIGNED / TAKE-HOME UNMARKED VEHICLES**

Members driving unmarked department vehicles shall ensure that the following equipment, at a minimum, is in the vehicle:

- 12 emergency road flares
- 1 roll crime scene barricade tape
- 1 first-aid kit
- 1 blanket
- 1 fire extinguisher
- Universal Precaution Kit
- Spare tire, jack and lug wrench
- Active Shooter Level IV Response Kit (helmet, vest)

#### **702.6 VEHICLE REFUELING**

Absent emergency conditions or supervisor approval, patrol vehicles shall not be placed into service with less than one-quarter tank of fuel. Patrol vehicles should not be retired at the end of shift with less than one-quarter tank of fuel. Vehicles shall only be refueled at the authorized location. The midnight shift has primary responsibility to ensure that the vehicles are refueled on a daily basis, however, this does not preclude any other officer from ensuring their vehicle does not fall below a quarter tank of gas.

Assigned / take-home unmarked vehicles shall not fall below a quarter tank of gas.

#### **702.7 WASHING OF VEHICLES**

Vehicles shall be kept clean at all times and, weather conditions permitting, shall be washed as necessary to maintain the professional appearance of the Department. The afternoon shift has primary responsibility to ensure that the vehicles are washed on a daily basis, however, this does not preclude any other officer from ensuring their vehicle is cleaned, when necessary.

Assigned / take-home unmarked vehicles shall be washed, at a minimum, once per week.

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Members using a vehicle shall remove any trash or debris at the end of their shifts. Confidential material should be placed in a designated receptacle that has been provided for shredding this material.

#### **702.8 VEHICLE MAINTENANCE CHECKS**

The day shift has primary responsibility to ensure their assigned vehicles are transported to the City garage for routine maintenance checks, between the hours of 700 AM- 300 PM, Monday through Friday.

Assigned / take-home unmarked vehicles shall be transported to the City garage for routine maintenance checks, at a minimum, once per month.

#### **702.9 DECONTAMINATION OF BLOOD/URINE**

##### [Decontamination of Blood/Urine Procedure](#)

#### **702.10 VEHICLE INSPECTIONS**

##### **702.10.1 DAILY INSPECTION**

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate. Members are responsible for replenishing any used or missing items (refer to 702.5.1 - Patrol Vehicles section).

The interior of any vehicle that has been used to transport any person other than a member of this department should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

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

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

##### **702.10.2 QUARTERLY INSPECTIONS**

The midnight supervisors shall be responsible for inspection of all patrol vehicles on a quarterly basis. This shall include the interior and exterior of all vehicles in the patrol fleet. Any previously unreported damage, missing equipment/supplies, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to the Traffic Sergeant in a written quarterly report. The written reports will be submitted to the Traffic Sergeant during the first week of the following months utilizing the quarterly checklist report: January, April, July, October.



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##### 702.10.3 CAR SHEETS

A twenty-four hour inspection sheet will be completed on all patrol vehicles whenever the vehicle is placed into service, regardless of the length of time. Supervisors will sign off on all car sheets generated by the prior shift or passed on from the prior shift.

## Vehicle Use

### 703.1 PURPOSE AND SCOPE

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

### 703.2 POLICY

The Auburn Police Department provides vehicles for department-related business and may assign patrol and unmarked vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments and other considerations. Vehicles assigned to general patrol duties should be equipped with emergency lighting and a siren and be conspicuously marked with the department name.

### 703.3 USE OF VEHICLES

#### 703.3.1 SHIFT ASSIGNED VEHICLES

The Shift Commander shall ensure a copy of the shift assignment roster, indicating member assignments and vehicle numbers, is completed for each shift and retained in accordance with the established records retention schedule. If a member exchanges vehicles during his/her shift, the new vehicle number shall be documented on the roster.

#### 703.3.2 OTHER USE OF VEHICLES

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

This subsection does not apply to those who are assigned to transport vehicles to and from the maintenance facility or car wash.

#### 703.3.3 INSPECTIONS

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

The interior of any vehicle that has been used to transport any person other than a member of this department should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

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

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

##### 703.3.4 SECURITY AND UNATTENDED VEHICLES

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

Idling of a police vehicle under any circumstance (including during inclement weather), is prohibited, unless the vehicle is within the department parking lot, the situation is deemed appropriate and necessary, and the vehicle can be properly locked/secured.

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

##### 703.3.5 MDT

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

##### 703.3.6 VEHICLE LOCATION SYSTEM

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

Members shall not make any unauthorized modifications to the system. At the start of each shift, members shall verify that the system is on and report any malfunctions to their supervisor. If the member finds that system is not functioning properly at any time during the shift he/she should exchange the vehicle for one with a working system, if available.

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

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

##### 703.3.7 KEYS

Members shall not duplicate keys. The loss of a key shall be promptly reported in writing through the member's chain of command.

Members will not take the extra set of keys unless given expressed consent from a supervisor.

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##### **703.3.8 AUTHORIZED PASSENGERS**

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

##### **703.3.9 ALCOHOL**

The City of Auburn and the City of Auburn Police Department recognize that the use of alcohol is legal when used off the job and in a manner that cannot affect job performance. Alcohol misuse consists of a violation of the following requirements:

- (a) No employee shall report for duty or remain on duty while having a blood alcohol concentration of 0.02/grams of alcohol per 100 milliliters of blood or greater. Exceptions to remaining on duty with an alcohol concentration of 0.02/grams per 100 milliliters of blood or greater may be made only on a case by case basis by their immediate supervisor for law enforcement officer's engaged in officially sanctioned undercover operations.
- (b) Under no circumstances will such law enforcement officer be allowed to operate a City of Auburn vehicle in violation of New York State driving while intoxicated or driving while ability impaired laws.
- (c) No employee required to take a post-accident alcohol test shall consume any alcohol until the employee undergoes a post-accident alcohol test.

##### **703.3.10 PARKING**

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

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

##### **703.3.11 ACCESSORIES AND/OR MODIFICATIONS**

There shall be no modifications, additions or removal of any equipment or accessories without written permission from the assigned vehicle program manager.

##### **703.3.12 CIVILIAN MEMBER USE**

Civilian members using marked emergency vehicles shall ensure that all weapons have been removed before going in for service by advising a sworn member that a weapon still exists in the vehicle and asking for its prompt removal so the civilian member can utilize the vehicle.. Civilian members shall not operate the emergency lights or siren of any vehicle.

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

Department vehicles may be assigned to individual members at the discretion of the Chief of Police. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

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

##### 703.4.1 ON-DUTY USE

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

##### 703.4.2 UNSCHEDULED TAKE-HOME USE

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

- (a) The circumstances are unplanned and were created by the needs of the department.
- (b) Other reasonable transportation options are not available.
- (c) The member lives within a reasonable distance (generally not to exceed a 60-minute drive time) of the Auburn City limits.
- (d) Off-street parking will be available at the member's residence.
- (e) The vehicle will be locked when not attended.
- (f) All firearms, weapons and control devices will be removed from the interior of the vehicle and properly secured in the residence when the vehicle is not attended, unless the vehicle is parked in a locked garage.

##### 703.4.3 ASSIGNED VEHICLES

Assignment of take-home vehicles shall be based on the location of the member's residence; the nature of the member's duties, job description and essential functions; and the member's employment or appointment status. Residence in the City of Auburn is a prime consideration for assignment of a take-home vehicle. Members who reside outside the City of Auburn may be required to secure the vehicle at a designated location or the Department at the discretion of the Chief of Police.

Members are cautioned that under federal and local tax rules, personal use of a City vehicle may create an income tax liability for the member. Questions regarding tax rules should be directed to the member's tax adviser.

Criteria for use of take-home vehicles include the following:

- (a) Vehicles shall only be used for work-related purposes and shall not be used for personal errands or transports, unless special circumstances exist and the Chief of Police or a Commander gives authorization.
- (b) Vehicles may be used to transport the member to and from the member's residence for work-related purposes.

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- (c) Vehicles will not be used when off-duty except:
  - 1. In circumstances when a member has been placed on call by the Chief of Police or Commanders and there is a high probability that the member will be called back to duty.
  - 2. When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or travelling to or from a work-related activity or function.
  - 3. When the member has received permission from the Chief of Police or Commanders.
  - 4. When the vehicle is being used by the Chief of Police, Commanders or members who are in on-call administrative positions.
  - 5. When the vehicle is being used by on-call investigators.
- (d) While operating the vehicle, authorized members will carry and have accessible their duty firearms and be prepared to perform any function they would be expected to perform while on-duty.
- (e) The two-way communications radio, MDT and global positioning satellite device, if equipped, must be on and set to an audible volume when the vehicle is in operation.
- (f) Unattended vehicles are to be locked and secured at all times.
  - 1. No key should be left in the vehicle while on scene, except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety).
    - (a) Idling of a police vehicle under any circumstance (including during inclement weather), is prohibited, unless the vehicle is within the department parking lot, the situation is deemed appropriate and necessary, and the vehicle can be properly locked/secured.
  - 2. All weapons shall be secured while the vehicle is unattended.
  - 3. All department identification, portable radios and equipment should be secured.
- (g) Vehicles are to be parked off-street at the member's residence unless prior arrangements have been made with the Chief of Police or the authorized designee. If the vehicle is not secured inside a locked garage, all firearms and kinetic impact weapons shall be removed and properly secured in the residence (see the Firearms Policy regarding safe storage of firearms at home).
- (h) Vehicles are to be secured at the member's residence or the appropriate department facility when a member will be away (e.g., on vacation).
  - 1. For periods exceeding one week, the vehicle will be left at the department parking lot and keys to the vehicle left at the command center for access.
- (i) The member is responsible for the care and maintenance of the vehicle.

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

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

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

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

##### **703.4.5 MAINTENANCE**

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

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

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

Unmarked vehicles are assigned to various bureaus and their use is restricted to the respective bureau and the assigned member, unless otherwise approved by a supervisor. Any member operating an unmarked vehicle shall record vehicle usage on the sign-out log maintained in the bureau for that purpose. Any use of unmarked vehicles by those who are not assigned to the

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bureau to which the vehicle is assigned shall also be recorded with the Shift Commander on the shift assignment roster.

#### **703.6 SPECIAL PURPOSE VEHICLES**

The Patrol Commander or the authorized designee shall ensure that procedures are established governing the use of all special purpose vehicles. Special purpose vehicles may include, but are not limited to, vehicles used for:

- Emergency Response Team
- Mobile Command
- Evidence Technician Van
- Bomb disposal
- All terrain or off-road access
- Aircraft
- Watercraft

The procedures document should minimally include, for each vehicle:

- A statement of the objectives of the vehicle's operation or usage
- The purpose of use
- Who may authorize use
- Operation instructions
- Conditions for use
- Limitations on use
- Operator qualification and training
- A list of authorized operators
- Who is responsible for the condition and maintenance
- An inventory of equipment required
- Operational readiness inspection intervals

#### [Department Use of ERT Vehicles](#)

#### [Department Use of Evidence Technician Vehicles](#)

#### **703.7 DAMAGE, ABUSE AND MISUSE**

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



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

#### **703.8 TOLL ROAD USAGE**

Law enforcement vehicles are not routinely exempt from incurring toll road charges.

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

- (a) Members operating department vehicles for any reason other than in response to an emergency shall pay the appropriate toll charge or utilize the appropriate toll way transponder (E-Z pass). Members may submit for reimbursement from the City for any toll fees incurred in the course of official business.
- (b) Members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Commander within five working days explaining the circumstances.

# Cash Handling, Security and Fiscal Management

## 704.1 PURPOSE AND SCOPE

This policy provides guidelines for the overall fiscal management of the Department and to ensure department members handle cash appropriately in the performance of their duties.

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

## 704.2 POLICY

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

## 704.3 FISCAL MANAGEMENT

### 704.3.1 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police is responsible for directing and managing fiscal issues for the agency, hereafter referred to as the fiscal manager, including managing the department budget; overseeing revenues, disbursements and balances of accounts; and conducting and/or directing regular and unscheduled audits. The fiscal manager is the Chief of Police and works in direct coordination with the City of Auburn's Comptroller Office as well as the Treasurer's Office.

### 704.3.2 FISCAL MANAGEMENT SYSTEM

The department's fiscal management system tracks all budget lines for all accounts and finances of the agency, including confidential funds. The Secretary to the Chief of Police, as well as the Comptroller's Office will ensure that the following reports are prepared on a monthly basis in order to provide the Chief of Police with the fiscal status of the agency at any time:

- (a) Initial appropriations for accounts and programs
- (b) Balances at the beginning of each period
- (c) Expenditures and encumbrances during the period
- (d) Unencumbered balances

## 704.4 PETTY CASH FUNDS

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

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

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##### **704.5 PETTY CASH TRANSACTIONS**

The fund manager shall document all transactions on the ledger and any other appropriate forms. Transactions should include the filing of an appropriate receipt, invoice or cash transfer form. Transactions that are not documented by a receipt, invoice or cash transfer form require an expense report.

##### **Control of Change Funds or Cash Boxes**

The fiscal/fund manager should keep a record of the amount in each change fund and its location. Signed receipts should be on file from the fund custodians. Periodic physical counts should be made of the change funds by the fiscal/fund manager. Cashing of personal checks from change funds are not permitted. The amount of each change fund should remain constant and be withheld at the close of each week from the total cash in the register or cash drawer and used as the fund with which to begin the following week. The remaining cash is reconciled in as representing the current week's receipts. Cash receipts should not be retained with the change fund after the close of the business on Friday.

##### **Control of Petty Cash**

Ordinarily, petty cash is maintained on an imprest basis; i.e., the cash is replenished for the exact amount of the expenditures reported. Caution should be exercised to ensure that the amount of cash on hand is consistent with the needs for which it was created. Periodically, the necessity for the cash and the amount thereof should be reevaluated by someone other than the custodian.

All disbursements from non-bank petty cash should be supported by invoices that are properly approved and dated. These should be examined and canceled when the cash is reimbursed. This reimbursement should be frequent and the distribution of the charges clearly shown on the voucher submitted for reimbursement.

Periodic physical counts should be made of the cash by someone other than the custodian of the fund. The cashing of personal checks from non-bank petty cash is not permitted.

##### [Petty Cash Procedure](#)

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

Members who handle cash as part of their regular duties (e.g., identification Officers, the Finger Lakes Drug Task Force supervisor, records bureau staff, those who accept payment for department services) will discharge those duties in accordance with the procedures established for those tasks (see the Identification Bureau and Informants policies).

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

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

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Cash in excess of \$1,000 requires immediate notification of a supervisor, special handling, verification and accounting by the supervisor. Each member involved in this process shall complete an appropriate report or record entry.

#### **704.8 AUDITS**

Each Commander shall monitor fiscal activities and the budget related to their area of responsibility using a procedure and forms approved by the fiscal manager. Internal control procedures shall be established and shall include evaluation of staff members' fiscal management functions. Any discrepancies shall be immediately reported to the fiscal manager and the Chief of Police.

The fiscal manager shall ensure that an annual independent audit is conducted of the accounts and finances of the Department. All department funds shall be open for inspection and audit by auditors at any time. Members of the Department shall cooperate fully and provide assistance in support of any audit.

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

Audits shall include a review of procedures in place to manage the funds.

##### **704.8.1 PETTY CASH AUDITS**

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

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

#### **704.9 INVENTORY CONTROL OF PROPERTY, EQUIPMENT AND OTHER ASSETS**

Members overseeing a fiscal responsibility for the acquisition, management or distribution of any capital or major items of equipment; the issue of any equipment and supplies; or the assignment of control numbers and proper markings are responsible for compliance with inventory control procedures. Such members are also responsible for ensuring:

- (a) Required inventory verification in compliance with a process authorized by the fiscal manager.
- (b) Appropriate documentation in compliance with a process authorized by the fiscal manager and inclusion in inventory of items purchased or obtained for use by the Department.
- (c) Appropriate documentation and deletion from inventory of items properly authorized for disposal by the fiscal manager or the Chief of Police.

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- (d) Reporting and disposition of damaged, excess and surplus property in compliance with a process authorized by the fiscal manager.
- (e) Maintenance of complete records for all department property, equipment and other assets.

#### **704.10 PURCHASING**

All purchasing of department supplies and equipment will be in compliance with the City purchasing manual and in compliance with a process authorized by the fiscal manager.

Small-item or emergency purchases or rental of equipment during periods when normal purchasing procedures cannot be followed will be in compliance with a process authorized by the fiscal manager.

All purchases for the City made by an employee will require submission of a receipt and appropriate documentation necessary for reimbursement and will be in compliance with a process authorized by the fiscal manager.

[City of Auburn Purchasing Policy & Procedure of the Comptroller's Office](#)

#### **704.11 PROPERTY DISPOSAL**

The fiscal manager is responsible for prompt deposit of revenue from:

- (a) Property sold under court order with the clerk of the court issuing the order.
- (b) The sale of bicycles or other items of lost or found, or unclaimed non-evidentiary items into the appropriate funds.

# Personal Protective Equipment

## 705.1 PURPOSE AND SCOPE

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

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

### 705.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

## 705.2 POLICY

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

## 705.3 OFFICER RESPONSIBILITIES

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

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

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

## 705.4 HEARING PROTECTION

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

Hearing protection shall meet or exceed the requirements provided in 12 NYCRR § 800.3, Labor Law § 27-a and 29 CFR 1910.95.

## 705.5 EYE PROTECTION

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

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The Rangemaster shall ensure eye protection meets or exceeds the requirements provided in 12 NYCRR § 800.3, Labor Law § 27-a and 29 CFR 1910.95.

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

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

#### **705.7 RESPIRATORY PROTECTION**

The Training and Planning Administrator is responsible for ensuring a respiratory protection plan is developed and maintained by a trained and qualified member. The plan shall include procedures for (29 CFR 1910.134; 12 NYCRR § 800.3; Labor Law § 27-a):

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

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

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

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

Scene commanders are responsible for monitoring members using respiratory PPE and their degree of exposure or stress. When there is a change in work area conditions or when a member's degree of exposure or stress may affect respirator effectiveness, the scene commander shall reevaluate the continued effectiveness of the respirator and direct the member to leave the respirator use area when the scene commander reasonably believes (29 CFR 1910.134; 12 NYCRR § 800.3; Labor Law § 27-a):

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

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

#### **Respiratory Protection Procedure**

##### **705.7.2 MEMBER RESPONSIBILITIES FOR RESPIRATORY PROTECTION**

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

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

Members using respiratory PPE shall (29 CFR 1910.134; 12 NYCRR § 800.3; Labor Law § 27-a):

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

##### **705.7.3 GAS MASK**

Full-face air-purifying respirators, commonly referred to as gas masks, may be fitted with mechanical pre-filters or combination cartridge/filter assemblies for use in areas where gases, vapors, dusts, fumes or mists are present. Members must identify and use the correct cartridge based on the circumstances (29 CFR 1910.134; 12 NYCRR § 800.3; Labor Law § 27-a).

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

Members shall ensure their gas mask filters are replaced whenever:

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



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

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

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

The use of SCBA should not cease until approved by a scene commander.

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

No member shall be issued respiratory PPE until a proper fit testing has been completed by a designated member or contractor (29 CFR 1910.134; 12 NYCRR § 800.3; Labor Law § 27-a).

After initial testing, fit testing for respiratory PPE shall be repeated (29 CFR 1910.134; 12 NYCRR § 800.3; Labor Law § 27-a):

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

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

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

No member shall be issued respiratory protection that forms a complete seal around the face until (29 CFR 1910.134; 12 NYCRR § 800.3; Labor Law § 27-a):

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

##### **705.8 RECORDS**

The Training and Planning Administrator is responsible for maintaining records of all:

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

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

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

The records shall be maintained in accordance with the department records retention schedule, 29 CFR 1910.1020, 12 NYCRR § 800.3 and Labor Law § 27-a.

#### **705.9 TRAINING**

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

All members shall be trained in the proper use and maintenance of PPE issued to them, including when the use is appropriate; how to put on, remove and adjust PPE; how to care for the PPE; and the limitations (29 CFR 1910.132; 12 NYCRR § 800.3; Labor Law § 27-a).

Members issued respiratory PPE shall attend annual training on the proper use of respiratory protection devices (29 CFR 1910.134; 12 NYCRR § 800.3; Labor Law § 27-a).

## **Chapter 8 - Support Services**

## Crime Analysis

### 800.1 PURPOSE AND SCOPE

This policy provides guidelines for utilizing crime analysis to support the overall law enforcement efforts of the Auburn Police Department. It addresses the collection and dissemination of crime analysis data that is useful to long-range planning and that can assist in identifying enforcement priorities, strategies and tactics.

### 800.2 POLICY

It is the policy of the Auburn Police Department to utilize crime analysis as a tool in crime control and prevention efforts. This entails gathering, analyzing and correlating data to effectively deploy the resources of this department.

Members are responsible for knowing and sharing with the community the crime prevention role and community relations objectives of the Department as well as the department's crime prevention activities.

### 800.3 DATA SOURCES

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

- Crime reports.
- Field Interview Spillman entry.
- Parole and probation records.
- Activity records from Dispatch.
- New York State Division of Criminal Justice Services' Regional Crime Analysis Centers

### 800.4 CRIME ANALYSIS FACTORS

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

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

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##### **800.5 CRIME ANALYSIS DISSEMINATION**

Information developed through crime analysis should be disseminated to the appropriate bureaus or members on a timely basis. Information that is relevant to the operational or tactical plans of specific line members should be sent directly to them. Information relevant to the development of department strategic plans should be provided to the appropriate command staff members.

Members are encouraged to utilize the CNY Crime Analysis Center for crime analysis needs, including LEO bulletins and mass distribution. Members should only share information with, and disseminate information from, the Regional Crime Analysis Center pursuant to the terms of the Crime Analysis Center sharing agreement (below).

[Central New York Crime Analysis Center MOU DCJS Auburn City PD Info Sharing 8-5-20](#)

[DCJS / Onondaga Crime Analysis Center MOU 2008](#)

[Onondaga Crime Analysis Center MOU renewal no expiration 2018](#)

When information pertains to tactical and strategic plans, it should be provided to all affected members.

## Cayuga County 911 Center

### **801.1 PURPOSE AND SCOPE**

This policy establishes guidelines for the communication between the Auburn Police Department and the Cayuga County 911 Center.

### **801.2 POLICY**

It is the policy of the Auburn Police Department to provide 24-hour telephone service to the public for information and for routine or emergency assistance through the Cayuga County 911 Center. The Department provides two-way radio capability for continuous communication between the Cayuga County 911 Center and the Auburn Police Department.

The Auburn Police Department will follow all applicable policies and procedures of the Cayuga County 911 Center. If any member of the Auburn Police Department needs to contact the 911 Center in the event radio communication is unavailable, members of this department can reach the 911 Center utilizing (315) 253-3231 or (315) 253-1629.

# Identification Bureau

## 802.1 PURPOSE AND SCOPE

This policy provides guidelines for the proper processing, storage, security and disposition of evidence and other property. This policy also provides for the protection of the chain of custody and identifies those persons authorized to remove and/or destroy property.

### 802.1.1 DEFINITIONS

Definitions related to this policy include:

**Property** - All articles placed in secure storage within the Identification Bureau, including the following:

- Evidence - Items taken or recovered in the course of an investigation that may be used in the prosecution of a case, including photographs and latent fingerprints.
- Found property - Items found by members of the Department or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.
- Safekeeping - Items received by the Department for safekeeping, such as a firearm, the personal property of an arrestee that has been not taken as evidence and items taken for safekeeping under authority of law.

**Property/Evidence Management System** - aka "BEAST"

## 802.2 POLICY

It is the policy of the Auburn Police Department to process and store all property in a manner that will protect it from loss, damage or contamination, while maintaining documentation that tracks the chain of custody, the location of property and its disposition.

## 802.3 IDENTIFICATION BUREAU SECURITY

The Identification Bureau shall maintain secure storage and control of all property in the custody of this department. A identification Officer shall be appointed by and will be directly responsible to the Detective Bureau Supervisor or the authorized designee. The identification Officer is responsible for the security of the Identification Bureau.

### 802.3.1 REFUSAL OF PROPERTY

The identification Officer has the obligation to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should the identification Officer refuse an item of property, he/she shall maintain secure custody of the item in a temporary property locker or other safe location and inform the submitting member's supervisor of the reason for refusal and the action required for acceptance into the Identification Bureau.

### 802.3.2 KEY CONTROL

Identification Bureau keys should be maintained by the identification Officer and members assigned to the Identification Bureau. An additional set of keys should be kept in an after-hours

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key box maintained by the Chief of Police. Identification Bureau keys shall not be loaned to anyone and shall be maintained in a secure manner. If a Identification Bureau key is lost, all access points shall be re-keyed and new keys issued as necessary. After-hours access to the Identification Bureau via the additional set of keys must be documented in a memorandum and submitted to the Detective Bureau Supervisor as soon as practicable.

#### 802.3.3 ACCESS

Only authorized members assigned to the Identification Bureau shall have access to property storage areas. Any individual who needs to enter a property storage area (e.g., maintenance or repair contractors) must be accompanied by a member of the Identification Bureau. The members entering said area will be tracked by a card reader where such systems are installed.

#### 802.4 PROPERTY HANDLING

The member who first comes into possession of any property is generally responsible for the care, custody and control of such property until it is transferred to the identification Officer and/or processed and placed in a temporary property locker or storage area. Care shall be taken to maintain the chain of custody for all items of evidence.

Whenever property is taken from an individual, an incident report will be completed and the individual will be advised how to retrieve said property. The property will be logged through the BEAST tracking system.

The evidence custodian or other person having access to the evidence room will remove all evidence from the evidence lockers on a regular basis and assign to a secure permanent storage location. The evidence custodian will ensure that an adequate supply of evidence packaging supplies and locker tokens are available.

#### [Digital Photography Procedure](#)

#### 802.4.1 PROCESSING AND PACKAGING

All property must be processed by the responsible member prior to the member going off-duty, unless otherwise approved by a supervisor. Members shall process and package property as follows:

- (a) A property entry shall be completed into the BEAST describing each item. List all known information, including:
  - (a) Department Incident number
  - (b) Investigating officer ID #
  - (c) Offense date, time & location
  - (d) Type of crime/offense
  - (e) Name of suspects/victims if known, addresses
  - (f) Item type/packaging/ description
  - (g) Collection date and time



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- (h) Collection Officer
  - (i) Purpose of collection (ie evidence, found property, safe keeping)
  - (j) Collection location
  - (k) Location of evidence being stored (ie locker number)
  - (l) Submitting officer ID, date & time
  - (m) The serial number.
  - (n) The owner's name.
  - (o) The finder's name.
  - (p) Other identifying information or markings.
- (b) All items shall be packaged and labeled and the package will be properly sealed and marked with the member's initials, ID # and date.
  - (c) Property shall be packaged in a container suitable for its size.
  - (d) A BEAST label will be printed and attached to the property or container in which the property is stored.
  - (e) When an arrest is made, the BEAST short form, will be submitted with the case report.
  - (f) Items too large to fit in a temporary property locker may be placed in a designated storage area that can be secured from unauthorized entry. The Identification Officer shall be notified of its location.

#### 802.4.2 EXCEPTIONAL PROCESSING

The following items require special consideration and shall be processed as follows, unless special conditions dictate a reasonable deviation:

**Bicycles** - Bicycles and bicycle frames shall have a property tag securely attached and should be placed in the bicycle storage area.

**Biological and related items** - Evidence that may contain biological samples shall be indicated as such in the BEAST.

Property stained with bodily fluids, such as blood or semen, shall be air-dried in a secure location (e.g., locked drying cabinet) prior to processing.

Items of evidence collected from a crime scene that require specific storage requirements pursuant to laboratory processing shall have such storage requirements clearly indicated in the BEAST.

Items that are potential biohazards shall be appropriately packaged and marked "Biohazard" to reduce the risk of exposure or contamination.

**Cash** - Cash shall be counted in the presence of another member. The cash shall be placed in a property envelope and initialed by both members. A supervisor shall be contacted for cash in excess of \$1,000. The supervisor shall witness the count, initial and date the envelope, and

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specify any additional security procedures that may be necessary. Cash shall be further secured in a safe or locked cabinet.

**Explosives and fireworks** - Explosives will not be retained in the police facility long term. Fireworks that are considered stable and safe, as well as road flares or similar signaling devices, may be stored in proper containers in an area designated for storage of flammable materials.

**Firearms and other weapons** - Firearms shall be unloaded and packaged separately from ammunition. Knife boxes should be used to package knives that are retained as evidence or can't be otherwise safely packaged. Firearms shall be further secured within the evidence room by means of a locked cabinet or a cable and lock.

**Government property** - License plates that have not been reported stolen or are of no evidentiary value should be placed in the designated container for return to the New York State Department of Motor Vehicles. No formal property processing is required.

City property that is of no evidentiary value should be released directly to the appropriate City department. No formal property processing is required.

If no responsible City personnel can be located, the property should be held for safekeeping.

**High value items** - Evidence or property reasonably believed to be of extraordinary value such as jewelry, precious gems and metals, artwork, historic artifacts, coins and stamps should be locked within a safe or cabinet within the property storage area.

**Sharps** - If collected, syringe tubes should be used to package syringes and needles and disposed of for proper destruction. Hypodermic needles seized as part of an arrest for PL 220.45 will be photographed prior to disposal. Hypodermic needles seized as part of a criminal investigation in which the items are to be held will be secured in a designated sharps container for storage.

**Wet Items** - items that are wet/damped will not be packaged in sealed plastic bags, and will instead be packaged in paper bags, sealed and placed in an Evidence storage locker

#### 802.4.3 CONTROLLED SUBSTANCES

- (a) Controlled substances will not be packaged with other property.
- (b) The member processing controlled substances shall retain such property in his/her possession until it is weighed, packaged, tagged and placed in the designated patrol evidence locker.
- (c) All drugs are to be placed in a clear evidence plastic bag of an appropriate size and sealed. Drugs collected/seized as part of a criminal investigation will be weighed and tested using TruNarc or the appropriate cannabis/field test kits prior to submission. In the event a drug is suspected of containing Fentanyl or tests positive for Fentanyl using TruNarc, a Fentanyl warning sticker will be affixed to the evidence bag and/or a notification will be made to the officer advising same.
- (d) Due to the inherent danger and hazards associated with Fentanyl-like compounds or substances in which the compound is unknown, an officer will not open any bag/container containing said drugs or substances. Drugs that result in an inconclusive

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TruNarc test, or those that test positive and further testing is needed, the officer will contact a member of the Finger Lakes Drug Task Force or Finger Lakes Drug Task Force Supervisor to request further testing.

- (e) Each type of drug evidence will be packaged separately and any containers which the drugs are found in will be packaged in a separate evidence container/bag. Drugs in original packaging (sandwich bags, micro bags, glassine envelopes) will not be opened and separated from the original packaging in which it is found (an exception would be cannabis or CBD oil or cannabis, which may be opened and a small sample removed for testing purposes). Loose/unpackaged drugs, including pills, will be placed in a clear plastic bag prior to being placed in an evidence bag.
- (f) Prior to packaging and if the quantity allows, a presumptive test may be conducted on all suspected controlled substances. If conducted, the result of the test shall be included in the crime report.
  - 1. The member shall package controlled substances as follows:
    - (a) Maintain the property in the container in which it was seized and place it in a property envelope of appropriate size.
    - (b) Seal and initial the property envelope and cover the initials with cellophane tape.
    - (c) Weigh the recovered evidence substance.
    - (d) Write the weight and then initial and date both the outside of the package and the property form.
- (g) When the quantity of controlled substances exceeds the available safe storage capacity as determined by the identification Officer, the quantity shall be photographed and weighed.
  - 1. A representative sample of sufficient quantity to allow scientific analysis of the controlled substances should be taken as allowed by state law and placed in a separate package or container.
  - 2. Excess quantities should be stored or disposed of as required by law or directed by court order.
  - 3. For cases involving the sale or possession of controlled substances, a qualitative and quantitative analysis, including weight, shall be performed within 45 days after receipt (CPL § 715.50).
- (h) Cannabis with any perceptible moisture content shall be loosely packaged in a container that allows for drying or shall be dried prior to storage. The identification Officer shall monitor stored cannabis for growth of mold.
- (i) All controlled substances shall be further secured in a safe, locked cabinet, or secondary secure storage.

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##### 802.4.4 TOUCH DNA EVIDENCE

- (a) Touch DNA analysis is available for all crimes; however cases involving homicide, attempted homicide, assault, sexual assault, robbery and criminal possession of a firearm will receive priority.
- (b) DNA analysis will generally only be completed for crimes not specifically listed above, when the evidence consists of item(s):
  - 1. containing suspected blood, seminal fluid or saliva OR
  - 2. were left at the crime scene by the perpetrator(s); typically hats, gloves, footwear, knives, pry bars, screwdrivers or similar items OR
  - 3. that are swabs from a point of entry other than from door knobs and doorways; generally, these will be forced entry points.
- (c) DNA swabs of items routinely handled by non-perpetrators (such as door knobs, dresser drawer knobs, jewelry boxes and cash registers) or swabs of finger smudges at the scene will no longer be accepted for DNA analysis without prior laboratory supervisory approval.
- (d) Elimination buccal samples from individuals with legitimate access to the items (victims/complainants/employees) are required before DNA analysis will be conducted on any item of touch DNA evidence.
- (e) For cases involving stolen vehicles, touch DNA will be considered if the following conditions are all met:
  - 1. a single swab is taken from the steering wheel
  - 2. elimination buccal samples from the vehicle owner/operator are included in the submission.
  - 3. The investigating officer will ensure and document the steering wheel has not been contaminated by first responders, tow truck drivers or other individuals who handled the steering wheel without wearing a new pair of latex gloves. Other samples can be collected from the vehicle (such as swabs from the shift lever, rear view mirror and seat adjustment lever); however only the steering wheel swab as noted above will be processed at this time.
- (f) Touch DNA analysis for other types of evidence will be considered on a case by case basis and will require laboratory supervisory approval before the case is accepted for analysis.
- (g) For further information, or to obtain laboratory supervisory approval, contact the ID Bureau

##### 802.4.5 BALLISTICS PROCESSING

The identification Officer shall coordinate with the Range Instructor for test-firing and ballistics information to be collected from seized and recovered firearms or ammunition when there is a reasonable belief they are associated with a crime, as well as abandoned or discarded firearms, and ammunition associated with an unlawful discharge of a firearm. The identification Officer

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should provide the Records Supervisor with enough information to meet reporting and data-sharing requirements required by Executive Law § 230.

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

Property will be logged in the same matter as evidence, into the BEAST, including the name of the person turning it in and the property owner if known. The member taking custody of the found property will make every effort to return the property to owner.

Property logged as safe keeping will be logged in the same manner into the BEAST. Property held as safe keeping will be the responsibility of the investigating officer to make every effort in returning said property to its rightful owner.

Found property and property held for safe keeping will be put into Locker # 68.

Items that are lawfully possessed and are not deemed illegal to possess by NYS Penal Law or any other local ordinance will be returned to the owner as soon as practicable and will only be collected as safe keeping if no other option is available.

Items that are lawfully possessed on a defendant who is under arrest will be returned to the defendant upon his release from police custody by the investigating/processing officer, unless special circumstances arise. In the event that circumstances prevent the return of said property, the investigating/arresting officer will make arrangements to have that property returned to the owner. When the defendant is transported to the Cayuga County Jail, the defendant's property will accompany him/her and be turned over to CCJ personnel. Any change to the location of property shall be noted in BEAST.

A unique property number shall be obtained for each item or group of items from the property log. This number shall be recorded on the property form, property tag, or barcoding label. The property log shall document the following:

- (a) Property (item) number
- (b) Case number
- (c) Property tag number
- (d) Item description
- (e) Item storage location
- (f) Receipt, release, and disposal dates

Any change in the location of property held by the Auburn Police Department shall be noted in the property log.

#### **802.6 PROPERTY CONTROL**

The identification Officer temporarily relinquishing custody of property to another person shall record on the Property/Evidence Management System his/her signature, the date and time the property was released, the name and signature of the person accepting custody of the property and the reason for release.

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Any member receiving property shall be responsible for such property until it is returned to the Identification Bureau or released to another authorized person or entity.

The return of the property to the Identification Bureau should be recorded on the Property/Evidence Management System, indicating the date, the time, the name and the signature of the person who returned the property and the name and signature of the person to whom the property was returned.

#### **802.6.1 EVIDENCE**

Every time evidence is released or received, an appropriate entry on the Property/Evidence Management System shall be completed to maintain the chain of custody. No evidence is to be released without first receiving written authorization from the Detective Bureau supervisor or investigator.

The temporary release of evidence to members for investigative purposes or for court proceedings shall be noted in the Property/Evidence Management System, stating the date, time and to whom it was released. Requests for items of evidence needed for court proceedings shall be submitted to the identification Officer at least one day prior to the court date.

Requests for laboratory analysis shall be completed on the appropriate lab form and submitted to the identification Officer. This request may be submitted any time after the property has been processed.

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

The identification Officer releasing items of evidence for laboratory analysis must complete the required information in the Property/Evidence Management System. Evidence will be delivered to the lab in person or through a designated carrier. All lab submission forms will be submitted with the evidence. Upon delivery of the item or items to the designated laboratory, the member will take a copy of the lab receipt from the lab. In the case of evidence shipped via common carrier, the lab receipt will be sent to the police department and retained. The original lab submission paperwork will be kept with the evidence and a copy will be retained by the police department.

#### **802.6.3 CONTROLLED SUBSTANCES**

The Detective Bureau will be responsible for the storage, control and destruction of all controlled substances coming into the custody of this department.

#### **802.6.4 UNCLAIMED MONEY**

The identification Officer shall submit an annual report, or more frequently as directed, regarding money that is presumed to have been abandoned to the Chief of Police and the City department responsible for auditing property. The identification Officer may deposit such money in compliance with existing laws upon receipt of proper authorization from the Chief of Police.

#### **802.7 RELEASE OF PROPERTY**

The Detective Bureau shall authorize the release of all property coming into the care and custody of the Department.



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When a request by a crime victim is made to return property owned by the victim or defendant, and that property is being held by the department as evidence, Identification Bureau members will notify the District Attorney's Office as soon as practicable requesting authorization for release of property, per Penal Law § 450.10.

Release of property will be documented in the BEAST and the owner of the property will sign a BEAST generated property return receipt. The property will be authorized for release by the investigating officer/detective or member of the District Attorney's Office. Release of all property shall be documented.

All reasonable attempts shall be made to identify the rightful owner of found property and items held for safekeeping.

Found property and property held for safekeeping shall be retained for the period of time required by law, and labeled as such in BEAST. During such period, Identification Bureau members shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. The final disposition of all such property shall be fully documented in the Property/Evidence Management System.

An officer shall release such property when the owner presents proper identification and an authorized property release form has been received. The signature of the person receiving the property shall be recorded in the Property/Evidence Management System.

When any property has been released, the Property Return Receipt shall be forwarded to the Records Bureau for filing with the case. Any property that is not released shall be documented in the BEAST.

#### 802.7.1 DISCREPANCIES

The Shift Commander shall be notified whenever a person alleges that there is a shortage or discrepancy regarding his/her property. The Shift Commander will interview the person claiming the shortage. The Shift Commander shall ensure that a search for the alleged missing items is completed and shall attempt to prove or disprove the claim.

#### 802.7.2 DISPUTED CLAIMS TO PROPERTY

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

All parties should be advised that their claims are civil. In extreme situations, legal counsel for this department should be contacted.

#### 802.7.3 RELEASE OF FIREARMS

Neither a firearm, ammunition, nor a license to carry concealed weapons or firearms may be released until it has been verified that the person receiving the firearm is not prohibited from receiving or possessing the firearm or ammunition under federal or state law (18 USC § 922(d)).

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##### **802.7.4 RELEASE OF PROHIBITED ITEMS IN EXTREME RISK PROTECTION ORDER MATTERS**

Prohibited items (e.g., firearms, shotguns, rifles) that were surrendered or seized pursuant to an extreme risk protection order or temporary extreme risk protection order should be released to the person or lawful owner upon court order (CPLR § 6343; CPLR § 6344).

The Department should release a prohibited item to a person upon demonstration that ownership has been legally transferred to the person and that he/she is permitted by federal and state law to own or possess the item.

##### **802.7.5 RELEASE OF WEAPONS, FIREARMS AND LICENSES IN FAMILY OFFENSE MATTERS**

Weapons, firearms, and licenses seized pursuant to CPL § 140.10 shall be returned to the lawful owner within 48 hours as long as there is no court order or pending criminal charge or conviction that would prevent the owner from possessing the firearm, weapon, or license, and upon a written finding that there is no legal impediment to the owner's possession as provided in CPL § 140.10.

#### **802.8 DESTRUCTION OR DISPOSAL OF PROPERTY**

An authorized Detective Bureau investigator or supervisor shall approve the destruction or disposal of all property held by this department.

All property not held for evidence in a pending criminal investigation or proceeding may be destroyed or disposed of in compliance with existing laws upon receipt of proper authorization from a supervisor. The disposition of all property shall be entered in the Property/Evidence Management System.

The following types of property shall be destroyed or disposed of in the manner and at the time prescribed by law, unless a different disposition is ordered by a court:

- Weapons or devices declared by law to be illegal to possess, including firearms or weapons declared a nuisance one year after its surrender to the Department (Penal Law § 400.05)
- Controlled substances declared by law to be illegal to possess without a legal prescription
- Unlawful fireworks (Penal Law § 405.05)
- Unauthorized recordings (Penal Law § 420.00)
- Stolen property (Penal Law § 450.10)
- Prohibited items from an extreme risk protection order after a minimum of two years after surrender or seizure unless otherwise released according to this policy (Penal Law § 400.05; CPLR § 6343; CPLR § 6344).
- Prohibited items from a family offense pursuant to CPL § 140.10 after a minimum of two years (CPL § 140.10; Penal Law § 400.05).

#### **Destruction of Drugs and Weapons Procedure**



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#### Unwanted Mediation Drop-Box Program Procedure

##### 802.8.1 BIOLOGICAL EVIDENCE

Biological evidence shall be retained for a minimum period established by law, the statute of limitations, or the expiration of any sentence imposed related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice, unless a motion seeking an order to retain the sample is filed and served on this department within 90 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Detective Bureau Supervisor.

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

Biological evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations. Even after expiration of the applicable statute of limitations, the Detective Bureau Supervisor should be consulted and the sexual assault victim should be notified.

##### 802.8.2 CANNABIS

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

##### 802.8.3 MEDICAL CANNABIS

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

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

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

##### 802.8.4 EVIDENCE FROM SEXUAL ASSAULT CASES

Evidence from a sexual assault case should not be disposed of prior to expiration of the statute of limitations or the storage period established by law, whichever time period is greater (Public Health Law § 2805-i).

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If the Auburn Police Department has possession of the sexual assault evidence, then the Identification Officer, or an assigned member, shall make a reasonable effort to notify the victim 90 days before the retention period is set to expire that (Executive Law § 838-b):

- (a) The evidence will be discarded in compliance with state and local health codes on a date set forth in the notice.
- (b) The victim's clothes and personal effects will be returned to the victim upon request.

#### **802.9 INSPECTION OF THE IDENTIFICATION BUREAU**

The Detective Bureau Supervisor shall ensure that periodic, unannounced inspections of the Identification Bureau operations and storage facilities are conducted to ensure adherence to appropriate policies and procedures. The Detective Bureau Supervisor also shall ensure that an audit is conducted annually, or as directed by the Chief of Police. Inspections and audits shall be conducted by a member of this department who is not routinely or directly connected with the Identification Bureau operations.

Whenever there is a change of assignment for any member with authorized access to the Identification Bureau, a sample audit shall be conducted by a person who is not associated with the Identification Bureau or its function. This is to ensure that all property is accounted for and the records are correct.

##### **802.9.1 STATE-SPECIFIC AUDIT AND INVENTORY REQUIREMENTS**

Audits shall minimally include five percent of the total Identification Bureau inventory or 50 items, whichever is less.

An inventory shall minimally include ten percent of the total Identification Bureau inventory or 100 items, whichever is less.

All audits and inventories in the Identification Bureau shall include a sampling of money, firearms, controlled substances and high-value items.

A report shall be completed identifying the items that were inventoried or audited.

##### **802.9.2 AUDIT AND INVENTORY MANAGEMENT**

The inventory and the audit shall not be conducted within four months of each other and should not include the same items unless the total available sample size dictates otherwise.

#### **802.10 DETECTIVE BUREAU SUPERVISOR RESPONSIBILITIES**

The Detective Bureau Supervisor is responsible for:

- (a) Ensuring reasonable access to qualified personnel, equipment and supplies for processing crime scenes.
- (b) Establishing procedures for collecting, processing and preserving physical evidence in the field.
- (c) Establishing procedures for photographing, video-recording and other imaging used to collect and preserve evidence.

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- (d) Establishing procedures for processing, developing, lifting and labeling fingerprints.
- (e) Establishing procedures for the safe collection, storage, transportation and submission of biological and other evidence for DNA testing and evaluation.

#### **802.11 TRAINING**

All members assigned the duties of a identification Officer shall successfully complete a course in Identification Bureau management within one year of being assigned such duties.

The Training and Planning Administrator is responsible for scheduling the training and maintaining records of the training.

## Records Bureau

### 803.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Auburn Police Department Records Bureau. The policy addresses department file access and internal requests for case reports.

### 803.2 POLICY

It is the policy of the Auburn Police Department to maintain department records securely, professionally and efficiently.

### 803.3 RESPONSIBILITIES

#### 803.3.1 RECORDS SUPERVISOR

The Chief of Police shall appoint and delegate certain responsibilities to a Records Supervisor. The Records Supervisor shall be directly responsible to the Administration Commander or the authorized designee.

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

- (a) Overseeing the efficient and effective operation of the Records Bureau.
- (b) Scheduling and maintaining Records Bureau time records.
- (c) Supervising, training, and evaluating Records Bureau staff.
- (d) Maintaining and updating a Records Bureau procedure manual.
- (e) Ensuring compliance with established policies and procedures.
- (f) Supervising the access, use, and release of protected information (see the Protected Information Policy).
- (g) Establishing security and access protocols for case reports designated as sensitive, where additional restrictions to access have been implemented. Sensitive reports may include but are not limited to:
  - 1. Homicides.
  - 2. Cases involving department members or public officials.
  - 3. Any case where restricted access is prudent.
  - 4. Juvenile records.
- (h) When the Department has received an extreme risk protection order (temporary or final) (CPLR § 6342; CPLR § 6344) (see the Extreme Risk Protection Order Policy):
  - 1. Filing with the court a copy of receipts for prohibited items that were surrendered or seized by officers.
  - 2. Mailing or serving a copy of the receipt to the person from whom a prohibited item was taken, and to the owner of the item if different, when the person was not present to receive the receipt.

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3. Reporting the results of any court-ordered background investigations to the court and, with appropriate redactions, to each party.

#### 803.3.2 RECORDS BUREAU

The responsibilities of the Records Bureau include but are not limited to:

- (a) Maintaining a records management system for all calls for service, case reports, traffic accident reports, and arrest records.
  1. The records management system should include a process for numbering, identifying, tracking, and retrieving case reports.
  2. Additionally, all calls for service should include information about the nature of the call, the date and time of the call, the names of involved persons, and any action taken.
  3. A record of the arrest of any person by the Department will be maintained, and include descriptive information such as name, date of birth, sex, address, Social Security number, agency arrest history, physical description, and information pertinent to the arrest.
- (b) Entering case report information into the records management system.
  1. Modification of case reports shall only be made when authorized by a supervisor.
- (c) Providing members of the Department with access to case reports when needed for investigation or court proceedings.
- (d) Maintaining records of all activities as part of the departments records keeping procedures. Such information is used for a variety of purposes both internally and externally.
- (e) Maintaining compliance with federal, state, and local regulations regarding reporting requirements of crime statistics.
- (f) Maintaining compliance with federal, state, and local regulations regarding criminal history reports and auditing.
- (g) Identifying missing case reports and notifying the responsible member's supervisor.
- (h) Establishing a process for collecting and submitting data to appropriate federal data collection authorities (e.g., FBI National Use-of-Force Data Collection, U.S. Department of Justice's National Law Enforcement Accountability Database), as applicable, for the following types of occurrences:
  1. Officer suicides
  2. Officer misconduct
  3. Uses of force
  4. Officer deaths or assaults
  5. Crime incidents
  6. Deaths in custody

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- (i) Participating in and maintaining compliance with the state fingerprint/criminal history records system and Uniform Crime Reporting System or the National Incident Based Reporting System.
- (j) Ensuring that use of force reports are submitted to the Division of Criminal Justice Services (DCJS) (Executive Law § 837-t; 9 NYCRR 6058.3).
- (k) Ensuring that arrest-related death reports are submitted to the DCJS (Executive Law § 837-v).
- (l) Submitting ballistics reports and entering data sharing information within required time frames (Executive Law § 230).
- (m) Preparing statistical and data summaries of activities for planning, staffing, budgeting, and public information purposes.

#### **803.3.3 RECORDS BUREAU PROCEDURE MANUAL**

The Records Supervisor should establish procedures that address:

- (a) Identifying by name persons in reports.
- (b) Classifying reports by type of incident or crime.
- (c) Tracking reports through the approval process.
- (d) Assigning alpha-numerical records to all arrest records.
- (e) Managing a warrant and wanted persons file.

#### **803.4 FILE ACCESS AND SECURITY**

The security of files in the Records Bureau must be a high priority and shall be maintained as mandated by state or federal law. All case reports including, but not limited to, initial, supplemental, follow-up, evidence and any other reports related to a police department case, including field interview (FI) cards, criminal history records and publicly accessible logs, shall be maintained in a secure area within the Records Bureau, accessible only by authorized members of the Records Bureau. Access to case reports or files when Records Bureau staff is not available may be obtained through the Shift Commander.

The Auburn Police Department maintains and has access to an up-to-date record system for warrants that is available 24 hours a day.

The Records Supervisor is responsible for maintaining a record of all legal process, to include warrants, handled by the Department. Information distributed into a FOIL must be entered into the Spillman Dissemination table. Information to be maintained for each item of legal process includes:

- Date and time received
- Type of legal process (civil or criminal)
- Nature of document
- Source of document
- Name of plaintiff, complainant, defendant or respondent

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- Name of officer assigned for service
- Date of assignment
- Court docket number
- Date service due

The Records Bureau will also maintain a secure file for case reports deemed by the Chief of Police as sensitive or otherwise requiring extraordinary access restrictions.

The Records Bureau will maintain juvenile arrest and disposition records separate from adult arrest records. Juvenile records may not be made available to the public (Family Court Act § 381.3). The Records Supervisor is responsible for the collection, dissemination and retention of juvenile records.

#### **803.5 CONFIDENTIALITY**

Records Bureau staff has access to information that may be confidential or sensitive in nature. Records Bureau staff shall not access, view or distribute, or allow anyone else to access, view or distribute any record, file or report, whether in hard copy or electronic file format, or any other confidential, protected or sensitive information except in accordance with the Records Maintenance and Release and Protected Information policies and the Records Bureau procedure manual.

## Records Maintenance and Release

### 804.1 PURPOSE AND SCOPE

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

### 804.2 POLICY

The Auburn Police Department is committed to providing public access to records in a manner that is consistent with the New York State Freedom of Information Law (Public Officers Law § 85 et seq.).

[Auburn Police Department Records Management Procedure Manual](#)

[APD Destruction Authorization Form](#)

### 804.3 RECORDS ACCESS OFFICER

The Chief of Police shall designate a Records Access Officer, who also serves as the Records Supervisor. The responsibilities of the Records Access Officer include, but are not limited to:

- (a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records.
- (b) Maintaining and updating, and ensuring compliance with the department records retention schedule in accordance with Schedule LGS-1 for city, town, village and county agencies, including:
  - 1. Identifying the minimum length of time the Department must keep records.
  - 2. Identifying the department bureau responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records, including (Public Officers Law § 87):
  - (a) The times and places records are available.
  - (b) The person/locations where records may be obtained.
  - (c) Maintaining and ensuring the availability of a current schedule of fees as allowed by law.
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) In conjunction with the secretary to the Chiefs of Police, prepare and maintain a record that identifies the name, public office address, title and salary of every officer or employee of the Department (Public Officers Law § 87(3)).
- (g) Preparing and maintaining a detailed list of the subject matter of all records in the possession of the Department whether or not available to the public. The list shall



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be reviewed and updated annually, and the date of the most recent update shall be conspicuously indicated on the list (Public Officers Law § 87(3)).

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

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

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

The processing of requests for any record is subject to the following (Public Officers Law § 87; Public Officers Law § 89):

- (a) A request for records shall be in writing and reasonably describe the records requested.
  - 1. Requests shall also be accepted by electronic mail and responded to by electronic mail provided that the written request does not seek a response in some other form.
- (b) The Department is not required to create records that do not exist.
- (c) A request for records shall be responded to within five business days of receipt of the request by:
  - 1. Making the record available.
  - 2. Denying the request by written notice that includes the reason for denial.
    - (a) Notice shall be promptly provided to the appropriate parties (e.g., the requester, presiding judge) when the basis of denial is that disclosure would interfere with a judicial proceeding or law enforcement investigation (Public Officers Law § 87).
  - 3. Furnishing a written acknowledgement of the request and providing a reasonable date the request will be granted or denied, including, where appropriate, that access will be determined in accordance with Public Officers Law § 89(5).
    - (a) If a request is to be granted in whole or in part and circumstances prevent disclosure of the record within 20 business days from the date of acknowledgement, the Department shall provide the requester a written statement of the reason for the inability to grant the request and a certain date within a reasonable period when the request will be granted in whole or in part.
- (d) Requests that are not complied with in the described time limitations will be considered a denial and subject to an appeal.
- (e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
  - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for

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the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.

- (f) Records shall be provided on the medium requested by the requester if the Department can reasonably make a copy or a copy can be made by engaging an outside professional service.
- (g) Upon request, certification shall be provided in the following circumstances:
  - 1. The Department ensures that the copy of the record is correct.
  - 2. The Department does not have possession of the record.
  - 3. The record cannot be found after a diligent search.

#### **804.4.2 APPEAL OF DENIALS**

When a record request is denied, the requester may appeal the determination to the Office of the Mayor within 30 days. The notice of the appeal shall be routed to the Records Access Officer and the Chief of Police. The Department shall have the burden of proving that the denial was subject to one of the exemptions pursuant to Public Officers Law § 87(2).

A detailed written response to the appeal shall be provided to the requester within 10 business days explaining the reasons for further denial or that access will be provided to the record. A copy of the appeal and written determination shall be immediately forwarded to the Committee on Open Government (Public Officers Law § 89(4)).

#### **804.5 RELEASE RESTRICTIONS**

Examples of release restrictions include (Public Officers Law § 87(2); Public Officers Law § 89(2)):

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any department record, including motor vehicle accident reports, are restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Information in personnel or similar files that would be an unwarranted invasion of personal privacy.
- (c) Records that if disclosed would constitute an unwarranted invasion of personal privacy.
- (d) Records that are compiled for law enforcement purposes and which, if disclosed, would:
  - 1. Interfere with law enforcement investigations or judicial proceedings.
  - 2. Deprive a person of a right to a fair trial or impartial adjudication.

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3. Identify a confidential source or disclose confidential information relating to a criminal investigation.
  4. Reveal criminal investigative techniques or procedures (except routine techniques and procedures).
- (e) Identities of victims of sex offenses (Civil Rights Law § 50-b).
  - (f) Records relating to a case involving a youth who has been adjudicated a youthful offender (CPL § 720.35).
  - (g) Records relating to the arrest and disposition of juvenile delinquents (Family Court Act § 381.3).
  - (h) Interagency or intra-agency memoranda that are not statistical or factual tabulations or data; instructions to members that affect the public; final agency policy or determinations; or external audits, including but not limited to audits performed by the comptroller and the federal government.
  - (i) Records that would jeopardize the security of the department computer systems.
  - (j) Records that would endanger the life or safety of any person.
  - (k) Records that would impair present or imminent contract awards or collective bargaining negotiations.
  - (l) Recordings of calls made to the E911 system (County Law § 308).
  - (m) Protected criminal history records.
  - (n) The addresses, personal telephone numbers, personal cell phone numbers, and personal email addresses of a member, unless required to do so under Article 14 of the Public Employees Fair Employment Act or compelled to do so by lawful process (e.g., a subpoena) (Civil Service Law § 209-a).
  - (o) Protected personal information contained in disciplinary records (Public Officers Law § 87(4-a); Public Officers Law § 87(4-b); Public Officers Law § 89(2-b); Public Officers Law § 89(2-c)).
  - (p) Any other information that may be specifically exempted from disclosure by state or federal statute.

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

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

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, Corporation Counsel or the courts.

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

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

Released records, including audio/video recordings, will be entered in the Spillman Dissemination Table.

#### [Dissemination Table Entry Procedure](#)

#### **804.8 SECURITY BREACHES**

Members who become aware that any Auburn Police Department system containing private information may have been breached should notify the Records Supervisor as soon as practicable.

The Records Supervisor should provide notice in the form, manner, and to all entities as required by federal, state, and local law.

Notice should be given as soon as reasonably practicable.

Any determination to delay notification (e.g., notification will impede a criminal investigation, measures are being taken to determine the scope of the breach and restore the integrity of the system) and any determination that notice of the breach is not required (e.g., the exposure was an inadvertent disclosure by authorized persons and the Department determines that the exposure will not result in misuse or harm) should be documented. Such documentation should be retained in accordance with the records retention schedule and provided to the state attorney general when required by state or local law.

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

#### **804.9 SEALED RECORDS**

Sealed records orders received by the Department shall be reviewed for appropriate action by the Records Access Officer. Records shall be sealed as ordered by the court. Records may include, but are not limited to, a record of arrest, investigation, detention or conviction. Once sealed, members shall respond to any inquiry as though the record did not exist.

#### [Records Sealing Procedure](#)

## Protected Information

### 805.1 PURPOSE AND SCOPE

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

#### 805.1.1 DEFINITIONS

Definitions related to this policy include:

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

### 805.2 POLICY

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

[DCJS DMV Photo System Agreement APD 2020](#)

### 805.3 RESPONSIBILITIES

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

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

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), New York State Department of Motor Vehicles (DMV) records and New York State Division of Criminal Justice Services (DCJS)/eJusticeNY Integrated Justice Portal.
- (b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.

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- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

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

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

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

#### [Obtaining NYS DMV Driver's License Photos Through DMV Photo System Procedure](#)

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

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

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

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

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

Any employee who disseminates Criminal History information from any state or national computer system must document that dissemination into a case report.

The criminal justice official receiving the information must be identified by Organization, Name, Address and Phone Numbers along with the date and time the information was disseminated.

Members need to be cognizant that when using department-issued cell phones (text messages), instant messaging (IM) systems, email systems or any other department computer system used to message, chat or otherwise communicate with others concerning the details of a specific case, these communications may be subject to Rosario and Brady rules and should be copied and made

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a part of the original case file which would later be subject to disclosure as would any case notes that are taken as part of your investigation.

#### [Criminal History Requests Procedure](#)

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

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

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

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

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

#### **805.6.1 MEMBER RESPONSIBILITIES**

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

### **805.7 TRAINING**

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.



# Animal Control

## 806.1 PURPOSE AND SCOPE

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

## 806.2 POLICY

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

## 806.3 ANIMAL CONTROL OFFICER RESPONSIBILITIES

Animal control services are generally the primary responsibility of Animal Control Officer and include the following:

- (a) Animal-related matters during periods when Animal Control Officer is available.
- (b) Ongoing or persistent animal nuisance complaints. Such complaints may be scheduled, if reasonable, for handling during periods that Animal Control Officer is available for investigation and resolution.
- (c) Follow-up on animal-related calls, such as locating owners of injured animals.
- (d) Animal Control Officer officers that are peace officers are subject to the training requirements of CPL § 2.30.

## 806.4 MEMBER RESPONSIBILITIES

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

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

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

- (a) There is a threat to public safety.
- (b) An animal has bitten someone. Members should take measures to confine the animal and prevent further injury. If the animal cannot be located, contact the Dog Control Officer through dispatch.
- (c) An animal is creating a traffic hazard.
- (d) An animal is seriously injured.
- (e) The owner/handler of an animal has been arrested or is incapacitated. In such circumstances, the member should find appropriate placement for the animal.



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1. This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.
2. With the owner's consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.
3. If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.

#### **806.5 ANIMAL CRUELTY COMPLAINTS**

When a complaint for animal cruelty is received, the following should occur:

- (a) An investigation should be conducted on all reports of animal cruelty.
- (b) Legal steps should be taken to protect an animal that is in need of immediate care or protection from acts of cruelty.
- (c) Laws relating to the cruelty to animals should be enforced, including but not limited to:
  - (a) Animal fighting (Agriculture and Markets Law § 351)
  - (b) Overdriving, torturing, and injuring animals (Agriculture and Markets Law § 353)
  - (c) Aggravated cruelty (Agriculture and Markets Law § 353-a)

#### **806.6 ANIMAL BITE REPORTS**

Members investigating an animal bite should obtain as much information as possible for follow-up with the Cayuga County Health Department and/or the appropriate animal control authorities. Efforts should be made to capture or otherwise have the involved animal placed under control. Members should attempt to identify and notify the owner regarding the final disposition of any domesticated animal involved in an animal bite investigation.

A copy of the completed APD incident report will be forwarded to the Dog Control Officer via the City of Auburn Clerk's Office as well as a completed Cayuga County Health Department Animal Bite Report and Rabies Exposure Instruction Form will be forwarded to the Cayuga County Health Department by the next business day after the investigation.

[Cayuga County Health Department Animal Bite Report](#)

[Auburn Police Department Rabies Exposure Instruction Form](#)

#### **806.7 STRAY DOGS**

If the dog has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the dog should be released to the owner and a citation may be issued, if appropriate. If a dog is taken into custody, it shall be transported to the appropriate shelter/holding pen.

Members shall provide reasonable treatment to animals in their care (e.g., food, water, shelter).

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##### **806.8 DANGEROUS ANIMALS**

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, the Shift Commander will be contacted to determine available resources, including requesting the assistance of animal control services from an allied agency.

##### **806.9 PUBLIC NUISANCE CALLS RELATING TO ANIMALS**

Members should diligently address calls related to nuisance animals (e.g., barking dogs), because such calls may involve significant quality-of-life issues.

##### **806.10 DECEASED ANIMALS**

When a member becomes aware of a deceased animal, all reasonable attempts should be made to preliminarily determine if the death of the animal is related to criminal activity.

Deceased animals on public property should be removed, sealed in a plastic bag and properly disposed of by the responding member.

Members should not climb onto or under any privately owned structure for the purpose of removing a deceased animal.

##### **806.11 INJURED ANIMALS**

When a member becomes aware of an injured domesticated animal, all reasonable attempts should be made to contact an owner or responsible handler. If an owner or responsible handler cannot be located, the animal should be taken to a designated animal care facility.

##### **806.12 DESTRUCTION OF ANIMALS**

When it is necessary to use a firearm to euthanize a badly injured animal or stop an animal that poses an imminent threat to human safety, the Firearms Policy shall be followed (Agriculture and Markets Law § 374). A badly injured animal that is euthanized will follow with an immediate notification to a supervisor via a radio dispatch advising that the animal has been euthanized. A report explaining the circumstances will be completed by the member who used the firearm.

A dog, cat or ferret may be destroyed if it is exhibiting the signs of rabies and cannot be safely captured, and the New York State Commissioner of Health has certified the existence of rabies in that county (Public Health Law § 2143).

# Jeanne Clery Campus Security Act

## 807.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines to ensure this department fulfills its obligation in complying with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

## 807.2 POLICY

The Auburn Police Department encourages accurate and prompt reporting of all crimes and takes all such reports seriously (20 USC § 1092(f)(1)(C)(iii)). Reports will be accepted in any manner, including in person or in writing, at any Auburn Police Department facility. Reports will be accepted anonymously, by phone, via email or on the institution's website.

It is the policy of the Auburn Police Department to comply with the Clery Act. Compliance with the Clery Act requires a joint effort between the Auburn Police Department and the administration of the institution.

Supervisors who are assigned areas of responsibility in the following policy sections are expected to be familiar with the subsections of 20 USC § 1092(f) and 34 CFR 668.46 that are relevant to their responsibilities.

## 807.3 POLICY, PROCEDURE AND PROGRAM DEVELOPMENT

The Chief of Police will:

- (a) Ensure that the Auburn Police Department establishes procedures for immediate emergency response and evacuation, including the use of electronic and cellular communication, and testing of these procedures (20 USC § 1092(f)(1)(J)(i); 20 USC § 1092(f)(1)(J)(iii)).
- (b) Enter into agreements as appropriate with local law enforcement agencies to:
  - 1. Identify roles in the investigation of alleged criminal offenses on campus (20 USC § 1092(f)(1)(C)(ii)).
  - 2. Assist in the monitoring and reporting of criminal activity at off-campus student organizations that are recognized by the institution and engaged in by students attending the institution, including student organizations with off-campus housing facilities (20 USC § 1092(f)(1)(G)).
  - 3. Ensure coordination of emergency response and evacuation procedures, including procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation (20 USC § 1092(f)(1)(J)).
  - 4. Notify the Auburn Police Department of criminal offenses reported to local law enforcement agencies to assist the institution in meeting its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)).
  - 5. Notify the Auburn Police Department of criminal offenses reported to local law enforcement agencies to assist in making information available to the campus

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community in a timely manner and to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).

- (c) Appoint a designee to develop programs that are designed to inform students and employees about campus security procedures and practices, and to encourage students and employees to be responsible for their own security and the security of others (20 USC § 1092(f)(1)(D)).
- (d) Appoint a designee to develop programs to inform students and employees about the prevention of crime (20 USC § 1092(f)(1)(E)).
- (e) Appoint a designee to develop educational programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking, and what to do if an offense occurs, including, but not limited to, who should be contacted, the importance of preserving evidence and to whom the alleged offense should be reported (20 USC § 1092(f)(8)(B)). The designee shall also develop written materials to be distributed to reporting persons that explain the rights and options provided for under 20 USC § 1092 (20 USC § 1092(f)(8)(C)).
- (f) Appoint a designee to make the appropriate notifications to institution staff regarding missing person investigations in order to ensure that the institution complies with the requirements of 34 CFR 668.46(h).

#### **807.4 RECORDS COLLECTION AND RETENTION**

The Records Supervisor is responsible for maintaining Auburn Police Department statistics and making reasonable good-faith efforts to obtain statistics from other law enforcement agencies as necessary to allow the institution to comply with its reporting requirements under the Clery Act (20 USC § 1092(f)(1)(F)). The statistics shall be compiled as follows:

- (a) Statistics concerning the occurrence of the following criminal offenses reported to this department or to local police agencies that occurred on campus, in or on non-campus buildings or property, and on public property including streets, sidewalks, and parking facilities within the campus or immediately adjacent to and accessible from the campus (20 USC § 1092(f)(1)(F)(i); 34 CFR 668.46(c)):
  - 1. Murder
  - 2. Sex offenses, forcible or non-forcible
  - 3. Robbery
  - 4. Aggravated assault
  - 5. Burglary
  - 6. Motor vehicle theft
  - 7. Manslaughter
  - 8. Arson
  - 9. Arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession

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##### 10. Dating violence, domestic violence, and stalking

- (b) Statistics concerning the crimes described in the section above, theft, simple assault, intimidation, destruction, damage or vandalism of property, and other crimes involving bodily injury to any person where the victim was intentionally selected because of actual or perceived race, sex, religion, gender, gender identity, sexual orientation, ethnicity, or disability. These statistics should be collected and reported according to the category of prejudice (20 USC § 1092(f)(1)(F)(ii); 34 CFR 668.46(c)).
- (c) The statistics shall be compiled using the definitions in the FBI's Uniform Crime Reporting (UCR) system and modifications made pursuant to the Hate Crime Statistics Act (20 USC § 1092(f)(9); 34 CFR 668.46(c)(7)). For the offenses of domestic violence, dating violence, and stalking, such statistics shall be compiled in accordance with the definitions used in the Violence Against Women Act (20 USC § 1092(f)(7); 34 USC § 12291; 34 CFR 668.46(a)). The statistics will be categorized separately as offenses that occur (20 USC § 1092(f)(12); 34 CFR 668.46(c)(5)):
  - 1. On campus.
  - 2. In or on a non-campus building or property.
  - 3. On public property.
  - 4. In dormitories or other on-campus, residential, or student facilities.
- (d) Statistics will be included by the calendar year in which the crime was reported to the Auburn Police Department (34 CFR 668.46(c)(3)).
- (e) Stalking offenses will include a statistic for each year in which the stalking conduct is reported and will be recorded as occurring either at the first location in which the stalking occurred or the location where the victim became aware of the conduct (34 CFR 668.46(c)(6)).
- (f) Statistics will include the three most recent calendar years (20 USC § 1092(f)(1)(F); 34 CFR 668.46(c)).
- (g) The statistics shall not identify victims of crimes or persons accused of crimes (20 USC § 1092(f)(7)).

#### 807.4.1 CRIME LOG

The Administrative Sergeant is responsible for ensuring a daily crime log is created and maintained as follows (20 USC § 1092(f)(4); 34 CFR 668.46(f)):

- (a) The daily crime log will record all crimes reported to the Auburn Police Department, including the nature, date, time, and general location of each crime, and the disposition, if known.
- (b) All log entries shall be made within two business days of the initial report being made to the Department.
- (c) If new information about an entry becomes available, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police department or security department.

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- (d) The daily crime log for the most recent 60-day period shall be open to the public for inspection at all times during normal business hours. Any portion of the log that is older than 60 days must be made available within two business days of a request for public inspection. Information in the log is not required to be disclosed when:
  - 1. Disclosure of the information is prohibited by law.
  - 2. Disclosure would jeopardize the confidentiality of the victim.
  - 3. There is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, may cause a suspect to flee or evade detection, or could result in the destruction of evidence. In any of these cases, the information may be withheld until that damage is no longer likely to occur from the release of such information.

#### **807.5 INFORMATION DISSEMINATION**

It is the responsibility of the Administrative Sergeant to ensure that the required Clery Act disclosures are properly forwarded to campus administration and community members in accordance with institution procedures. This includes:

- (a) Procedures for providing emergency notification of crimes or other incidents and evacuations that might represent an imminent threat to the safety of students or employees (20 USC § 1092(f)(3); 34 CFR 668.46(e); 34 CFR 668.46(g)).
- (b) Procedures for notifying the campus community about crimes considered to be a threat to other students and employees in order to aid in the prevention of similar crimes. Such disseminated information shall withhold the names of victims as confidential (20 USC § 1092(f)(3)).
- (c) Information necessary for the institution to prepare its annual security report (20 USC § 1092(f)(1); 34 CFR 668.46(b)). This report will include but is not limited to:
  - 1. Crime statistics and the policies for preparing the crime statistics.
  - 2. Crime and emergency reporting procedures, including the responses to such reports.
  - 3. Policies concerning security of and access to campus facilities.
  - 4. Crime, dating violence, domestic violence, sexual assault, and stalking awareness and prevention programs, including:
    - (a) Procedures victims should follow.
    - (b) Procedures for protecting the confidentiality of victims and other necessary parties.
  - 5. Enforcement policies related to alcohol and illegal drugs.
  - 6. Locations where the campus community can obtain information about registered sex offenders.
  - 7. Emergency response and evacuation procedures.
  - 8. Missing student notification procedures.

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9. Information addressing the jurisdiction and authority of campus security, including any working relationships and agreement between campus security personnel and both state and local law enforcement agencies.

## **Chapter 9 - Custody**



# Temporary Custody of Adults

## 900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Auburn Police Department for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

### 900.1.1 DEFINITIONS

Definitions related to this policy include:

**Holding cell/cell** - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Department.

**Safety checks** - Direct, visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of adults in temporary custody.

**Temporary custody** - The period an adult is in custody at the Auburn Police Department prior to being released or transported to a housing or other type of facility.

## 900.2 POLICY

The Auburn Police Department is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Department. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

## 900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than is necessary. All available options for arraignment should be explored, to include Centralized Arraignment Part or pre-arraignment detention at Cayuga County Sheriffs Jail.

[Prisoner Processing Procedure](#)

[Live Scan Procedure](#)

### 900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Auburn Police Department, but should be transported to a jail facility, a medical facility or other type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.

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- (b) Any individual who has a medical condition, including pregnancy, which may require medical attention, supervision or medication while in temporary custody.
- (c) Any individual who is seriously injured.
- (d) Individuals who are a suspected suicide risk (see the Emergency Admissions Policy).
  - 1. If the officer taking custody of an individual believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release or transfer to an appropriate facility is completed (9 NYCRR § 7504.1).
- (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
- (f) Individuals who are under the influence of alcohol, a controlled substance or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (g) Any individual who has exhibited extremely violent or continuously violent behavior.
- (h) Any individual who has claimed, is known to be afflicted with or displays symptoms of any communicable disease that poses an unreasonable exposure risk.
- (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.

Officers taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

#### 900.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized department member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability.

At least one female department member should be present when a female adult is in temporary custody. In the event that none is readily available, every effort shall be made to have the female in custody transported to another facility or released pursuant to another lawful process (9 NYCRR § 7504.1).

Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present.

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

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##### 900.3.3 SUPERVISION OF FEMALES

The Auburn Police Department does not support the detention of female prisoners. Females will be processed in the processing area and subsequently transported to another facility or released pursuant to another lawful process (9 NYCRR § 7504.1).

##### 900.3.4 ENTRY RESTRICTIONS

Entry into any location where a person is held in custody should be restricted to:

- (a) Authorized members entering for official business purposes.
- (b) Emergency medical personnel when necessary.
- (c) Any other person authorized by the Shift Commander.

When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

##### 900.4 INITIATING TEMPORARY CUSTODY

The officer responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The officer should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The receiving officer should ask the arresting officer if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the hospital or the appropriate mental health facility.

The officer should promptly notify the Shift Commander of any conditions that may warrant immediate medical attention or other appropriate action. The Shift Commander shall determine whether the individual will be placed in a cell, immediately released or transported to jail or another facility.

##### 900.4.1 SCREENING AND PLACEMENT

The officer responsible for an individual in custody will:

- (a) Advise the Shift Commander of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).
- (b) The Auburn Police Department will no longer house detainees in any existing jail cells.

##### 900.4.2 BOOKING

Adults who are arrested and taken into temporary custody should be processed in a designated area. Processing should include fingerprinting and photographing. The Department participates in the State Automated Biometric Identification System (SABIS) and shall use Livescan or Cardscan for the automated submission of fingerprints.

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##### 900.4.3 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Patrol Commander will ensure that the U.S. Department of State's list of countries and jurisdictions that require mandatory notification is readily available to department members. There should also be a published list of foreign embassy and consulate telephone and fax numbers, as well as standardized notification forms that can be transmitted and then retained for documentation. Prominently displayed signs informing foreign nationals of their rights related to consular notification should also be posted in areas used for the temporary custody of adults.

Department members assigned to process a foreign national shall:

- (a) Inform the individual, without delay, that he/she may have his/her consular officers notified of the arrest or detention and may communicate with them.
  - 1. This notification should be documented.
- (b) Determine whether the foreign national's country is on the U.S. Department of State's mandatory notification list.
  - 1. If the country is on the mandatory notification list, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Tell the individual that this notification has been made and inform him/her without delay that he/she may communicate with consular officers.
    - (c) Forward any communication from the individual to his/her consular officers without delay.
    - (d) Document all notifications to the embassy or consulate and retain the faxed notification and any fax confirmation for the individual's file.
  - 2. If the country is not on the mandatory notification list and the individual requests that his/her consular officers be notified, then:
    - (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
    - (b) Forward any communication from the individual to his/her consular officers without delay.

##### **900.5 SAFETY, HEALTH AND OTHER PROVISIONS**

###### 900.5.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody and housed within the jail cells at the Auburn Police Department, the custody shall be promptly and properly documented in a custody log, including (9 NYCRR § 7504.1). At this time, the Auburn Police Department no longer house detainees in any existing jail cells:

- (a) Identifying information about the individual, including his/her name.
- (b) Date and time of arrival at the Department.

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- (c) Time of all safety checks.
- (d) Any medical and other screening requested and completed.
- (e) Any emergency situations or unusual incidents.
- (f) Any other information that may be required by other authorities, such as compliance inspectors.
  - 1. This includes the condition of individuals in custody during safety checks (e.g., awake, sleeping) and signatures of the members conducting the safety check.
- (g) Date and time of release from the Auburn Police Department.

The Shift Commander should initial the log to approve the temporary custody and should also initial the log when the individual is released from custody or transferred to another facility.

The Shift Commander should make periodic checks to ensure all log entries and safety and security checks are made on time.

#### 900.5.2 TEMPORARY CUSTODY REQUIREMENTS

Members monitoring or processing anyone in temporary custody shall ensure:

- (a) Safety checks and significant incidents/activities are noted on the log.
- (b) Individuals in custody are informed that they will be monitored at all times, except when using the toilet.
  - 1. There shall be no viewing devices, such as peep holes or mirrors, of which the individual is not aware.
  - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (c) There is reasonable access to toilets and wash basins.
- (d) There is reasonable access to a drinking fountain or water.
- (e) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (f) There is privacy during attorney visits (9 NYCRR § 7510.1).
- (g) Those in temporary custody are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (h) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
  - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- (i) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (j) Adequate furnishings are available, including suitable chairs or benches.
- (k) All prisoners shall be permitted to converse with their counsel under reasonable regulations and restrictions.

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##### 900.5.3 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to department members.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by an officer.

Those who require medication while in temporary custody should not be at the Auburn Police Department. They should be released or transferred to another facility as appropriate.

##### 900.5.4 ADDITIONAL REQUIREMENTS

Members shall provide attention to the medical and mental health needs of a person in custody and obtain assistance and treatment of such needs for the person that are reasonable and provided in good faith under the circumstances.

##### 900.5.5 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

Whenever a prosthetic or orthopedic appliance is removed, the Shift Commander shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists.

##### 900.5.6 TELEPHONE CALLS

Every individual in temporary custody shall be allowed to make a reasonable number of completed telephone calls as soon as possible after arrival (9 NYCRR § 7502.1).

- (a) Telephone calls may be limited to local calls, except that long-distance calls may be made by the individual at his/her own expense.
  - 1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).
- (b) The individual should be given sufficient time to contact whomever he/she desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.
  - 1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use his/her judgment in determining the duration of the calls.

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- (c) Calls between an individual in temporary custody and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded.

#### 900.5.7 RELIGIOUS ACCOMMODATION

Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated. Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The responsible supervisor should be advised any time a request for religious accommodation is denied.

#### 900.5.8 FIREARMS AND OTHER SECURITY MEASURES

Firearms and other weapons and control devices shall not be permitted in secure detention areas where individuals are in an APD lockup facility. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor (9 NYCRR § 7504.1).

All perimeter doors to secure areas shall be kept locked at all times, except during routine cleaning, when no individuals in custody are present or in the event of an emergency, such as an evacuation.

#### 900.5.9 FOOD

Individuals in custody during any of the usual three daily meal hours shall be allowed to eat a meal. It shall be documented when an individual was either provided a meal or refused a meal (9 NYCRR § 7505.1).

The facility shall take steps to provide reasonable accommodations to individuals in custody who observe recognized religious dietary rules as well as those who are required to follow a medical diet ordered by their physician.

#### 900.5.10 SANITATION AND MAINTENANCE

The Patrol Commander will ensure (9 NYCRR § 7506.1):

- (a) Janitorial and maintenance services are regularly provided so that satisfactory conditions exist at all times.
- (b) Bedding and blankets are clean when provided and not routinely left in the cells.
- (c) Mattresses are soil- and water-resistant and checked regularly (e.g., for damage, attempts to conceal contraband items).
- (d) Soap, paper towels, and toilet tissue are available at no cost, and are not routinely left in cells.
- (e) Paper drinking cups are made available at no cost if drinking fountains are not available, and are not routinely left in cells.
- (f) Locks on cell doors and security doors, locking devices, and the security aspects of detention-type windows and screens are checked regularly to ensure that they are in proper condition.



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- (g) Menstrual products are supplied to individuals in custody at no cost, and are stored, dispensed, and disposed of in a sanitary manner (Correction Law § 625).

#### 900.5.11 RECORD OF DETENTIONS

The Patrol Commander will ensure Record of Detentions forms are maintained and a report of the total number of male and female prisoners is forwarded to the New York State Commission of Correction (SCOC) on or before February 1 of each year (9 NYCRR § 7509.1).

#### **900.6 USE OF RESTRAINT DEVICES**

Individuals in custody may be handcuffed in accordance with the Handcuffing and Restraints Policy. Unless an individual presents a heightened risk, handcuffs should generally be removed when the person is in a cell.

The use of restraints, other than handcuffs or leg irons, generally should not be used for individuals in temporary custody at the Auburn Police Department unless the person presents a heightened risk, and only in compliance with the Handcuffing and Restraints Policy.

Individuals in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

#### 900.6.1 PREGNANT ADULTS

Women who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

#### **900.7 PERSONAL PROPERTY**

The personal property of an individual in temporary custody should be removed, inventoried and processed as provided in the Custodial Searches Policy, unless the individual requests a different disposition. For example, an individual may request property (e.g., cash, car or house keys, medications) be released to another person. A request for the release of property to another person must be made in writing. Release of the property requires the recipient's signature on the appropriate form.

Upon release of an individual from temporary custody, his/her items of personal property shall be compared with the inventory, and he/she shall sign a receipt for the property's return (9 NYCRR § 7502.1). If the individual is transferred to another facility or court, the member transporting the individual is required to obtain the receiving person's signature as notice of receipt. The Department shall maintain a copy of the property receipt.

The Shift Commander shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Shift Commander shall attempt to prove or disprove the claim.

#### **900.8 HOLDING CELLS**

Although APD has discontinued the use of our cells, this policy will remain as the cells are not decommissioned by New York State. A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is



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clean and sanitary. An inspection also should be conducted when he/she is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

- (a) The individual shall be searched (see the Custodial Searches Policy) and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces, and jackets, shall be removed (9 NYCRR § 7502.1).
- (b) A supply of disposable type fiber or paper footwear to replace shoes may be kept available for issue as required (9 NYCRR § 7502.1).
- (c) The individual shall constantly be monitored by an audio/video system during the entire custody.
- (d) The individual shall have constant auditory access to department members.
- (e) The individual's initial placement into and removal from a locked enclosure shall be logged.
- (f) Safety checks by department members shall occur no less than every 15 minutes (9 NYCRR § 7504.1).
  - 1. Safety checks should be at varying times.
  - 2. All safety checks shall be logged.
  - 3. The safety check should involve questioning the individual as to his/her well-being.
  - 4. Individuals who are sleeping or apparently sleeping should be awakened.
  - 5. Requests or concerns of the individual should be logged.

#### [Forensic Suicide Prevention Program Procedure](#)

#### [Police Lockup Procedure](#)

### **900.9 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY**

The Patrol Commander will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the Auburn Police Department. The procedures should include:

- (a) Immediate request for emergency medical assistance if appropriate.
- (b) Immediate notification of the Shift Commander, the Chief of Police and the Detective Commander.
- (c) Notification of the spouse, next of kin or other appropriate person, upon death.
- (d) Notification of the appropriate prosecutor, upon death.
- (e) Notification of the City Manager, upon death.
- (f) Notification of the Coroner, upon death.
- (g) Evidence preservation.

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- (h) Reporting any of the following to the SCOC in the manner designated by the SCOC within 24 hours of occurrence (9 NYCRR § 7508.1; 9 NYCRR § 7508.2):
  - 1. Injuries or illnesses requiring hospitalization of a person in custody.
  - 2. Civil or natural emergencies or disturbances.
  - 3. The death of a person in custody shall be reported within six hours of pronouncement of death. In addition, a report of the death will be sent to the New York State Division of Criminal Justice Services.

#### **900.10 RELEASE AND/OR TRANSFER**

When an individual is released or transferred from custody, the member releasing the individual should ensure the following:

- (a) All proper reports, forms and logs have been completed prior to release.
- (b) A check has been made to ensure that the individual is not reported as missing and does not have outstanding warrants.
- (c) It has been confirmed that the correct individual is being released or transported.
- (d) All property, except evidence, contraband or dangerous weapons, has been returned to, or sent with, the individual.
- (e) All pertinent documentation accompanies the individual being transported to another facility (e.g., copies of booking forms, an itemized list of his/her property, warrant copies).
- (f) The individual is not permitted in any nonpublic areas of the Auburn Police Department unless escorted by a member of the Department and hand cuffed.
- (g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if he/she is being sent to another facility.
  - 1. The department member transporting the individual shall ensure such risks are communicated to intake personnel at the other facility.
- (h) Generally, persons of the opposite sex, or adults and juveniles, should not be transported in the same vehicle. If segregating individuals is not possible, officers should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.
- (i) Transfers between facilities or other entities, such as a hospital, should be accomplished with a custodial escort of the same sex as the person being transferred to assist with his/her personal needs as available.

#### **Prisoner Transport Procedure**

##### **900.10.1 ESCAPE FROM CUSTODY**

In the event a prisoner escapes from custody, the officer will immediately notify Dispatch and the Shift Commander. The officer should relay all pertinent information concerning the escape

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from custody in order to facilitate recapture of the subject while simultaneously relaying all safety concerns. Make every effort to capture the prisoner.

#### [Escaped Prisoner Procedure](#)

##### **900.11 ASSIGNED ADMINISTRATOR**

The Patrol Commander will ensure any reasonably necessary supplemental procedures are in place to address the following issues:

- (a) General security
- (b) Key control
- (c) Sanitation and maintenance
- (d) Emergency medical treatment
- (e) Escapes
- (f) Evacuation plans
- (g) Fire and life-safety
- (h) Disaster plans
- (i) Building and safety code compliance
- (j) Construction standards, variances and special measures for facilities that are not of fire-resistant construction (9 NYCRR § 7511.1; 9 NYCRR § 7504.1; 9 NYCRR § 7512.1)

##### **900.11 TRAINING**

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

## Temporary Custody of Juveniles

### 901.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Auburn Police Department (34 USC § 11133).

#### 901.1.1 DEFINITIONS

Definitions related to this policy include (Family Court Act § 301.2; CPL § 1.20):

**Adolescent offender** - A juvenile delinquent 16 or 17 years of age who is in custody for a felony.

**Juvenile non-offender** - An abused, neglected, dependent, or noncitizen juvenile who may be legally held for the juvenile's own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for the juvenile's protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person.

**Juvenile delinquent** -

- A juvenile 12 to 17 years of age who is alleged to have committed a crime that would subject an adult to arrest (a non-status offense) or 16 to 17 years old alleged to have committed violation where such violation occurred in conjunction with the alleged criminal act.
- A juvenile 7 to 11 years of age alleged to have committed a serious qualifying crime listed in Family Court Act § 301.2 (e.g., aggravated criminally negligent homicide, vehicular manslaughter, manslaughter in the first degree, murder in the first or second degree or aggravated murder).

It also includes an offense under Penal Law § 265.05 for unlawful possession of a weapon by persons under 16 (28 CFR 31.303).

**Juvenile offender** - A juvenile delinquent 13 to 15 years of age who is in custody for a serious violent offense listed in Penal Law § 10.00 or CPL § 1.20.

**Non-secure custody** - When a juvenile is held in the presence of an officer or other department member at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication, is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation.

**Safety checks** - Direct visual observation by a member of this department performed at random intervals, within time frames prescribed in this policy, to provide for the health and welfare of juveniles in temporary custody.

**Secure custody** - When a juvenile is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object.

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Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile handcuffed to a rail.
- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- (d) A juvenile being processed in a secure booking area when a non-secure booking area is available.
- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

**Sight and sound separation** - Located or arranged to prevent physical, visual, or auditory contact (34 USC § 11103).

**Status offender** - A juvenile suspected of committing a criminal violation of the law that would not be a criminal violation but for the age of the offender. Examples may include running away, underage possession of tobacco, curfew violation, and truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender.

[Juvenile Delinquent and Offender Classifications 8-15 CHART](#)

[Pre-Arrestment processing 16-17 Year Old CHART](#)

#### **901.2 POLICY**

The Auburn Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and to keeping juveniles safe while in temporary custody at the Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer or release.

[Raise the Age Legislation Memo - Arrest Process and Adolescent Offenders 08-19-2019](#)

[Raise the Age Memo and Chart 09-06-2018](#)

[Cayuga County Court \(Youth Part\) - Raise the Age Memo 09-27-2018](#)

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

Juveniles who exhibit certain behaviors or conditions should not be held at the Auburn Police Department. These include:

- (a) Unconsciousness or having been unconscious while being taken into custody or transported.
- (b) Serious injuries or a medical condition requiring immediate medical attention.

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- (c) A suspected suicide risk or showing obvious signs of severe emotional or mental disturbance (see the Emergency Admissions Policy).
  - 1. If the officer taking custody of a juvenile believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release or transfer to an appropriate facility is completed.
- (d) Significant intoxication or showing signs of having ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (e) Extremely violent or continuously violent behavior.
- (f) Afflicted with, or displaying symptoms of, a communicable disease that poses an unreasonable exposure risk.

Officers taking custody of a juvenile exhibiting any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and should notify a supervisor of the situation. These juveniles should not be held at the Department unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

#### **901.4 CUSTODY OF JUVENILES**

Officers should take custody of a juvenile and temporarily hold the juvenile at the Auburn Police Department when there is no other lawful and practicable alternative to temporary custody. Refer to the Child Abuse Policy for additional information regarding detaining a juvenile who is suspected of being a victim.

No juvenile should be held in temporary custody at the Department without authorization of the arresting officer's supervisor or the Shift Commander. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

Any juvenile taken into custody shall be released to the care of the juvenile's parent, legal guardian, or other responsible adult, or transferred to a juvenile custody facility or to other authority as soon as practicable. A juvenile should not be held beyond six hours from the time of his/her entry into the Department (34 USC § 11133).

##### **901.4.1 CUSTODY OF JUVENILE NON-OFFENDERS**

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Auburn Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders may not be held in secure custody (34 USC § 11133).

A child taken into custody due to an emergency removal without a court order under Family Court Act § 1024 or Social Services Law § 417 shall be taken as soon as practicable to an approved facility. Every reasonable effort to inform the parent or other person legally responsible for the child's care shall be made.

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##### 901.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Status offenders should generally be released by a court appearance ticket or with a warning rather than taken into temporary custody. However, officers may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the station to await a parent). Juvenile status offenders may not be held in secure custody (34 USC § 11133).

##### 901.4.3 CUSTODY OF JUVENILES - STATE REQUIREMENTS

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

A member serving as a peace officer or a police officer may take a juvenile into custody under the same circumstances for which an adult may be arrested for a crime (Family Court Act § 305.2).

Upon arrest, every reasonable effort should be made to give notice and location of the juvenile in custody to a parent or other person legally responsible for the child, or when neither are available, to the person with whom the child resides, as soon as practicable (Family Court Act § 305.2; CPL § 120.90; CPL § 140.20; CPL § 140.27).

After providing notice, juveniles should generally be released to the custody of a parent or other legally responsible person upon the issuance of an appearance ticket to the child and the person to whose custody the child is released (Family Court Act § 305.2). Alternatively, upon being taken into custody, juveniles with special circumstances should be taken to the youth part of the superior court or family court. If the court is not in session, members should take the juvenile before an appropriate magistrate as designated by the court (Family Court Act § 305.2; Family Court Act § 312.2; CPL § 140.20; CPL § 140.27; CPL § 722.21).

In cases where the member determines that it is necessary to question the juvenile, the juvenile may be transported to a location specifically designated for the purpose of questioning juveniles, even in cases where the member intends to later transport the juvenile to court. If the member intends to release the juvenile after questioning, and upon the consent of a parent or other person legally responsible for the care of the juvenile, the juvenile may be taken to the juvenile's residence for questioning for a reasonable period of time (Family Court Act § 305.2; CPL § 140.20).

Special circumstances may make a release inappropriate due to a substantial probability that a juvenile will not appear in court or a significant risk the juvenile may commit further serious criminal acts. In these cases, taking a juvenile to family court is appropriate. When family court is not in session, the member should take the juvenile before an appropriate magistrate as designated by the court. The supervisor or designee may then contact a juvenile detention facility and seek authorization for further detention (Family Court Act § 305.2; Family Court Act § 320.5).

Officers receiving custody of a juvenile from a private person for violation of the state prostitution law shall be taken to an appropriate short-term safe house. Juvenile delinquents suspected of being sexually exploited may also be taken to an appropriate short-term safe house, if they consent (Family Court Act § 305.2).



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#### Juvenile Delinquent Appearance Ticket Memo 09-28-2018

#### Prisoner Transport Procedure

##### **901.5 NO-CONTACT REQUIREMENTS**

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Auburn Police Department (34 USC § 11133; 28 CFR § 115.114). There should also be sight and sound separation between non-offenders and juvenile and status offenders.

In situations where brief or accidental contact may occur (e.g., during the brief time a juvenile is being fingerprinted and/or photographed in booking), a member of the Department shall maintain a constant, immediate, side-by-side presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact.

In the event that a juvenile has erroneously been placed in custody through deception, impersonation or other reason, the incident must be immediately reported to the Shift Commander and a record made for reporting to the New York State Commission of Correction (reportable incident and annual reporting as required by Commission guidelines).

##### **901.6 TEMPORARY CUSTODY REQUIREMENTS**

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

- (a) The Shift Commander is notified if it is anticipated that a juvenile may need to remain at the Department more than four hours. This will enable the Shift Commander to facilitate the juvenile's release or transfer from the Department within six hours.
- (b) When possible, a member of the same sex will supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (c) There is reasonable access to toilets and wash basins.
- (d) There is reasonable access to a drinking fountain or water.
- (e) Food is provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile.
- (f) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (g) There is privacy during family, guardian and/or attorney visits.
- (h) Juveniles are generally permitted to remain in their personal clothing unless it is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (i) Clean blankets are provided as reasonably necessary to ensure the comfort of an individual.
  - 1. The supervisor should ensure that there is an adequate supply of clean blankets.



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- (j) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (k) Adequate furnishings are available, including suitable chairs or benches.
- (l) Juveniles have the right to the same number of telephone calls as adults in temporary custody (see the Temporary Custody of Adults Policy).
- (m) Discipline is not administered to any juvenile, nor will juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse.

#### [Live Scan Procedure](#)

#### [Prisoner Processing Procedure](#)

#### [Escaped Prisoners Procedure](#)

##### 901.6.1 COURT APPROVAL

The Patrol Commander will ensure that only areas that have been approved by the chief administrator of courts or the office of children and family services are used for the custody or questioning of juveniles. Members should not allow a juvenile in custody to be in an unapproved area (Family Court Act § 304.1; Family Court Act § 305.2).

##### **901.7 RELIGIOUS ACCOMMODATION**

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

##### **901.8 USE OF RESTRAINT DEVICES**

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

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

Juveniles in restraints shall be kept away from other unrestrained individuals in custody and monitored to protect them from abuse.

##### 901.8.1 PREGNANT JUVENILES

Juveniles who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

##### **901.9 PERSONAL PROPERTY**

The personal property of a juvenile shall be processed in the same manner as an adult in temporary custody (see the Temporary Custody of Adults Policy).

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##### **901.10 SECURE CUSTODY**

Only juveniles 14 years of age or older may be placed in secure custody. Shift Commander approval is required before placing a juvenile or adolescent offender in secure custody.

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

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

When practicable, handcuffing one hand of a juvenile to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody. A member must be present at all times to ensure the juvenile's safety while secured to a stationary object.

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

[Secure and Specialized Secure Detention Facilities 10-01-2018.pdf](#)

[Non-Secure Rest of State Detention Facilities 10-01-2018.pdf](#)

##### **901.10.1 LOCKED ENCLOSURES**

**\*\*NOTE\*\*** Although APD has discontinued the use of our cells, this policy will remain as the cells are not decommissioned by New York State.

A thorough inspection of the area shall be conducted before placing a juvenile into the locked enclosure to ensure there are no weapons or contraband and that the area is clean and sanitary. An inspection should be conducted when he/she is released. Any damage noted to the area should be photographed and documented.

The following requirements shall apply:

- (a) Anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces, and jackets, shall be removed.
- (b) The juvenile shall constantly be monitored by an audio/video system during the entire temporary custody.
- (c) The juvenile shall have constant auditory access to department members.
- (d) The juvenile's initial placement into and removal from a locked enclosure shall be logged.
- (e) Unscheduled safety checks by department members shall occur no less than every 15 minutes.
  - 1. All safety checks shall be logged.
  - 2. The safety check should involve questioning the juvenile as to the juvenile's well-being.

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3. Juveniles who are sleeping or apparently sleeping should be awakened.
  4. Requests or concerns of the juvenile should be logged.
- (f) Males and females shall not be placed in the same locked room.
  - (g) Juveniles should be separated according to severity of the crime (e.g., felony or misdemeanor).
  - (h) Restrained juveniles shall not be placed in a cell or room with unrestrained juveniles.

#### **901.11 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY**

The Patrol Commander will ensure procedures are in place to address any suicide attempt, death or serious injury of any juvenile held at the Auburn Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Shift Commander, Chief of Police and Detective Commander
- (c) Notification of the parent, guardian or person standing in loco parentis of the juvenile
- (d) Notification of the appropriate prosecutor
- (e) Notification of the City Manager
- (f) Notification of the Coroner
- (g) Evidence preservation
- (h) Reporting to the New York State Division of Criminal Justice Services for the Death in Custody Reporting Act.

#### **901.12 INTERVIEWING OR INTERROGATING**

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent, to an interview or interrogation.

Juvenile delinquents and adolescent and juvenile offenders in custody shall not be questioned unless the juvenile and either the juvenile's parent or other person legally responsible for the juvenile's care, or if such legally responsible person is unavailable, the person with whom the juvenile resides, are advised of the juvenile's department-approved *Miranda* rights for juveniles (Family Court Act § 305.2).

Any custodial interrogation of a juvenile shall be video recorded consistent with the requirements of the Division of Criminal Justice Services (Family Court Act § 305.2). This recording should intelligibly capture the entire interrogation, including the administration of *Miranda* rights and the identities of all persons present. For the policy on retention and additional notice requirements, see the Investigation and Prosecution Policy.

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##### **901.13 RESTRICTION ON FINGERPRINTING AND PHOTOGRAPHING**

Fingerprints and palm prints may not be taken of juvenile delinquents unless (Family Court Act § 306.1):

- (a) The juvenile is in custody for a class A or B felony and the child is 12 years of age or older.
- (b) The juvenile is in custody for a class C, D, or E felony and is 13 years of age or older.
- (c) The juvenile is 16 years old and is in custody for a misdemeanor defined in the Vehicle and Traffic Law (Penal Law § 30.00; CPL § 160.10).

The taking of fingerprints, palm prints, photographs, and related information concerning a juvenile in custody shall conform with standards established by the Commissioner of the New York State Division of Criminal Justice Services, the Family Court Act, and the Criminal Procedure Law (Family Court Act § 306.1; CPL § 120.90; CPL § 140.20; CPL § 140.27).

##### **901.14 TRAINING**

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

# Custodial Searches

## 902.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Auburn Police Department facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

### 902.1.1 DEFINITIONS

Definitions related to this policy include:

**Custody search** - An in-custody search of an individual and of his/her property, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

**Physical body inspection** - A visual inspection of the body cavity. Body cavity for this definition means the exterior of the rectal and/or vaginal area of the subject being searched.

**Physical body cavity search** - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity for this definition means the internal stomach or rectal cavity of an individual, and the vagina of a female person.

**Strip search** - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

## 902.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

## 902.3 FIELD AND TRANSPORTATION SEARCHES

An officer should conduct a custody search of an individual immediately after his/her arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

An officer should search any vehicle used for prisoner transport before and after the transportation of a prisoner. Whenever a prisoner is being transported by an officer, the officer shall report the beginning and ending mileage to the dispatcher.

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Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search.

#### **902.4 SEARCHES AT AUBURN POLICE DEPARTMENT FACILITIES**

Custody searches shall be conducted on all individuals in custody, upon entry to the Auburn Police Department facilities. Before being placed in a cell or detention room, the clothing and person of each prisoner shall be thoroughly searched.

Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched (9 NYCRR § 7502.1). If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

##### **902.4.1 PROPERTY**

All arrests require a property envelope, whether the individual has property or not.

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred (9 NYCRR § 7502.1).

All personal property will be transported with the individual upon their transfer to another facility or release. However, some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Identification Bureau Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member.

#### [Prisoner Property Procedure](#)

##### **902.4.2 VERIFICATION OF MONEY**

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The department member sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

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##### 902.4.3 SPECIFIC ITEMS TO BE REMOVED

Belts, neckties, shoes and clothing items such as jackets, overcoats or other similar outer garments shall be removed and stored temporarily where they will not be accessible to persons in custody. A supply of disposable-type fiber or paper footwear to replace shoes may be kept available for issue as required (9 NYCRR § 7502.1).

##### 902.5 STRIP SEARCHES

No individual in temporary custody at any Auburn Police Department facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention, or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.
- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
  - 1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

##### 902.5.1 STRIP SEARCH PROCEDURES

Strip searches at Auburn Police Department facilities shall be conducted as follows (28 CFR 115.115):

- (a) Authorization from the Shift Commander shall be obtained prior to the strip search.
- (b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.
- (c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that the search cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.
- (d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.



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- (e) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched. In accordance with NYS Appellate Division 4th Department, Demetrius B., 89 AD3d 1421 [4<sup>th</sup> Dept. 2011], if contraband is visible and can be recovered "without touching respondent or invading his/her anal or vaginal cavities" then the officer can proceed with a strip search rather than a body cavity search for which a warrant would be required in the absence of exigent circumstances.
- (f) The primary member conducting the search shall prepare an incident report to include:
  - 1. The facts that led to the decision to perform a strip search.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The authorization for the search, obtained from the Shift Commander.
  - 4. The name of the individual who was searched.
  - 5. The name and sex of the members who conducted the search.
  - 6. The name, sex and role of any person present during the search.
  - 7. The time and date of the search.
  - 8. The place at which the search was conducted.
  - 9. A list of the items, if any, that were recovered.
  - 10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.
- (g) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.

#### 902.5.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with Shift Commander authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, including that the Shift Commander authorization does not need to be in writing.



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##### **902.6 PHYSICAL BODY CAVITY SEARCH**

Physical body cavity searches shall be subject to the following:

- (a) No individual shall be subjected to a physical body cavity search without approval of the Shift Commander and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).
- (b) Only authorized medical personnel may conduct a physical body cavity search whereby medical intervention is necessary to retrieve contraband secreted within an individual's internal body cavity
- (c) Except for the medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present.
- (d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.
- (e) All such searches shall be documented within an incident report to include:
  - 1. The facts that led to the decision to perform a physical body cavity search of the individual.
  - 2. The reasons less intrusive methods of searching were not used or were insufficient.
  - 3. The Shift Commander's approval.
  - 4. A copy of the search warrant.
  - 5. The time, date and location of the search.
  - 6. The medical personnel present.
  - 7. The names, sex and roles of any department members present.
  - 8. Any contraband or weapons discovered by the search.
- (f) A copy of the written authorization shall be retained and shall be made available to the individual who was searched or other authorized representative upon request.

##### **902.7 TRAINING**

The Training and Planning Administrator shall ensure members have training that includes (28 CFR 115.115):

- (a) Conducting searches of cross-gender individuals.
- (b) Conducting searches of transgender and intersex individuals.
- (c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

# Prison Rape Elimination

## 903.1 PURPOSE AND SCOPE

This policy provides guidance for compliance with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect and respond to sexual abuse and sexual harassment (28 CFR 115.111).

### 903.1.1 DEFINITIONS

Definitions related to this policy include:

**Intersex** - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

**Sexual abuse** - Any of the following acts, if the individual in custody does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object or other instrument
- Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or the buttocks of another person, excluding contact incidental to a physical altercation

Sexual abuse also includes abuse by a member of the Department or a contractor, with or without consent of the individual in custody, as follows:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva or anus
- Contact between the mouth and any body part where the department member or contractor has the intent to abuse, arouse or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object or other instrument, that is unrelated to official duties, or where the department member or contractor has the intent to abuse, arouse or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh or the buttocks, that is unrelated to official duties, or where the member or contractor has the intent to abuse, arouse or gratify sexual desire

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- Any attempt, threat or request by the department member or contractor to engage in the activities described above
- Any display by the department member or contractor of his/her uncovered genitalia, buttocks or breast in the presence of an individual in custody
- Voyeurism by the department member or contractor (28 CFR 115.6)

**Sexual harassment** - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures or actions of a derogatory or offensive sexual nature by one individual in custody that are directed toward another; or repeated verbal comments or gestures of a sexual nature to an individual in custody by a member of the Department or contractor, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6).

**Transgender** - A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

#### **903.2 POLICY**

The Auburn Police Department has zero tolerance with regard to all forms of sexual abuse and sexual harassment (28 CFR 115.111). The Department will not tolerate retaliation against any person who reports sexual abuse or sexual harassment, or who cooperates with a sexual abuse or sexual harassment investigation.

The Auburn Police Department will take immediate action to protect those in its custody who are reasonably believed to be subject to a substantial risk of imminent sexual abuse (28 CFR 115.162).

#### **903.3 PREA COORDINATOR**

The Chief of Police shall delegate certain responsibilities to a PREA coordinator, who will be the Deputy Chief of Police. The coordinator shall be an upper-level manager appointed by and directly responsible to the Patrol Commander or the authorized designee. The coordinator must have sufficient time and authority to develop, implement and oversee department efforts to comply with PREA standards (28 CFR 115.111).

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

- (a) Developing and maintaining procedures to comply with the PREA Rule.
- (b) Ensuring that any contract for the confinement of individuals in custody includes the requirement to adopt and comply with applicable provisions in PREA and the implementing regulations, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.187 (28 CFR 115.112).
- (c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect those in custody from sexual abuse (28 CFR 115.113).
  1. This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year.

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- (d) Developing methods for department members to privately report sexual abuse and sexual harassment of individuals in custody (28 CFR 115.151).
- (e) Developing a written plan to coordinate response among department members, medical and mental health practitioners, investigators, command staff and other first responders to an incident of sexual abuse (28 CFR 115.165).
- (f) Ensuring a protocol is developed for investigating allegations of sexual abuse. The protocol shall include (28 CFR 115.121; 28 CFR 115.122):
  - 1. Evidence collection practices that maximize the potential for obtaining usable physical evidence based on the most recent edition of the U.S. Department of Justice's (DOJ) Office on Violence Against Women publication, "A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents" or a similarly comprehensive and authoritative protocol.
  - 2. A process to ensure a criminal or administrative investigation is completed on all allegations of sexual abuse or sexual harassment.
  - 3. A process to document all referrals to other law enforcement agencies.
  - 4. Access to forensic medical examinations, without financial cost, for all victims of sexual abuse where appropriate. Such examinations shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The efforts to provide SAFEs or SANEs shall be documented.
  - 5. In accordance with security needs, provisions to give, to the extent available, individuals in custody access to victim advocacy services if the individual is transported for a forensic examination to an outside hospital that offers such services.
- (g) Ensuring that individuals with limited English proficiency and disabilities have an equal opportunity to understand and benefit from efforts to prevent, detect and respond to sexual abuse and sexual harassment. This includes access to appropriate interpreters and written materials in formats or through methods that provide effective communication to those with disabilities (e.g., limited reading skills; intellectual, hearing, speech or vision disabilities) (see the Limited English Proficiency Services and Communications with Persons with Disabilities policies) (28 CFR 115.116).
  - 1. The Department shall not rely on other individuals in custody for assistance except in limited circumstances where an extended delay in obtaining an appropriate interpreter could compromise the individual's safety, the performance of first-response duties under this policy, or the investigation of an individual's allegations of sexual abuse, harassment or retaliation.
- (h) Publishing on the department website:
  - 1. Information on how to report sexual abuse and sexual harassment on behalf of an individual in custody (28 CFR 115.154).

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2. A protocol describing the responsibilities of the Department and any other investigating agency responsible for conducting sexual abuse or sexual harassment investigations (28 CFR 115.122).
- (i) Establishing a process that includes the use of a standardized form and set of definitions to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under the direct control of this department (28 CFR 115.187).
  1. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence, conducted by DOJ, or any subsequent form developed by DOJ and designated for lockups.
  2. The data shall be aggregated at least annually.
- (j) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 for all department facilities used to house individuals in custody overnight (28 CFR 115.193).
- (k) Ensuring those who work in department facilities where individuals are held in custody are informed of the department zero-tolerance policy regarding sexual abuse and sexual harassment of individuals in custody (28 CFR 115.132).

#### **903.4 REPORTING SEXUAL ABUSE AND HARASSMENT**

Individuals in custody may make reports verbally, in writing, privately or anonymously of any of the following (28 CFR 115.151):

- Sexual abuse
- Sexual harassment
- Retaliation by other individuals in custody or department members for reporting sexual abuse or sexual harassment
- Department member neglect or violation of responsibilities that may have contributed to sexual abuse or sexual harassment

Individuals in custody shall be notified of the department zero-tolerance policy regarding sexual abuse and sexual harassment, and of at least one way to report abuse or harassment to a public or private entity that is not part of the Department and that is able to receive and immediately forward a report of sexual abuse or sexual harassment to department supervisors and command staff. This allows the individual to remain anonymous (28 CFR 115.132; 28 CFR 115.151).

##### **903.4.1 MEMBER RESPONSIBILITIES**

Department members shall accept reports from individuals in custody and third parties, and shall promptly document all reports (28 CFR 115.151).

All members shall report immediately to the Shift Commander any knowledge, suspicion or information regarding:

- (a) An incident of sexual abuse or sexual harassment.

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- (b) Retaliation against the individual or the member who reports any such incident.
- (c) Any neglect or violation of responsibilities on the part of any department member that may have contributed to an incident or retaliation (28 CFR 115.161).

No member shall reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment and investigation decisions.

#### **903.4.2 SHIFT COMMANDER RESPONSIBILITIES**

The Shift Commander shall report to Auburn Police Department designated investigators all allegations of sexual abuse, harassment, retaliation, neglect or violations leading to sexual abuse, harassment or retaliation. This includes third-party and anonymous reports (28 CFR 115.161).

If the alleged victim is under the age of 18 or considered a dependent adult, the Shift Commander shall also report the allegation as required under mandatory reporting laws and department policy.

Upon receiving an allegation that an individual in custody was sexually abused while confined at another facility, the Shift Commander shall notify the head of that facility or the appropriate office of the agency where the alleged abuse occurred. The notification shall be made as soon as possible but no later than 72 hours after receiving the allegation. The Shift Commander shall document such notification (28 CFR 115.163).

If an alleged victim is transferred from the Department to a jail, prison or medical facility, the Shift Commander shall, as permitted by law, inform the receiving facility of the incident and the individual's potential need for medical or social services, unless the individual requests otherwise (28 CFR 115.165).

#### **903.5 INVESTIGATIONS**

The Department shall promptly, thoroughly and objectively investigate all allegations, including third-party and anonymous reports, of sexual abuse or sexual harassment. Only investigators who have received department-approved special training shall conduct sexual abuse investigations (28 CFR 115.171).

##### **903.5.1 FIRST RESPONDER RESPONSIBILITIES**

The responsibilities of the first officer to respond to a report of sexual abuse or sexual assault shall include, but are not limited to (28 CFR 115.164):

- (a) Separating the parties.
- (b) Establishing a crime scene to preserve and protect any evidence.
- (c) Identifying and securing witnesses until steps can be taken to collect any evidence.
- (d) Requesting that the alleged victim and suspect not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking or eating if the abuse occurred within a time period that still allows for the collection of physical evidence.



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If the first responder is not an officer, he/she shall request that the alleged victim not take any actions that could destroy physical evidence and should then notify an officer (28 CFR 115.164).

#### 903.5.2 INVESTIGATOR RESPONSIBILITIES

The responsibilities of investigators shall include, but are not limited to (28 CFR 115.171):

- (a) Gathering and preserving direct and circumstantial evidence, including any available physical and biological evidence and any available electronic monitoring data.
- (b) Interviewing alleged victims, suspects and witnesses.
- (c) Reviewing any prior complaints and reports of sexual abuse involving the suspect.
- (d) Conducting compelled interviews only after consulting with prosecutors as to whether compelled interviews may be an obstacle for subsequent criminal prosecution.
- (e) Assessing the credibility of the alleged victim, suspect or witness on an individual basis and not by the person's status as an individual in custody or a member of the Auburn Police Department.
- (f) Documenting in written reports a description of physical, testimonial, documentary and other evidence, the reasoning behind any credibility assessments, and investigative facts and findings.
- (g) Referring allegations of conduct that may be criminal to the District Attorney for possible prosecution, including any time there is probable cause to believe an individual in custody sexually abused another individual in custody at the department facility (28 CFR 115.178).
- (h) Cooperating with outside investigators and remaining informed about the progress of any outside investigation.

#### 903.5.3 ADMINISTRATIVE INVESTIGATIONS

Administrative investigations shall include an effort to determine whether department member actions or failures to act contributed to the abuse. The departure of the alleged abuser or victim from the employment or control of this department shall not be used as a basis for terminating an investigation (28 CFR 115.171).

#### 903.5.4 SEXUAL ASSAULT AND SEXUAL ABUSE VICTIMS

No individual in custody who alleges sexual abuse shall be required to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an allegation (28 CFR 115.171(e)).

Victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident (28 CFR 115.182).

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##### **903.5.5 CONCLUSIONS AND FINDINGS**

All completed investigations shall be forwarded to the Chief of Police, or if the allegations may reasonably involve the Chief of Police, to the City Manager. The Chief of Police or City Manager shall review the investigation and determine whether any allegations of sexual abuse or sexual harassment have been substantiated by a preponderance of the evidence (28 CFR 115.172).

All department members shall be subject to disciplinary sanctions up to and including termination for violating this policy. Termination shall be the presumptive disciplinary sanction for members who have engaged in sexual abuse. All discipline shall be commensurate with the nature and circumstances of the acts committed, the member's disciplinary history and the sanctions imposed for comparable offenses by other members with similar histories (28 CFR 115.176).

All terminations for violations of this policy, or resignations by members who would have been terminated if not for their resignation, shall be criminally investigated unless the activity was clearly not criminal and reported to any relevant licensing body (28 CFR 115.176).

Any contractor who engages in sexual abuse shall be prohibited from contact with individuals in custody and reported to any relevant licensing bodies (28 CFR 115.177). The Chief of Police shall take appropriate remedial measures and consider whether to prohibit further contact with individuals in custody by a contractor.

##### **903.6 RETALIATION PROHIBITED**

All individuals in custody and department members who report sexual abuse or sexual harassment or who cooperate with sexual abuse or sexual harassment investigations shall be protected from retaliation (28 CFR 115.167). If any other person who cooperates with an investigation expresses a fear of retaliation, appropriate measures shall be taken to protect that person.

The Shift Commander or the authorized designee shall employ multiple protection measures, such as housing changes or transfers for victims or abusers, removal of alleged abusers from contact with victims, and emotional support services for individuals in custody or members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

A member of the Department shall be identified by the Shift Commander or the authorized designee to monitor the conduct and treatment of individuals in custody or members who have reported sexual abuse, and of those who were reported to have suffered sexual abuse. The member shall act promptly to remedy any such retaliation. In the case of individuals in custody, such monitoring shall also include periodic safety checks.

##### **903.7 REVIEWS AND AUDITS**

###### **903.7.1 INCIDENT REVIEWS**

An incident review shall be conducted at the conclusion of every sexual abuse investigation, unless the allegation has been determined to be unfounded. The review should occur within 30 days of the conclusion of the investigation. The review team shall include command staff and seek input from supervisors and investigators (28 CFR 115.186).



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The review shall (28 CFR 115.186):

- (a) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse.
- (b) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender or intersex identification, status or perceived status; gang affiliation; or other group dynamics at the department facility.
- (c) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.
- (d) Assess the adequacy of staffing levels in that area during different shifts.
- (e) Assess whether monitoring technology should be deployed or augmented to supplement supervision by department members.

The review team shall prepare a report of its findings, including any determinations made pursuant to this section and any recommendations for improvement. The report shall be submitted to the Chief of Police and the PREA coordinator. The Chief of Police or the authorized designee shall implement the recommendations for improvement or shall document the reasons for not doing so (28 CFR 115.186).

#### 903.7.2 DATA REVIEWS

The PREA coordinator shall conduct an annual review of collected and aggregated incident-based sexual abuse data. The review should include, as needed, data from incident-based documents, including reports, investigation files and sexual abuse incident reviews (28 CFR 115.187).

The purpose of these reviews is to assess and improve the effectiveness of sexual abuse prevention, detection and response policies, practices and training. An annual report shall be prepared that includes (28 CFR 115.188):

- (a) Identification of any potential problem areas.
- (b) Identification of any corrective actions taken.
- (c) Recommendations for any additional corrective actions.
- (d) A comparison of the current year's data and corrective actions with those from prior years.
- (e) An assessment of the progress in addressing sexual abuse.

The report shall be approved by the Chief of Police and made readily available to the public through the department website. Material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of the facility. However, the nature of the redacted material shall be indicated.

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All aggregated sexual abuse data from department facilities and private facilities with which it contracts shall be made readily available to the public at least annually. Before making aggregated sexual abuse data publicly available, all personal identifiers shall be removed (28 CFR 115.189).

#### **903.8 RECORDS**

The Auburn Police Department shall retain all written reports from administrative and criminal investigations pursuant to this policy for as long as the alleged abuser is in custody or is a member of the Department, plus five years (28 CFR 115.171).

All other data collected pursuant to this policy shall be securely retained for at least 10 years after the date of the initial collection unless federal, state or local law requires otherwise (28 CFR 115.189).

#### **903.9 TRAINING**

All department members and contractors who may have contact with individuals in custody shall receive department-approved training on the prevention and detection of sexual abuse and sexual harassment within the department facility.

- (a) The Training and Planning Administrator shall be responsible for developing and administering this training as appropriate, covering at a minimum (28 CFR 115.131):
  - 1. The department zero-tolerance policy and the right of individuals in custody to be free from sexual abuse and sexual harassment and from retaliation for reporting sexual abuse or harassment.
  - 2. The dynamics of sexual abuse and harassment in confinement settings, including which individuals in custody are most vulnerable.
  - 3. The right of individuals in custody and department members to be free from sexual abuse and sexual harassment, and from retaliation for reporting sexual abuse or harassment.
  - 4. Detecting and responding to signs of threatened and actual abuse.
  - 5. Communicating effectively and professionally with all individuals in custody.
  - 6. Compliance with relevant laws related to mandatory reporting of sexual abuse to outside authorities.
- (b) Investigators assigned to sexual abuse investigations shall also receive training in conducting such investigations in confinement settings. Training should include (28 CFR 115.134):
  - 1. Techniques for interviewing sexual abuse victims.
  - 2. Proper use of *Miranda* and *Garrity* warnings.
  - 3. Sexual abuse evidence collection in confinement settings.

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4. Criteria and evidence required to substantiate a case for administrative action or prosecution referral.

The Training and Planning Administrator shall maintain documentation that department members, contractors and investigators have completed required training and that they understand the training. This understanding shall be documented through individual signature or electronic verification.

All current department members who may have contact with individuals in custody shall be trained within one year of the effective date of the PREA standards. The Department shall provide annual refresher information to all such members to ensure that they understand the current sexual abuse and sexual harassment policies and procedures.

## **Chapter 10 - Personnel**

# Recruitment and Selection

## 1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Auburn Police Department and that are promulgated and maintained by the Auburn Civil Service Commission.

## 1000.2 POLICY

In accordance with applicable federal, state, and local law, the Auburn Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

## 1000.3 RECRUITMENT

The Training and Planning Administrator should employ a comprehensive recruitment and selection strategy to recruit candidates who qualify for the Civil Service exam and select employees from a qualified and diverse pool of candidates.

The strategy should include:

- (a) Identification of racially and culturally diverse target markets.
- (b) Use of marketing strategies to target diverse applicant pools.
- (c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive department website and the use of department-managed social networking sites, if resources permit.
- (d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities and the military.
- (e) Employee referral and recruitment incentive programs.
- (f) Consideration of shared or collaborative regional testing processes.

The Training and Planning Administrator shall avoid advertising, recruiting, and screening practices that tend to stereotype, focus on homogeneous applicant pools, or screen applicants in a discriminatory manner.

All civil service job announcements must include a description of the duties of the position, minimum qualifications of the position, elements of the application process, and note that the Department is an Equal Opportunity Employer.

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##### **1000.4 SELECTION PROCESS**

Upon the certification of a civil service list and following the laws and rules guiding selection from the list, the Department shall actively strive to identify the candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department shall employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
  - 1. Applicants shall submit a personal history statement that addresses each of the components of moral character set forth in 9 NYCRR § 6000.10. This includes information, when applicable, related to the applicant's criminal history; use of controlled substances; conduct involving dishonesty, deceit, or misrepresentation; dishonorable discharge; inappropriate sexual conduct; and history of traffic violations.
- (b) Driving record
- (c) Personal and professional reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
  - 1. This review should include the identification of any activity that promotes or supports unlawful violence or unlawful bias against persons based on protected characteristics (e.g., race, ethnicity, national origin, religion, gender, gender identity, sexual orientation, disability).
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks
- (h) Polygraph examination (when legally permissible)
- (i) An impartial medical exam by a licensed physician or practitioner that meets the Municipal Police Training Council (MPTC) standards (may only be given after a conditional offer of employment) (9 NYCRR 6000.4)
  - 1. A psychological examination administered by qualified professionals to ensure psychological fitness (may only be given after a conditional offer of employment) (9 NYCRR 6000.11)
- (j) Oral review board or selection committee assessment based upon standardized questions with candidate's responses recorded on uniform reports
- (k) Relevant national and state decertification records, if available
- (l) Any relevant information in the National Law Enforcement Accountability Database

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##### 1000.4.1 VETERAN PREFERENCE

The Department will provide veteran preference credits as required (Civil Service Law § 85).

##### 1000.4.2 PRE-EMPLOYMENT TESTING

- (a) All sworn applicants for employment with the Auburn Police Department, or transfers into such positions, shall be tested for prohibited drugs
- (b) The drug tests required by this section shall be administered only after the applicant has been informed in writing that the urine sample being collected will be tested for the listed prohibited drugs. Pre-employment testing will be administered by a certified Occupational Drug Testing facility hired by the City of Auburn to conduct such testing procedures. The classes of prohibited drugs include:
  - (a) Amphetamines / Amphetamine / Methamphetamines
  - (b) MDMA / MDA / MDEA
  - (c) Barbiturates
  - (d) Benzodiazepines
  - (e) Cocaine Metabolites
  - (f) Codeine / Morphine
  - (g) Oxycodone / Oxymorphone
  - (h) 6-Acetylmorphine (intermediate metabolite between heroin and morphine)
  - (i) Hydrocodone / Hydromorphone
  - (j) Phencyclidine
  - (k) Methadone
  - (l) Methaqualone
  - (m) Propoxyphene.
  - (n) Marihuana
- (c) An applicant who fails a drug test shall not be hired.

##### 1000.4.3 ADDITIONAL REQUIREMENTS

All candidates for entry-level officer positions will be required to pass a written test as part of the selection process.

All verbal and written tests used in the selection process shall be administered, scored, evaluated, and interpreted in a uniform and nondiscriminatory manner.

Any candidate being considered for a sworn (entry-level and lateral appointments) position shall be interviewed prior to their appointment. The interviews will employ a set of uniform questions, and the results obtained will be recorded on standardized forms. At least one person who participates in the interview process shall be a sworn member of the Department.

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##### **1000.5 BACKGROUND INVESTIGATION**

Every candidate shall undergo a thorough background investigation to verify the candidate's personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Auburn Police Department.

Background investigators will be provided with instructions and checklists to ensure thorough, comprehensive, and objective investigations of candidates. Elements of the background investigation will include verification of employment, education, and residences; interviews with previous and current employers, family members, neighbors, social contacts, provided references, developed references, and organizations; and review of credit history, military records, and other public records searches.

Every background investigation shall additionally include assessments required by 9 NYCRR 6000.10 and as described in the Standards for Officers Under State Law subsection of this policy.

##### **1000.5.1 NOTICES**

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the New York Fair Credit Reporting Act (15 USC § 1681d; General Business Law § 380-c).

##### **1000.5.2 STATE NOTICES**

Every applicant disqualified due to facts discovered during the background investigation by the Auburn Police Department will be provided a written statement specifying the reasons for the disqualification and allowed an opportunity for rebuttal (Civil Service Law § 50).

Applicants who are or were subject to an extreme risk protection order (temporary or final) should be afforded an opportunity to explain the circumstances and provided with copies of records related to the order that are obtained by the Department (CPLR § 6346).

##### **1000.5.3 REVIEW OF SOCIAL MEDIA SITES**

Due to the potential for accessing unsubstantiated, private or protected information, the Administration Commander should not require candidates to provide passwords and account information to password-protected social media accounts.

The Administration Commander should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

##### **1000.5.4 RECORDS RETENTION**

The background report and all supporting documentation shall be maintained in accordance with the established records retention schedule.

Findings related to the candidate's moral character shall be available for review by the Division of Criminal Justice Services (9 NYCRR § 6000.10).



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##### 1000.5.5 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file. Background investigators will utilize the standardized Auburn Police Department background investigation packet and checklist.

##### **1000.6 DISQUALIFICATION GUIDELINES**

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework. State law provides for statutory minimal standards for disqualification as prescribed by Civil Service Law § 50.

##### 1000.6.1 DISQUALIFICATION FACTORS UNDER STATE LAW

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework. State law provides for statutory minimal standards for disqualification as prescribed by Civil Service Law § 50 and MPTC. Candidates shall be deemed unfit to serve as an officer if within three years of the date of application, the candidate has engaged in any of the following activity or criminal activity, whether criminally charged or prosecuted, regardless of where the act took place, if the conduct would be an offense in New York:

- (a) Any felony offense
- (b) Any sex offense or sexually violent offense as defined in NY Correction Law § 168-a (Sex Offender Registration Act)
- (c) Any serious offense (NY Penal Law § 265)
- (d) Any crime involving misconduct and obstruction of public servants, bribery of a public servant, perjury, or crimes related to judicial proceedings (NY Penal Law Art. 195, Art. 200, Art. 210, Art. 215)

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- (e) Any crime involving forgery, false written statements, or crimes involving fraud (NY Penal Law Art. 170, Art. 175, Art. 190)
- (f) Any crime involving assault and menacing, obscenity, crimes against public sensibilities, or crimes against public order (NY Penal Law Art. 120, Art. 235, Art. 245, Art. 240)
- (g) The unlawful use of any controlled substances
- (h) False statements or conduct that subverts or attempts to subvert the application process
- (i) A dishonorable discharge from any of the Armed Forces of the United States

Additional considerations should include:

- Any of the conduct above, which has occurred more than three years from the date of application
- The unlawful use of a controlled substance more than three years from the date of application
- Inappropriate sexual conduct regardless of adjudication
- Conduct involving dishonesty, deceit, or misrepresentation
- Historical pattern of conduct of moving traffic violations
- Any other conduct determined to be a reflection on the candidate's moral character

#### **1000.7 EMPLOYMENT STANDARDS**

All candidates shall meet the minimum standards required by state law. Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community.

Validated, job-related and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Comptroller should maintain validated standards for all positions.

The Administration Commander or the authorized designee shall undergo a case-by-case analysis to determine that the nondiscriminatory employment standards, including medical standards, for each position are consistent with the business necessity of the Department and contain the position's essential job functions (9 NYCRR 6000.7; 9 NYCRR 6000.9).

##### **1000.7.1 STANDARDS FOR OFFICERS**

Candidates shall meet the following minimum standards:

- (a) Free of any felony convictions
- (b) Citizen of the United States or permanent resident noncitizen eligible for and has applied for citizenship

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- (c) At least 20 years of age and no more than 35 years of age with certain exceptions (Civil Service Law § 58)
- (d) Fingerprinted for local, state, and national fingerprint check (9 NYCRR 6000.10 (b)(2))
- (e) Good moral character as determined by a thorough background investigation (9 NYCRR 6000.10(b))
- (f) High school graduate, passed the GED, or obtained a two-year, four-year, or advanced degree from an accredited or approved institution
- (g) Free from any physical, emotional, or mental condition which might adversely affect the exercise of police powers (9 NYCRR 6000.3; 9 NYCRR 6000.4; 9 NYCRR 6000.8; 9 NYCRR 6000.10)

#### 1000.7.2 STANDARDS FOR OFFICERS UNDER STATE LAW

Candidates should be subjected to additional evaluations to determine whether they meet MPTC-required standards and whether they are physically and psychologically fit to perform essential job functions with or without reasonable accommodations (9 NYCRR 6000.3). The evaluations shall include physical ability testing, good moral character as determined by a background investigation, polygraph and/or pre-offer personality test, drug screening, and medical and psychological review.

All candidates should undergo a physical fitness screening test offered by the MPTC prior to receiving a conditional offer of employment by the Department (9 NYCRR 6000.8).

Candidates who successfully complete the physical fitness screening test shall undergo the Department background investigation consistent with this policy and the procedures set forth 9 NYCRR 6000.10(b). In addition to the standards for officers above, the evaluation shall assess whether the candidate demonstrates good moral character and is not otherwise disqualified or unfit to serve (see the Disqualification Standards Under State Law subsection in this policy).

To assess a candidate's moral character, the investigator shall consider, at a minimum, the candidate's complete employment application, personal statement, review of information provided by family, references, educational institutions, previous and current employers, neighbors, landlords, social contacts, the Department of Motor Vehicles, military records, organizations and affiliations, court records, credit history, Police and Peace Officer Registry maintained by the Division of Criminal Justice Services, and the National Decertification Index (or successor).

The investigator should additionally conduct an in-person interview to include (9 NYCRR § 6000.10):

- Prior criminal behavior (regardless of whether the candidate was charged or convicted).
- Driving behavior.
- Use of controlled substances.
- Any conduct involving fraud, dishonesty, deceit, or misrepresentation.

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Candidates who are determined to be of good moral character shall undergo a medical examination pursuant to 9 NYCRR 6000.4 and psychological examination pursuant to 9 NYCCR 6000.11 after receiving a conditional offer of employment. The Department shall consider the recommendations in the post-offer medical review to determine whether to revoke a conditional offer of employment (9 NYCRR 6000.4).

The Department should provide reasonable accommodations that are necessary to perform an essential job function to qualified candidates with a disability (9 NYCRR 6000.5).

#### **1000.8 PROBATIONARY PERIODS**

The Administration Commander should coordinate with the Human Resources Benefit Coordinator to identify positions subject to probationary periods and procedures for:

- (a) Appraising performance during probation.
- (b) Assessing the level of performance required to complete probation.
- (c) Extending probation.
- (d) Documenting successful or unsuccessful completion of probation.

## Special Assignments and Promotions

### 1001.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Auburn Police Department.

### 1001.2 POLICY

The Auburn Police Department determines assignments and promotions in a nondiscriminatory manner based upon job-related factors and candidate skills and qualifications. Assignments and promotions are made by the Chief of Police.

### 1001.3 PROMOTIONAL REQUIREMENTS

Requirements and information regarding any promotional process are available at the City of Auburn Civil Service Office via the specific promotional test announcement and/or the City of Auburn Civil Service website:

<https://www.auburnny.gov/civil-service/pages/job-opportunitiesexamination-announcements>

- (a) Notices shall be posted for upcoming competitive examinations for promotion via department email.
- (b) Discriminatory hiring practices are prohibited. The Auburn Police Department is an equal opportunity employer.
- (c) Candidates who responded "yes" to the canvas letter will undergo a panel interview board, which consists of the Chief, Deputy Chief, Patrol Captain and/or prospective supervisor. The Chief of Police will have the ultimate decision for the promotion.
- (d) All promotions to Sergeant, Lieutenant, and /or Captain will have a probationary term of six months from the date that the promotional appointment was made. This probationary period is established in accordance with civil service laws and requirements.

#### 1001.3.1 PROMOTIONAL PROCESS

The Chief of Police or the authorized designee is responsible for the promotional process and should coordinate with the Comptroller to develop a written promotional process for both sworn and civilian positions that is job-related and nondiscriminatory.

#### 1001.3.2 ELIGIBILITY LISTS

If eligibility lists are used, the Chief of Police or the authorized designee, along with Civil Service should develop criteria and procedures for developing each list, which should specify:

- (a) The numerical weight, if any, assigned to each eligibility requirement.
- (b) A system for ranking eligible employees on the lists.
- (c) The duration of the lists.
- (d) Written certification of eligible employees.

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- (e) A system for selecting names from the lists.

## Anti-Retaliation

### 1002.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, state and local law, ordinance or collective bargaining agreement.

### 1002.2 POLICY

The Auburn Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

### 1002.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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##### **1002.4 COMPLAINTS OF RETALIATION**

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member or the Chief of Police.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false or with willful or reckless disregard for the truth or falsity of the information, or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

##### **1002.5 SUPERVISOR RESPONSIBILITIES**

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

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

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

##### **1002.6 COMMAND STAFF RESPONSIBILITIES**

The Chief of Police should communicate to all supervisors the prohibition against retaliation.



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Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

#### **1002.7 WHISTLE-BLOWING**

New York law protects employees and former employees who reasonably believe an activity, policy, or practice of the employer is in violation of a law, rule, or regulation or poses a substantial and specific danger to the public health or safety and (Labor Law § 740):

- (a) Disclose or threaten to disclose to a supervisor or to a public body any such activity, policy, or practice of the Auburn Police Department.
- (b) Provide information to or testify before any public body conducting an investigation, hearing, or inquiry into any such activity, policy, or practice by the Auburn Police Department.
- (c) Object to or refuse to participate in any such activity, policy, or practice.

Members should make a good faith effort to notify a supervisor or the Chief of Police to provide the Deputy Chief a reasonable opportunity to correct the issue unless they are excused from such notice under state law (Labor Law § 740).

Supervisors should refer the complaint to the Deputy Chief for investigation pursuant to the Personnel Complaints Policy (Labor Law § 740; Civil Service Law § 75-b).

Notice of the requirements of Labor Law § 740 shall be prominently posted in easily accessible and well-lit areas frequented by members and candidates (Labor Law § 740).

#### **1002.8 RECORDS RETENTION AND RELEASE**

The Records Supervisor shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

#### **1002.9 TRAINING**

This policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

# Reporting of Arrests, Convictions and Court Orders

## 1003.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the notification requirements and procedures that members must follow when certain arrests, convictions and court orders restrict their ability to perform the official duties and responsibilities of the Auburn Police Department. This policy will also describe the notification requirements and procedures that certain retired officers must follow when an arrest, conviction or court order disqualifies them from possessing a firearm.

## 1003.2 POLICY

The Auburn Police Department requires disclosure of member arrests, convictions and certain court orders to maintain the high standards, ethics and integrity in its workforce, and to ensure compatibility with the duties and responsibilities of the Department.

## 1003.3 DOMESTIC VIOLENCE CONVICTIONS AND COURT ORDERS

Federal and New York law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing firearms. Such convictions and court orders often involve allegations of the use or attempted use of force, or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; CPL § 530.14).

When the Chief of Police has knowledge, or reason to believe, that an officer is under a qualifying Order of Protection, the Department shall verify the officer is in compliance with prohibitions on the possession of pistols, rifles, shotguns or ammunition as required by Federal or New York law, and whether the officer's duty weapons and equipment are exempt. Appropriate action regarding the carry of such weapons is required.

All members and retired officers with identification cards issued by the Department are responsible for ensuring that they have not been disqualified from possessing firearms by any such conviction or court order, and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

## 1003.4 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

While legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust, and shall be reported as provided in this policy.

## 1003.5 REPORTING

All members and all retired officers with identification cards issued by the Department shall immediately notify their supervisors (retired officers should immediately notify the Shift Commander or the Chief of Police) in writing of any past or current criminal detention, arrest, charge or conviction in any state or foreign country, regardless of whether the matter was dropped

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or rejected, is currently pending or is on appeal, and regardless of the penalty or sentence, if any. Employees shall be personally responsible for reporting immediately to their supervisors any arrests, including traffic violations or court actions instituted against them with the exception of divorce proceedings or child support. However, any contempt of court arising from divorce or support proceedings must be immediately reported. Employees, upon receipt of a notice of claim or lawsuit, arising out of their employment, shall note on the document(s) time of service, date, location and how or by whom served and shall immediately forward the original to the Office of the Chief of Police. Failure to forward immediately may result in their own liability for the action.

Loss or suspension of a New York State driver's license must be reported to the Chief of Police, in writing, immediately after such loss or suspension occurs.

All members and all retired officers with identification cards issued by the Department shall immediately notify their supervisors (retired officers should immediately notify the Shift Commander or the Chief of Police) in writing if they become the subject of a domestic violence-related order or any court order that prevents the member or retired officer from possessing a firearm or requires suspension or revocation of applicable Municipal Police Training Council (MPTC) certification.

Any member whose criminal arrest, conviction or court order restricts or prohibits that member from fully and properly performing his/her duties, including carrying a firearm, may be disciplined. This includes, but is not limited to, being placed on administrative leave, reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member, on his/her own time and at his/her own expense.

Any employee failing to provide prompt written notice pursuant to this policy shall be subject to discipline, up to and including termination.

Retired officers may have their identification cards rescinded or modified, as may be appropriate (see the Retiree Concealed Firearms Policy).

#### 1003.5.1 NOTIFICATION REQUIREMENTS

The Chief of Police shall submit the proper notice of any appointment of an officer, auxiliary officer or other required employee by this department to the Department of Criminal Justice Services (DCJS) in a timely manner (9 NYCRR § 6056.4; 9 NYCRR § 6056.5).

The Chief of Police shall immediately submit the proper notice of any leave of absence, removal, termination, resignation, reinstatement, name change or other status change, including those individuals who are removed for cause due to incompetence or misconduct, regarding any officer, auxiliary officer or other required employee that is employed by this department to DCJS (9 NYCRR § 6056.4, 6056.5). When a police or peace officer is reported as a removal for cause, DCJS shall submit such individual's name to the National Decertification Index.

Pursuant to Executive Law §845, each head of a state or local agency, unit of local government, state or local commission, public authority or other organization which employs police officers or peace officers shall transmit to the division, no later than the fifteenth day of January annually,

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and in a form and manner prescribed by the division, a list containing the name of every police officer or peace officer employed by his or her agency, government, commission, authority or organization indicating with respect to each officer his or her date of birth, social security number, rank or title, employer, and whether he is employed full-time or part-time. In addition to such annual list, each such head, whenever officers have been newly appointed or have ceased to serve, shall immediately transmit to the division, in a form and manner prescribed by the division, a list containing the names of such officers which, in the instance of new appointees, shall include all the information required to be furnished in the annual listing.

## Drug- and Alcohol-Free Workplace

### 1004.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

#### 1004.1.1 DEFINITIONS

**EBT** - Evidential Breath-Testing Device

**BAT** - Breath Alcohol Technician

### 1004.2 POLICY

It is the policy of the Auburn Police Department to provide a drug- and alcohol-free workplace for all members.

**\*\*See attached MOU / contractual agreement for complete Drug and Alcohol Testing for employees\*\***

[Drug and Alcohol Testing for Sworn Officers, with MOU](#)

### 1004.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Shift Commander or appropriate supervisor as soon as the member is aware that the member will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, the member shall be immediately removed and released from work (see the Work Restrictions section in this policy).

#### 1004.3.1 USE OF MEDICATIONS

Members should avoid taking any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to his/her immediate supervisor prior to commencing any on-duty status.

Possession of medical marihuana or being under the influence of marihuana on- or off-duty is prohibited and may lead to disciplinary action.

### 1004.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103).

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The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow on-duty member is impaired due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

#### **1004.5 EMPLOYEE ASSISTANCE PROGRAM**

The Employee Assistance Program (EAP) has been established to aid employees in coping with the myriad of personal problems with which they may be confronted, including drug and alcohol abuse, which can affect their job performance. The (EAP) is always available to all employees and their families who voluntarily seek its assistance, except that the EAP may not be used to avoid the taking of a drug or alcohol test when an employee has been selected for testing under this Policy. An employee who has been selected to take a required drug or alcohol test may not avoid the obligation to take the test by past or future participation in the EAP. Voluntary participation in the EAP is confidential and will not adversely affect an employee's employment with the City of Auburn. Employees can refer to the City of Auburn, Employee Handbook, Section 817 for additional information pertaining to the City of Auburn EAP program.

#### **1004.6 WORK RESTRICTIONS**

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

#### **1004.7 SCREENING**

##### **1004.7.1 REASONABLE SUSPICION**

- (a) Covered employees are prohibited from using drugs or misusing alcohol as described herein. A covered employee who is reasonably suspected by a supervisor of using a prohibited drug or the misuse of alcohol, or both, shall be administered a drug test (urine) or alcohol test (breath) or both, as appropriate. An employee is reasonably suspected of using a prohibited drug or of the misuse of alcohol, or both when a supervisor makes specific, contemporaneous articulable observations concerning the appearance, behavior, speech or body odors of the employee indicating such use or misuse, or both. The person who makes the determination that reasonable suspicion exists to conduct a drug or alcohol test shall not conduct the actual test of

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the employee. These articulable reasons will be documented in the form of an internal investigation to be forwarded to the Office of the Chief of Police or his/her designee without unnecessary delay.

- (b) Alcohol testing is authorized only if the observations stated above are made during, just preceding, or just after the period of the workday that the employee is required to be in compliance with the restrictions on alcohol use. When a supervisor in charge of a shift determines that a reasonable suspicion test should be administered, the employee shall not perform or continue to perform his or her duties until:
  - 1. An alcohol test is administered via the departments Datamaster machine and the employee's alcohol concentration measures 0.02/grams of alcohol per 100 milliliters of blood or below, or
  - 2. The start of the employee's next regularly scheduled duty period, but not less than 8 hours following the determination that there is reasonable suspicion to believe that the employee has engaged in the misuse of alcohol.
- (c) A covered employee who is reasonably suspected of using a prohibited drug or misusing alcohol shall be afforded the opportunity to contact a Union representative prior to the submission of any urine or alcohol testing. If so requested by the covered employee, the representative may be present during said testing as long as the representative arrives within one hour from the time the covered employee contacts them. Upon their arrival no unnecessary delay or interference by the representative shall take place.

#### 1004.7.2 SUPERVISOR RESPONSIBILITIES

The supervisor shall prepare a written record documenting the specific facts that led to the decision to require the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.
- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

#### 1004.7.3 SCREENING TEST

- (a) The employee will be afforded, at the time of initial notification that the BAT will be performed, to confer with union representation and have such representation present during testing if so desired. It is the responsibility of the employee to ensure the presence of the union representative at the time of the BAT, if so desired. The BAT will open an individually sealed, disposable mouthpiece in view of the employee and attach it to the EBT machine. The BAT will instruct the employee to blow forcefully into the mouth piece for at least six seconds or until an adequate amount of breath has been obtained.
- (b) Following the screening test, the BAT must show the employee the result displayed on the EBT or a printed result. If the result on the screening test is an alcohol concentration



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of less than 0.02/grams of alcohol per 100 milliliters of blood or below no further testing is required and the test will be reported to the employer as negative test. The employee may then return to his/her duty assignment.

#### **1004.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

#### **1004.9 CONFIDENTIALITY**

The City of Auburn shall make every effort to assure the confidentiality throughout testing process and to protect the individual dignity and right to privacy of all employees. Personal data regarding the drug testing results and rehabilitation program evaluations will be forwarded to the Office of the City Manager or his designee, and are confidential. Any release of this information other than to those representatives of the City of Auburn listed in Section VI(F)(5) of the Drug and Alcohol Testing MOU, or the employee's supervisor is prohibited without written permission of the employee tested. The affected employee may request the results of any drug or alcohol test conducted upon them in writing, by requesting such from the Office of the City Manager or his designee. The City of Auburn may release test results to the Auburn Police Chief or other law enforcement agency upon their request in conjunction with their investigation of an accident, crime, or internal investigation to any other oversight agency where lawful authority is presented. These releases, where required, may be done without the employee's consent.



## Sick Leave

### 1005.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the City personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) or the New York Paid Family Leave Benefits Law (29 USC § 2601 et seq.; Workers' Compensation Law § 200 et seq.; 12 NYCRR § 380-2.4 et seq.).

### 1005.2 POLICY

It is the policy of the Auburn Police Department to provide eligible employees with a sick leave benefit.

### 1005.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences. Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick-leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness (see the Outside Employment and Outside Overtime Policy).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

#### 1005.3.1 NOTIFICATION

Members, when possible, will notify the Officer in Charge at least 4 hours prior to their assigned duty hours that they will be out of work on sick leave.

When an officer is out of work on sick leave, and the officer is returning to duty, the officer is required to notify the on-duty Officer in Charge at the command desk, at least 4 hours prior to their next scheduled shift that he/she is returning to duty that day. In any event that an officer fails to notify the department that they are returning to duty at least 4 hours in advance and if applicable an overtime shift has been filled because of their sick leave, the Officer in Charge will advise the officer that they are not eligible to return to work and will remain on sick leave until the following day.

Officers out on sick leave are still required to notify the Officer in Charge on a daily basis if they are going to continue to remain out sick for their next assigned shift.

If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor.

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When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the Department with no less than 30 days' notice of the impending absence.

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

#### **1005.4 EXTENDED ABSENCE**

Members absent from duty for three or more consecutive days will be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days.

#### **1005.5 SUPERVISOR RESPONSIBILITIES**

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

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
  - 1. Negatively affected the member's performance or ability to complete assigned duties.
  - 2. Negatively affected department operations.
- (c) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (d) Referring eligible members to an available employee assistance program when appropriate.

#### **1005.6 OTHER MEDICAL LEAVE**

Members are allowed four hours of paid leave for cancer screening each year (Civil Service Law § 159-b).

An eligible employee may be entitled to sick, disability, or family leave if the employee is subject to or caring for a dependent child subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19. Employees should contact the Comptroller as soon as practicable once they have reason to believe a precautionary order is in effect.

The Comptroller shall advise employees of their rights and responsibilities as applicable (FFCRA; L. 2020, ch. 25, 2020 McKinney's Session Law News of N.Y.).

# Communicable Diseases

## 1006.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

### 1006.1.1 DEFINITIONS

Definitions related to this policy include:

**Communicable disease** - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing, or coughing. These diseases commonly include but are not limited to hepatitis B virus (HBV), HIV, and tuberculosis.

**Exposure** - When an eye, mouth, mucous membrane, or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing, or coughing (i.e., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Auburn Police Department (see the exposure control plan for further details to assist in identifying whether an exposure has occurred).

**Body fluids:** liquid secretions including blood, semen and vaginal fluid or other secretions that might contain these fluids such as saliva, vomit, urine and feces.

**Infectious waste:** material soaked or saturated with blood, discarded serums, and vaccines; pathological wastes, including human tissues and anatomical parts; laboratory wastes including animal carcasses which have been exposed to pathogenic organisms; wastes from patients in isolation, as well as other articles being discarded that are potentially infectious and that might cause punctures or cuts, including hypodermic needles, intravenous needles, and intravenous tubing with needles attached, pipettes, scalpels that have not been autoclaved or subjected to a similar decontamination technique and crushed or otherwise rendered incapable of causing puncture or cuts. Generally excluded are tongue depressors, latex gloves, soiled gauze and waste generated by certified home health agency patients.

**Acquired immune deficiency syndrome (AIDS):** AIDS is a disease characterized by complications indicative of an underlying immune deficiency. The viral agent identify victims develop a variety of infections as well as certain forms of cancer. An AIDS infection is usually characterized by sudden extreme weight loss, swollen glands, joint pain, and ulcerated sores or lesions on the body. However, many infected persons may exhibit no immediate symptoms.

Any persons engaged in high risk investigatory activities such as those dealing with drug abuse, prostitution, crime scenes where blood or other body fluids are present, serious accident investigation, or are involved in the collection, analysis, and storage of blood smeared and otherwise possibly contaminated evidence are at risk of being exposed to the aids virus.

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AIDS is a blood borne disease transmitted by direct contact with blood, semen, and possibly other body secretions of an infected person. Sexual contact and intravenous drug abuse are the primary activities of transmission of the HIV virus. There is no evidence that the disease is transmitted through casual contact, or through the air.

**Tuberculosis (TB):** TB is a highly infectious bacterial disease which primarily infects the lungs of its victims, although it may also be present in the bones and other body parts of the body. TB is usually characterized by persistent cough, fatigue, chest pain, breathing difficulty or spitting up blood. Persons with active TB may appear well, in spite of the fact that they may be in an advanced stage of the disease. TB is contracted almost exclusively by inhalation of infectious airborne particles. High-risk conditions include:

- (a) Having a person displaying TB symptoms or with a known TB history sneeze, cough, laugh, shout, spit, cry, or project droplets of saliva directly into the face of another.
- (b) Drinking from the same glass, eating with the same utensils, or smoking the same cigarette used by a person displaying TB symptoms or with a known TB history.
- (c) Performing cardio pulmonary resuscitation (cpr) on a possible TB infected person without the use of proper equipment.
- (d) Close contact with persons with poor personal hygiene, especially those with severe coughing or other TB symptoms.
- (e) Entering unsanitary environments and overcrowded residences with poor sanitary facilities, particularly if inhabited by known TB carriers.

**Hepatitis:** viral Hepatitis is an infection of the liver caused by either Hepatitis virus type A or Hepatitis virus type B. Hepatitis A infection is usually characterized by yellowing of the whites of the eyes and skin, fever, fatigue, upset stomach, possible vomiting, abdominal pain, and dark colored urine. Hepatitis B infection carries the same symptoms as Hepatitis A, only more severe in nature and with a much longer recovery period. Hepatitis B symptoms also may include skin rashes, muscle aches, and pain in joints. Persons infected with the Hepatitis virus may show no symptoms.

**Note:** there is a Hepatitis type C that is also an infection of the liver that may have no symptoms and the subject may actually feel well, or may exhibit tiredness, flu like symptoms, mild fever, muscular aches and pains, nausea and even vomiting or diarrhea. A few cases can develop yellowing of the skin or whites of the eyes, but this does not happen often. Early infection of Hepatitis type C is called acute Hepatitis C. Some people with acute Hepatitis C get well without needing treatment. Most people, however, remain infected for many years. They have chronic Hepatitis C, which occasionally may lead to serious liver damage that includesscarring (Cirrhosis), liver destruction, and even liver cancer.

The manner in which Hepatitis is transmitted is nearly identical to that of AIDS.

**Blood borne pathogens:** Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to: Hepatitis B (HBV), Hepatitis C (HCV) and Human Immunodeficiency Virus (HIV).

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**Source individual:** Any individual living or dead whose blood or other potentially infectious materials may be a source of occupational exposure to the member.

**Bio-hazardous evidence:** Any evidence containing blood or body fluids, or any evidence stained or contaminated by blood or body fluids. All evidence of this type is presumed to be hazardous and will be handled accordingly.

**Universal precautions:** An infectious control method which requires employees to assume that all human blood and specified human body fluids are infectious for HIV, HBV, HCV, and other blood borne pathogens and must be treated accordingly.

#### **1006.2 POLICY**

The Auburn Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

#### **1006.3 EXPOSURE CONTROL OFFICER**

The Chief of Police will assign a person as the Exposure Control Officer (ECO), who is the Training and Planning Administrator. The ECO shall develop an exposure control plan that includes:

- (a) Exposure prevention and decontamination procedures.
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
- (c) The provision that department members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) that is appropriate for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them.
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
  - 1. Adhering to exposure control mandates and precautions in 29 CFR 1910.1030 (Labor Law § 27-a; 12 NYCRR § 800.3).
  - 2. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
  - 3. Providing medical examinations of public protection officials (Civil Service Law § 178).
  - 4. Recording employment-related, communicable disease-related incidents for the New York State Department of Labor's Division of Safety and Health including:
    - (a) Work-related communicable diseases and tuberculosis cases (12 NYCRR § 801.7; 12 NYCRR § 801.11).
    - (b) Needlestick and sharps injuries (12 NYCRR § 801.8).

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The ECO should also act as the liaison with the New York State Public Employee Safety and Health Bureau and may request voluntary compliance inspections. The ECO should periodically review and update the exposure control plan and review implementation of the plan.

#### **1006.4 EXPOSURE PREVENTION AND MITIGATION**

##### **1006.4.1 PANDEMICS**

See Pandemics Policy regarding widespread pandemic cases.

##### **1006.4.2 TRANSPORT AND CUSTODY**

- (a) Individuals with body fluids on their persons shall be transported in separate vehicles from other individuals. The individual may be required to wear a suitable protective covering if he/she is bleeding or otherwise emitting body fluids.
- (b) Officers have an obligation to notify relevant support personnel during a transfer of custody when the suspect has body fluids on his/her person
- (c) Officers shall document on the appropriate arrest or incident form when a suspect taken into custody has body fluids on his/her person.
- (d) If an individual transported to a medical facility is suspected of having a communicable disease, the member transporting will advise medical service providers attending the individual of the transporting member's name and department telephone number so that the department and the member can be notified in the event that the individual tests positive for TB or Hepatitis

Note: Members are reminded that Article 27F, Section 2782 of the New York State Public Health Law specifically prohibits anyone from disclosing HIV information when not authorized to do so.

##### **1006.4.3 GENERAL PRECAUTIONS**

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes but is not limited to (29 CFR 1910.1030; Labor Law § 27-a; 12 NYCRR § 800.3):

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area of department vehicles, as applicable.
- (b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.
- (e) Using an appropriate barrier device when providing CPR.



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- (f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.
  - 1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
- (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
- (i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

#### 1006.4.4 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (29 CFR 1910.1030; Labor Law § 27-a; 12 NYCRR § 800.3). All employees are encouraged to receive the HBV vaccination series. If an employee declines the HBV vaccination, the employee must sign a statement to this effect. Employees who decline may request and obtain the vaccination at a later date at no cost.

#### [Declination Statement](#)

#### **1006.5 POST EXPOSURE**

- (a) Any member who has been bitten by an individual, suffered a needle stick, or who has had physical contact with body fluids or another person in any manner including through the eyes, nose, or mouth, while in the line of duty, will be considered to have been exposed to a communicable disease.
- (b) A command officer shall be contacted as soon as practical. The command officer will be responsible to see that all appropriate action is taken including:
  - 1. Ensure that the Officer Injury/Exposure Report is completed
  - 2. Ensure that the Exposure Incident Report is completed and attached to the injured officer's case report.
  - 3. Where appropriate, ensure that the request for source individual evaluation form is completed and forwarded to the appropriate emergency room personnel, infectious control practitioner, or the facility's designated officer (DO). If there has been an exposure incident, the medical facility's designated officer may be contacted by phone for source individual evaluation information and followed up with the written request. The rationale being that an exposure to HBV requires treatment begin within (5) days and waiting for mail response would delay the treatment.

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4. Ensure that the Confidential Documentation and Identification of Source Individual form is completed where appropriate and provided to the appropriate medical personnel to be completed.
  5. Ensure that the employee exposure follow up record is provided to the employee involved and that the employee involved is directed to see that this form is completed in a timely fashion and returned to their shift commander, to be forwarded to the Chief of Police where it will be kept on file.
- (c) Any person responsible for potentially exposing a member of the department to a communicable disease will be encouraged to undergo testing to determine if the source individual has a communicable disease.
- (d) Criminal charges may be sought against any person who intentionally acts to expose an officer to a communicable disease.
- (e) Officers who test positive for a communicable disease may continue working as long as they maintain acceptable performance and do not pose a safety or health threat to themselves, the public or members of the department.
- (f) The department shall make available to each affected member, following a report of an exposure incident, a confidential medical evaluation and appropriate medical followup conducted by a hospital emergency room physician. The following elements should be included:
1. Document the roots of exposure and how exposure occurred.
  2. Identify and document the source individual unless the employer can establish that the identification is not feasible and prohibited by state or local law.
  3. Obtain consent and test source individual's blood as soon as possible to determine HIV and HBV infectivity and document the sources blood test results.
  4. If the source individual is known to be infected with either hiv, hbv, or hcv testing need not be repeated to determine the known infectivity.
  5. Provide the exposed employee with the source individual's test results and information about applicable disclosure laws and regulations concerning the source, identity and infectious status.
  6. After obtaining consent, collect exposed employee's blood as soon as feasible after the exposure incident and test for HIV and HBV serological status.
  7. If the employee does not give consent for HIV serological testing during the collection of blood for base line testing, preserve the base line blood sample for at least ninety (90) days.
- (g) The department will maintain written records of all incidents involving members who have been tested for potential exposures to a communicable disease while acting in the line of duty. The records will be stored in the office of Chief of Police, with limited access, for the duration of the member's employment plus thirty (30) years and maintained in conformance with applicable privacy laws.



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- (h) All members of the department involved in an exposure incident will receive in service review training on use of personal protection equipment and preventing exposure.
- (i) Counseling will be made available through the city's employee assistance program.

#### Exposure Incident Report

##### 1006.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall (29 CFR 1910.1030; Labor Law § 27-a; 12 NYCRR § 800.3):

- (a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).
- (b) Obtain medical attention as appropriate.
- (c) Notify a supervisor as soon as practical.

##### 1006.5.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (29 CFR 1910.1030; Labor Law § 27-a; 12 NYCRR § 800.3):

- (a) Name of the member exposed
- (b) Date and time of incident
- (c) Location of incident
- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure
- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., clean-up, notifications)
- (i) Any other information required by the appropriate Workers' Compensation Carrier

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Work-Related Illness and Injury Reporting and Illness and Injury Prevention policies).

##### 1006.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (29 CFR 1910.1030; Labor Law § 27-a; 12 NYCRR § 800.3).

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The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

- (a) Whether the member has been informed of the results of the evaluation.
- (b) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

#### 1006.5.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (29 CFR 1910.1030; Labor Law § 27-a; 12 NYCRR § 800.3).

#### 1006.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate. Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Working with the New York State Department of Health (Public Health Law § 2100 et seq.).
- (c) Physician disclosure under 10 NYCRR § 63.8.
- (d) Court-ordered testing when a person has been a victim of certain sex offenses (Public Health Law § 2785-a).

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The ECO should seek the consent of the individual for testing and consult the Corporation Counsel to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

#### 1006.5.6 POST EXPOSURE REVIEW

The commanding officer of the shift or unit of the individual member involved will review the circumstances of the exposure incident to determine if procedures, protocols and/or training need to be reviewed or revised and forward a written report to the Chief of Police regarding his/her review.

#### 1006.5.7 CLEANUP OF BLOOD / URINE / VOMIT

Decontaminating your police vehicle or workspace

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- (a) **USE PPE (Personal Protection Equipment) DURING DECONTAMINATION:** rubber gloves at the very least, face, eye and body protections if there is a chance of splashing.
1. Soak up spills (if wet or pooling) with paper towels, rags or other absorbent materials and dispose of in a plastic garbage bag
  2. Pre-clean the area with soap and water using paper towels, rags or other absorbent materials and dispose of the used towels, rags, etc., in the same garbage bag.
  3. If you were unable to wear gloves and while transporting a bloody prisoner etc., you should also clean the steering wheel, door handles, seat belts/locks or anything else you might have touched in the vehicle or workspace.
  4. Dispose of soapy water into a mop sink or floor drain.
  5. Disinfect cleaned surfaces with pdi-sani-cloth germicidal disposable wipes or comparable product (that can be found in the 2<sup>nd</sup> floor storage room); dispose of the wipes in the same plastic garbage bag; secure the opening of the bag, mark it as bio-hazard and place it in the Bio-hazard container at the fire department.
  6. Allow cleaned surfaces to air dry if the pdi-sani-cloth germicidal disposable wipes are unavailable, substitute with a solution of 5 parts water to 1 part bleach.
  7. Clean up of Vomit:
    - (a) If you have to clean-up vomit, use 2 pairs of gloves, body covering and follow the above steps, OR
    - (b) Down the vehicle, notify the OIC, document the reason on the car sheet and let the fleet manager make arrangements for the cleaning/decontamination.

\*\*\*\*\* For vomit: if you have the choice, always choose 7 (b) above\*\*\*\*\*

#### **1006.6 CONFIDENTIALITY OF REPORTS**

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

#### **1006.7 TRAINING**

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (29 CFR 1910.1030; Labor Law § 27-a; 12 NYCRR § 800.3):

- (a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
- (b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.

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- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure, and what steps should be taken if a suspected exposure occurs.

## Smoking and Tobacco Use

### 1007.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Auburn Police Department facilities or vehicles.

For the purpose of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device that is intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

### 1007.2 POLICY

The Auburn Police Department recognizes that tobacco use is a health risk and can be offensive to others. Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles. Smoking is also prohibited in any other building, facility, or vehicle owned, operated or maintained by the City of Auburn, which includes parks and playgrounds, and is further outlined in this policy.

[City of Auburn Smoking Ordinance](#)

### 1007.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited any time members are in public view representing the Auburn Police Department.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside City facilities and vehicles.

### 1007.4 EXEMPTIONS

Smoking may be permitted within designated areas located more than fifty feet from entrances, exits or outdoor areas of any building or facility owned, operated or maintained by the City of Auburn.

### 1007.5 VIOLATION AND PENALTIES

- (a) It shall be unlawful for any person to smoke in any area where smoking is prohibited or restricted under this Chapter.
- (b) Any person found to be in violation of the provisions of this Chapter shall be guilty of a violation and subject to a fine of \$250.00.
- (c) Any person found to have violated the provisions of this Chapter twice within a twelve-month period shall be guilty of a violation and subject to a fine of \$500.00.
- (d) Any person found to have violated the provisions of this Chapter three times within a twelve-month period shall be guilty of a Class A misdemeanor and subject to a fine of up to \$750.00 and a sentence of up to three months in jail.

## Personnel Complaints / Disciplinary System

### 1008.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Auburn Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

#### 1008.1.1 DEFINITIONS

**Discipline** - Discipline in the workplace is the means by which an organization ensures adherence to established policy and procedural guidelines, directives and goals. The purpose of discipline is to correct behavior. It is not intended to embarrass an employee.

**Positive Discipline** - All efforts apart from punishment made by a supervisor to correct behavior of an employee. Positive discipline is meant to be corrective and/or educational, including both informal and formal training. The purpose of positive discipline is to encourage an employee's compliance with the established policies and procedures of the department.

**Negative Discipline** - Is the issuance of punishment or sanctions for inappropriate conduct or unsatisfactory performance. Negative discipline may involve written reprimands, loss of pay or leave, suspension, demotion or dismissal.

**Formal Discipline** - Disciplinary action through the process mandated by the Section 75 in accordance with the New York State Civil Service Law and the Collective Negotiations Agreement with the Police Union local 195/Council 82.

[Non-Punitive Discipline](#)

[Punitive Discipline](#)

### 1008.2 POLICY

The Auburn Police Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state, and local laws; and municipal and county rules, and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

### 1008.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

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Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

##### 1008.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

**Informal** - A matter in which the Shift Commander is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

**Formal** - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Administration, depending on the seriousness and complexity of the investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Administration, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

##### 1008.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person, via the department website or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third party complaints should be accepted and investigated to the extent that sufficient information is provided and able to be verified
- (e) Tort claims and lawsuits may generate a personnel complaint.

#### 1008.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

##### 1008.4.1 ACCEPTANCE

All complaints will be courteously acknowledged by any department member and promptly referred to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a citizen complaint form via the chain of command to the Office of Chief of Police.



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Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

##### **1008.4.2 PROCEDURE TO FILE A COMPLAINT**

A personnel complaint may be presented to the department in person, by telephone, e-mail, department website complaint form, fax or by letter. No department employee shall attempt to discourage, interfere or delay an individual from making a complaint. Every effort shall be made to facilitate the making of a complaint by ensuring the process is convenient, courteous and prompt. No department employee shall be subjected to any criticism, retaliation or reprisal for accepting or initiating a complaint.

##### **1008.5 DOCUMENTATION**

Supervisors will ensure that all formal and informal complaints are documented on an internal memorandum and/or complaint form and forwarded through the chain of command. When a person requests to pursue a formal complaint against a member of the Auburn Police Department, the supervisor will obtain a sworn affidavit from the complainant detailing the alleged misconduct of the members. If the complainant refuses to provide an affidavit, this refusal will be documented in the file. This affidavit will be submitted through the chain of command along with all investigative findings.

##### **1008.6 ADMINISTRATIVE INVESTIGATIONS**

The Deputy Chief of Police shall have direct access to the Chief of Police or the authorized designee.

Allegations of misconduct will be administratively investigated as follows.

##### **1008.6.1 SUPERVISOR RESPONSIBILITIES**

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief of Police or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

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

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
  - 1. The original complaint form will be directed to the Shift Commander of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
  - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is



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at issue, a supervisor shall orally report the matter to the member's Commander or the Chief of Police, who will initiate appropriate action.

- (b) Responding to all complainants in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
  - 1. Follow-up contact with the complainant should be made within 48 hours of the Department receiving the complaint.
  - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Shift Commander.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Shift Commander, Patrol Captain and Chiefs of Police are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Shift Commander for direction regarding the supervisor's role in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Shift Commander, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Notifying the complainant that the matter is being handled administratively.
- (h) Informing the complainant of the investigator's name within three days after assignment.
- (i) Investigating a complaint as follows:
  - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
  - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (j) Ensuring that the procedural rights of the accused member are followed, and the investigation is kept confidential.
- (k) Ensuring interviews of the complainant are generally conducted during reasonable hours.

#### [Responsibilities of Supervisory Members Procedure](#)

#### [Non-Punitive Discipline](#)

#### [Punitive Discipline](#)

**1008.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES UNDER CIVIL SERVICE LAW**  
Whether conducted by a supervisor or a member of the Administration, the following applies to employees covered by Civil Service Law (Civil Service Law § 75):

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.

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- (b) Unless waived by the employee, interviews of an accused employee shall be at the Auburn Police Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee should be informed of the nature of the investigation.
- (e) All interviews should be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
  - (a) An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
  - (b) No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer may record interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview may be provided to the employee prior to any subsequent interview.
- (i) All employees subjected to interviews that could result in discipline have the right to have a certified or recognized union representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
  - (a) The employee shall be informed in advance and in writing of the right to representation.
  - (b) If the employee is unable to find representation within a reasonable time, the interviewer may proceed with the interview.
- (j) When an employee is ordered by a supervisor to complete a written report during an administrative investigation the employee shall complete and submit such report without unnecessary delay
- (k) All employees shall provide complete and truthful responses to questions posed during interviews.

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- (I) No employee may be compelled to submit to a psychological stress evaluator examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Labor Law § 735).

#### Garrity Rights Form

##### 1008.6.3 NOTICE OF CHARGES

Any charges brought against an employee shall be in writing and within the time frame prescribed by law and the collective bargaining agreement (Civil Service Law § 75).

##### 1008.6.4 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

**Introduction** - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

**Synopsis** - Provide a brief summary of the facts giving rise to the investigation.

**Summary** - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Affidavit from Complainant**- provide a sworn affidavit from the complainant detailing the alleged misconduct of the members.

**Evidence** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

**Conclusion** - A recommendation regarding further action or disposition should be provided.

**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

##### 1008.6.5 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

**Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

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If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

##### **1008.6.6 COMPLETION OF INVESTIGATIONS**

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation.

##### **1008.6.7 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS**

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

##### **1008.7 ADMINISTRATIVE SEARCHES**

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment. Prior to conducting such a search, a supervisor will make an attempt to notify the affected employee.

##### **1008.8 ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief of Police or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.
- (d) May be on leave without pay for no more than 30 days (Civil Service Law § 75).

##### **1008.9 CRIMINAL INVESTIGATION**

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief of Police may request a criminal investigation by an outside law enforcement agency.

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A member accused of criminal conduct shall be provided with all rights afforded to a civilian. The member should not be administratively ordered to provide any information in the criminal investigation.

The Auburn Police Department may release information concerning the arrest of any member, including an officer that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

The Office of the Chief of Police will maintain a liaison with the District Attorney's Office relating to criminal investigations.

#### **1008.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief of Police through the chain of command. Each level of command should review the report and include his/her comments in writing before forwarding the report. The Chief of Police may accept or modify any classification or recommendation for disciplinary action.

##### **1008.10.1 SHIFT COMMANDER RESPONSIBILITIES**

Upon receipt of any completed personnel investigation, the Shift Commander of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Shift Commander may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Division Commander, the Shift Commander may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Division Commander, the Shift Commander shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

##### **1008.10.2 DIVISION COMMANDER RESPONSIBILITIES**

Upon receipt of the Shift Commander's written recommendation regarding any completed investigation and/ or disciplinary action, the Division Commander will review all relevant materials.

The Division Commander will review any recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding the recommendations to the Chief's of Police, the Division Commander may return the investigation to the Shift Commander for further investigation or action.

Once the Division Commander is satisfied that no further investigation or action is required, the Division Commander shall forward any written recommendation to the Chief's of Police, and the Division Commander shall include all relevant materials supporting the recommendation. Actual

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copies of a member's existing personnel file need not be provided and may be incorporated by reference.

##### 1008.10.3 OFFICE OF CHIEF OF POLICE RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Office of Chief of Police shall review the recommendation and all accompanying materials. The Office of Chief of Police may modify any recommendation and/or may return the file to the Division/Shift Commander for further investigation or action.

Once the Office of Chief of Police is satisfied that no further investigation or action is required by staff, the Office of Chief of Police shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Office of Chief of Police shall provide the employee with a written notice that includes the reasons for the proposed disciplinary action and a copy of the charges (Civil Service Law § 75, Collective Bargaining Agreement).

The employee shall be given an opportunity to respond in writing to the Office of Chief of Police within eight working days of receiving the notice.

Once the employee has completed his/her response, or if the employee has elected to waive any such response, the Office of Chief of Police shall consider all information received in regard to the recommended discipline. The Office of Chief of Police shall render a timely written decision in accordance with the CBA to the employee and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Office of Chief of Police has issued a written decision, the discipline shall become effective.

##### 1008.10.4 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief of Police after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief of Police to consider.
- (d) In the event that the Chief of Police elects to conduct further investigation, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief of Police on the limited issues of information raised in any subsequent materials.



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##### **1008.10.5 HEARING BY HEARING OFFICER**

The hearing shall be conducted by the designated hearing officer as provided in Civil Service Law § 75 or as otherwise provided in the applicable collective bargaining agreement or personnel rules. The hearing officer shall make a record of the proceedings.

The employee, upon request, may be represented by counsel, or by a representative of a recognized or certified employee organization. The employee shall be allowed to summon witnesses on his/her behalf. Judicial rules of evidence do not apply.

The hearing officer shall consider all information received in regard to the recommended discipline and shall forward his/her recommendations to the Chief of Police.

If the employee is found guilty, a copy of the charges, the employee's written response to the charges, a transcript of the hearing and the determination shall be retained by the Department. A copy shall be filed with the civil service commission having jurisdiction over the employee. A copy shall also be provided to the employee upon request without charge.

##### **1008.10.6 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT**

The Office of Chief of Police or the authorized designee should ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint.

##### **1008.11 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline. The Training and Planning Administrator will update DCJS with the police certification.

##### **1008.12 POST-DISCIPLINE APPEAL RIGHTS**

Permanent, non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay, or termination from employment. The permanent, non-probationary employees have the right to appeal using the procedures established by Civil Service Law § 76, any collective bargaining agreement and/or personnel rules.

##### **1008.13 PROBATIONARY EMPLOYEES**

Probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy.

##### **1008.14 RETENTION OF PERSONNEL INVESTIGATION FILES**

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

#### [Disciplinary Records Retention](#)

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##### **1008.15 LAW ENFORCEMENT MISCONDUCT INVESTIGATIVE OFFICE**

Members who become aware of misconduct concerning corruption, fraud, use of excessive force, criminal activity, conflicts of interest, or abuse by another member relating to their work with the department, or by a person having business dealings with the department relating to those dealings shall, in addition to any requirements in this policy, promptly report it to the Law Enforcement Misconduct Investigative Office (LEMIO) (Executive Law § 75).

##### **1008.15.1 ADDITIONAL CHIEF OF POLICE RESPONSIBILITIES**

The Chief of Police shall advise the governor, appropriate members of the legislature, and the Division of Criminal Justice Services (DCJS) within the required period of any remedial action taken against a member in response to the LEMIO's recommendation. The Chief of Police shall also refer complaints that meet the requirements of Executive Law § 75 to the LEMIO (Executive Law § 75).

Additionally, the Chief of Police or the authorized designee shall timely comply with all reporting requirements to the DCJS when required by 9 NYCRR Part 6056 (e.g., reporting removal of employees, including probationary employees, for cause) (9 NYCRR 6056.4; 9 NYCRR 6056.5).



# Safety Belts

## 1009.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of safety belts and child restraints. This policy will apply to all members operating or riding in department vehicles.

### 1009.1.1 DEFINITIONS

Definitions related to this policy include:

**Child restraint system** - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and regulations set forth in 49 CFR 571.213.

**Safety belt system** - A system utilizing a lap belt, a shoulder belt or any other belt or combination of belts installed in a motor vehicle to restrain drivers and passengers, and that conforms to federal regulations (49 CFR 571).

## 1009.2 POLICY

It is the policy of the Auburn Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle accident.

## 1009.3 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including those who are not members of the Department, are properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a safety belt would endanger the department member or the public. Members must be prepared to justify any deviation from this requirement.

## 1009.4 TRANSPORTING CHILDREN

Child passengers shall be transported using an approved child restraint system in compliance with Vehicle and Traffic Law § 1229-c.

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of safety belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible.

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#### *Safety Belts*

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##### **1009.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES**

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any department vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by safety belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

##### **1009.6 INOPERABLE SAFETY BELTS**

Department vehicles shall not be operated when the safety belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the safety belt is inoperable.

Department vehicle safety belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief of Police.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

##### **1009.7 VEHICLES MANUFACTURED WITHOUT SAFETY BELTS**

Vehicles manufactured and certified for use without safety belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

##### **1009.8 VEHICLE AIRBAGS**

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

## Body Armor

### 1010.1 PURPOSE AND SCOPE

The purpose of this policy is to provide officers with guidelines for the proper use of body armor.

### 1010.2 POLICY

It is the policy of the Auburn Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

### 1010.3 ISSUANCE

The Traffic Coordinator shall ensure that body armor is issued to all officers and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

Body armor shall be issued when an officer begins service at the Auburn Police Department and shall be replaced when the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

The Chief of Police may authorize issuance of body armor to uniformed, civilian members whose jobs may make wearing of body armor advisable.

#### 1010.3.1 USE

Generally, the required use of body armor is subject to the following:

- (a) Members will only wear department-approved body armor.
- (b) Members will wear body armor any time they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Members will wear body armor when working in uniform or taking part in department range training.
- (d) Members are not required to wear body armor when they are functioning primarily in an administrative or support capacity and would not reasonably be expected to take enforcement action.
- (e) Officers may be excused from wearing body armor when they are involved in undercover or plainclothes work that their supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.
  - 1. In those instances when body armor is not worn, officers should have reasonable access to their body armor.

#### 1010.3.2 INSPECTION

Supervisors should ensure through routine observation and periodic inspections that body armor is worn and maintained in accordance with this policy.

#### [Body Armor Inspection Program](#)

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#### *Body Armor*

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##### 1010.3.3 CARE AND MAINTENANCE

The required care and maintenance of body armor is subject to the following:

- (a) Members are responsible for inspecting their body armor for signs of damage, wear and cleanliness at the start of each shift.
  - 1. Unserviceable body armor shall be reported to the supervisor.
- (b) Members are responsible for the proper storage of their body armor.
  - 1. Body armor should not be stored for an extended period of time in an area where environmental conditions (e.g., temperature, light, humidity) could potentially degrade its effectiveness.
- (c) Members are responsible for the care and cleaning of their body armor pursuant to the manufacturer's care instructions.
  - 1. Body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer.
  - 2. Failure to follow manufacturer's care instructions may damage the ballistic performance capabilities of the body armor. If care instructions for the body armor cannot be located, the manufacturer should be contacted to request the instructions.
- (d) Body armor should be replaced in accordance with the manufacturer's recommended replacement schedule, or when its effectiveness or functionality has been compromised.

#### *Body Armor Care and Maintenance Procedure*

##### 1010.4 RANGE INSTRUCTOR RESPONSIBILITIES

The responsibilities of the Range Instructor include, but are not limited to:

- (a) Monitoring technological advances in the body armor industry for any appropriate changes to department-approved body armor.
- (b) Educating officers about the safety benefits of wearing body armor.

## Personnel Records

### 1011.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

### 1011.2 POLICY

It is the policy of this department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of New York (Labor Law § 203-d; Public Officers Law § 89(2)).

### 1011.3 DEPARTMENT FILE

Within the **Police Department** personnel file which is to be stored within the Office of the Chief of Police in a lockable file cabinet, the following documents will be maintained

#### PINK FOLDER

- (a) A copy of the MSD-426 "Report of Personnel Change" (Pink Sheets) forms
- (b) Original Auburn Police Department Issued Equipment Receipt
- (c) Background investigation documents to include employment application, completed background packets and any other pertinent investigative documents. If the candidate is hired as a permanent employee by the City of Auburn Police Department these original documents will be transferred to the Office of the City Manager for permanent filing in the employees personnel folder. See 1011.5 *Internal Affairs File* for additional details.

#### RED FOLDER

- (a) Any open or active internal affairs investigation files shall be maintained under the exclusive control of the Office of the Chief of Police. Access to these files may only be approved by the Chiefs of Police. Upon conclusion of the investigation the internal affairs documents will be transferred to the Office of the City Manager for permanent filing in the employees personnel folder.

#### BLUE FOLDER

- (a) Injury Reports / Medical Records / 207-c / FMLA Records - Only **Active** records for employees who are currently being treated under, out of work for work related injury (207-c), on FMLA will be kept in a separate locked cabinet in the Chief of Police's Assistance Office. Once the medical case is closed or the employee is recovered and returned to full duty, the entire medical file will be transferred to the Office of the City Manager for permanent filing in the employees personnel folder. See 1011.6 *Medical File* for additional details.
- (b) A copy of an employees selection for and results of the Random Departmental Drug Screen will be kept in an employees local file.

#### GREEN FOLDER

# Auburn Police Department

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#### *Personnel Records*

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- (a) All Training Records will be maintained in the Auburn Police Department Training/ Planning Office. See 1011.4 *Training File* for additional details

Upon retirement, resignation or termination of any employee, any personnel records stored within the Auburn Police Department will be transferred to the Office of the City Manager for permanent storage and archival.

Within the **Office of the City Manager**, the permanent employee personnel file will be located within a lockable file cabinet. The following documents will be maintained at a minimum:

#### PINK FOLDER

- (a) The original MSD-426 "Report of Personnel Change" (Pink Sheets) forms
- (b) Employee evaluations
- (c) Background investigation documents to include employment application, completed background packets and any other pertinent investigative documents of a permanently appointed employee. See 1011.5 *Internal Affairs File* for additional details.

#### PURPLE FOLDER

- (a) Retirement, resignation or termination documents

#### RED FOLDER

- (a) Any closed internal affairs investigation files that have been adjudicated as *Not Sustained, Unfounded, Sustained, or Exonerated* will be transferred to the Office of the City Manager for permanent filing in the employees personnel folder.

#### BLUE FOLDER

- (a) Injury Reports / Medical Records / 207-c / FMLA Records - Only closed records for employees who have recovered and returned to full duty or have been medically retired or separated from employment due to their condition will be transferred to the Office of the City Manager for permanent filing in the employees personnel folder. See 1011.6 *Medical File* for additional details.
- (b) A copy of an employees selection for and results of the Random Departmental Drug Screen will be kept in an employees local file.

#### GREEN FOLDER

- (a) All Training Records will be maintained in the Auburn Police Department Training/ Planning Office. See 1011.4 *Training File* for additional details

Upon retirement, resignation or termination of any employee, any personnel records stored within the Auburn Police Department will be transferred to the Office of the City Manager for permanent storage and archival.

#### GRAY FOLDER

- (a) All Letters of Recognition, Accommodation, awards, or other departmental meritorious recognitions will be transferred to the Office of the City Manager for filing in the employees permanent personnel record.

# Auburn Police Department

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##### **1011.4 TRAINING FILE**

An individual training file shall be maintained by the Training and Planning Administrator for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved member is responsible for providing the Training and Planning Administrator or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training and Planning Administrator or supervisor shall ensure that copies of such training records are placed in the member's training file.

##### **1011.5 INTERNAL AFFAIRS FILE**

Any open or active Internal affairs files shall be maintained under the exclusive control of the Chiefs of Police within the office of the Chief of Police. Access to these files may only be approved by the Chiefs of Police. Information contained in the internal affairs files shall be kept confidential as permitted by law.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition. Investigations of complaints that result in the following findings shall not be placed in the member's department file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

##### **1011.6 MEDICAL FILE**

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history, including but not limited to:

- (a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.
- (e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

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#### *Personnel Records*

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##### **1011.7 CONTACT INFO FOR POLICE ROSTER**

- (a) Auburn Police members must register with the department and keep current their residence address and telephone/cellphone number(s), whether listed or unlisted at their residence and must report any changes immediately.
- (b) Duplication of the Auburn Police Department personnel roster is strictly forbidden unless authorized by the Chief of Police.
- (c) Information concerning personnel shall not be released by any member to someone who is not employed by the department, unless authorized by the Chief of Police.
- (d) Members will immediately notify the Office of the Chief of Police upon change of address, telephone/cellphone number, or alternate telephone number.

##### **1011.8 SECURITY**

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the City Manager, Corporation Counsel or other attorneys or representatives of the City in connection with official business.

###### **1011.8.1 REQUESTS FOR DISCLOSURE**

Any member receiving a request for a personnel record shall promptly notify the Office of the Chiefs of Police or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made.

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

###### **1011.8.2 RELEASE OF PERSONNEL INFORMATION**

The Department may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation or the member's representative publicly makes a statement that is published in the media and that the member or representative knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement.



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Records regarding a member's status as a domestic violence victim, including any related leave of absence requested or taken by the member, are confidential except as otherwise permitted by law (Executive Law § 296).

Personal information within disciplinary records, such as substance abuse assistance services and mental health services, may be confidential if the information falls within the scope of Public Officers Law (Public Officers Law § 87(4-a); Public Officers Law § 87(4-b); Public Officers Law § 89(2-b); Public Officers Law § 89(2-c)).

#### **1011.9 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS**

Any member may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from his/her personnel records shall file a written request to the Chief of Police through the chain of command. The Department shall remove any such item if appropriate, or within 60 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Department shall be retained with the contested item in the member's corresponding personnel record.

Members may be restricted from accessing files containing any of the following information:

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Criminal investigations involving the member.
- (d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (f) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (g) Records relevant to any other pending claim between the Department and the member that may be discovered in a judicial proceeding.

#### **1011.10 RETENTION AND PURGING**

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

- (a) During the preparation of each member's performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development.

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#### *Personnel Records*

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- (b) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

[Auburn Police Dept Records Management Procedure Manual](#)

# Request for Change of Assignment

## 1012.1 PURPOSE AND SCOPE

This policy establishes guidelines for department members to request a change of assignment in response to an announced vacancy.

## 1012.2 POLICY

It is the policy of the Auburn Police Department that all requests for change of assignment be considered in an equitable and nondiscriminatory manner.

## 1012.3 REQUEST FOR CHANGE OF ASSIGNMENT

Upon written notification from the Office of the Chief of Police that there is a specific vacancy or assignment available, members shall submit a request document through the chain of command to their Commanders. In the case of patrol officers, the chain of command must include the Shift Commander.

The change of assignment request document provides members with the opportunity to list their qualifications for specific assignments. It should include:

- (a) The member's relevant experience, education and training.
- (b) All assignments in which the member is interested.
- (c) Relative to officers currently assigned to the SRO Program who are requesting a change of assignment, refer to Section VI of the CBA (Resignation or Removal)

## 1012.4 RESPONSIBILITIES

### 1012.4.1 SUPERVISORS

Upon receipt of a change of assignment request, the supervisor shall make appropriate comments in the space provided on the document and forward it to the member's Commander.

In the case of patrol officers, the Shift Commander shall make appropriate comments on his/her recommendation and forward the request to the member's Commander.

### 1012.4.2 COMMANDERS

The Commander will review all change of assignment requests and submit his/her recommendation to the Chief of Police.

## Commendations and Awards

### 1013.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Auburn Police Department and individuals from the community.

### 1013.2 POLICY

It is the policy of the Auburn Police Department to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

### 1013.3 COMMENDATIONS

Commendations for members of the Department or for individuals from the community may be initiated by any department member or by any person from the community.

### 1013.4 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- Any action or performance that is above and beyond typical duties.

#### 1013.4.1 DEPARTMENT MEMBER DOCUMENTATION

Members of the Department should document meritorious or commendable acts. The documentation should contain:

- (a) Identifying information:
  1. For members of the Department - name, bureau and assignment at the date and time of the meritorious or commendable act
  2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the member submitting the documentation.

#### 1013.4.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted in any form. However, written documentation is preferred. Department members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

- (a) Identifying information:
  1. For members of the Department - name, bureau and assignment at the date and time of the meritorious or commendable act

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2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the person submitting the documentation.

#### **1013.4.3 PROCESSING DOCUMENTATION**

Documentation regarding the meritorious or commendable act of a member of the Department should be forwarded to the appropriate Commander for his/her review. The Commander should sign and forward the documentation to the Chief of Police for his/her review.

The Chief of Police, or the authorized designee will present the commendation to the department member for his/her signature. The documentation will be maintained into the member's personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Office of the Chiefs of Police. The documentation will be signed by the Commander and forwarded to the Chief of Police for his/her review. Documentation of the commendation shall be maintained in the member's personnel file.

#### **1013.5 RECOGNITION**

Commendations are awarded to a member who intelligently and in the line of police duty distinguishes himself or herself by a meritorious achievement, act, or service performed in a manner substantially beyond normal expectations in similar circumstances.

Recognition may be bestowed upon member of the Auburn Police Department and individuals from the community. These include:

- (a) An act of intelligent and valuable police service that demonstrates special faithfulness or perseverance.
- (b) Highly credible acts of police service over a period of time.
- (c) An intelligent act materially contributing to a valuable accomplishment.
- (d) Submission of a device or method designed to increase efficiency in an administrative or tactical procedure and subsequently adapted by the department.
- (e) Outstanding proactive police work.

## Fitness for Duty

### 1014.1 PURPOSE AND SCOPE

Monitoring members' fitness for duty is essential for the safety and welfare of the members of the Department and the community. The purpose of this policy is to ensure that all members of this department remain fit for duty and able to perform their job functions.

### 1014.2 POLICY

The Auburn Police Department strives to provide a safe and productive work environment and ensure that all members of this department can safely and effectively perform the essential functions of their jobs. Under limited circumstances, the Department may require a professional evaluation of a member's physical and/or mental capabilities to determine his/her ability to perform essential functions.

### 1014.3 MEMBER RESPONSIBILITIES

It is the responsibility of each member of this department to maintain physical stamina and psychological stability sufficient to safely and effectively perform the essential duties of his/her position.

During working hours, all members are required to be alert, attentive and capable of performing their assigned responsibilities.

Any member who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that a member believes that another department member is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

### 1014.4 SUPERVISOR RESPONSIBILITIES

All supervisors should be alert to any indication that a member may be unable to safely perform his/her duties due to an underlying physical or psychological impairment or condition.

Such indications may include:

- (a) An abrupt and negative change in the member's normal behavior.
- (b) A pattern of irrational conduct, hostility or oppositional behavior.
- (c) Personal expressions of instability.
- (d) Inappropriate use of alcohol or other substances, including prescribed medication.
- (e) A pattern of questionable judgment, impulsive behavior or the inability to manage emotions.
- (f) Any other factor or combination of factors causing a supervisor to believe the member may be suffering from an impairment or condition requiring intervention.

Supervisors shall maintain the confidentiality of any information consistent with this policy.

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##### 1014.4.1 REPORTING

A supervisor observing a member, or receiving a report of a member, who is perceived to be unable to safely or effectively perform his/her duties shall promptly document all objective information and/or observations.

The supervisor should attempt to meet with the member to inquire about the conduct or behavior giving rise to the concerns.

If a meeting does not resolve the supervisor's concerns or does not take place, the supervisor shall promptly document his/her observations and actions in a written report and inform the Shift Commander or the member's Commander.

##### 1014.4.2 DUTY STATUS

In conjunction with the Shift Commander or the member's Commander, the supervisor should make a preliminary determination regarding the member's duty status.

If a determination is made that the member can safely and effectively perform the essential functions of his/her job, the member should be returned to duty and arrangements made for appropriate follow-up.

If a preliminary determination is made that the member's conduct or behavior represents an inability to safely and effectively perform the essential functions of his/her job, the Shift Commander or the member's Commander should immediately relieve the member of duty pending further evaluation.

Members relieved of duty shall comply with the administrative leave provisions of the Personnel Complaints Policy.

The Chief of Police shall be promptly notified in the event that any member is relieved of duty.

#### **1014.5 FITNESS-FOR-DUTY EVALUATIONS**

A fitness-for-duty evaluation may be ordered whenever circumstances reasonably indicate that a member is unfit for duty or following an officer-involved shooting or death-in-custody incident.

##### 1014.5.1 PROCESS FOR DISABILITIES

When an employee is unable to perform the duties of his/her position by reason of a disability, other than a disability resulting from an occupational injury or disease as defined in the workers' compensation law, the employee and the Department shall comply with the applicable provisions of the Civil Service Law (Civil Service Law § 72; Civil Service Law § 73).

##### 1014.5.2 PROCESS FOR ALL OTHERS

The Chief of Police, in cooperation with the City Manager, may order the member to undergo a fitness-for-duty evaluation.

The examining practitioner will provide the Department with a report indicating whether the member is fit for duty. If the member is not fit for duty, the practitioner will include the existing restrictions or conditions in the report.

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In order to facilitate the evaluation of any member, the Department will provide all appropriate documents and available information.

All reports and evaluations submitted by the examining practitioner shall be part of the member's confidential medical file.

Any member ordered to undergo a fitness-for-duty evaluation shall comply with the terms of the order and cooperate fully with the examining practitioner. Any failure to comply with such an order and any failure to cooperate with the practitioner may be deemed insubordination and shall subject the member to discipline, up to and including termination.

Determinations regarding duty status of members who are found to be unfit for duty or fit for duty with limitations will be made in cooperation with the City Manager.

#### **1014.6 LIMITATION ON HOURS WORKED**

Members will not work more than:

- 16 hours in one continuous 24 hour period without having 8 hours off
- 32 hours in any continuous 48 hour period without having 2, 8 hour rest periods off
- 84 hours in any seven-day (168 hours) period

Except in unusual circumstances, members should have a minimum of eight hours off between shifts.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments in accordance with the collective bargaining agreement.



## Meal Periods and Breaks

### 1015.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the availability of meal periods and breaks.

### 1015.2 POLICY

It is the policy of the Auburn Police Department to provide meal periods and breaks to members of this department in accordance with the applicable collective bargaining agreement and the City employee handbook (Labor Law § 162).

### 1015.3 MEAL PERIODS

Officers and investigators/detectives shall remain on-duty subject to call during meal periods.

Uniformed patrol shall request clearance from the dispatcher prior to taking a meal period. Uniformed officers shall take their meal periods within a 30 minute time frame and shall monitor the police radio.

The time spent for the meal period shall not exceed the authorized time allowed.

## Lactation Breaks

### 1016.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to members desiring to express breast milk for the member's infant child.

### 1016.2 POLICY

It is the policy of the Auburn Police Department to provide, in compliance with the Fair Labor Standards Act (FLSA), reasonable break time and appropriate facilities to accommodate any member desiring to express breast milk for the member's infant nursing child for up to three years after the child's birth (29 USC § 218d; Labor Law § 206-c).

### 1016.3 LACTATION BREAK TIME

A rest period should be permitted each time the member has the need to express breast milk (29 USC § 218d; Labor Law § 206-c). In general, lactation breaks that cumulatively total 30 minutes or less during any three-hour work period or major portion of a three-hour work period would be considered reasonable. However, individual circumstances may require more or less time.

Lactation breaks, if feasible, should be taken at the same time as the member's regularly scheduled rest or meal periods. While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid.

Members desiring to take a lactation break shall notify the dispatcher or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations.

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

### 1016.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate members with the use of an appropriate room or other location to express milk in private. Such room or place should be in proximity to the member's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 218d; Labor Law § 206-c).

Members occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other members should avoid interrupting a member during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

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##### **1016.4.1 STATE REQUIREMENTS**

When practicable, the Department should make reasonable efforts to provide a private location that meets the requirements of Labor Law § 206-c and notify all members that a room or location is being designated to express milk if that room or location could, at other times, be used for another purpose. Such locations, however, shall not be used for any other purpose while it is in use by the member expressing milk.

##### **1016.5 STORAGE OF EXPRESSED MILK**

The Department shall provide members with access to refrigeration for storing expressed milk (Labor Law § 206-c).

Any member storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the member's shift ends.

##### **1016.6 POLICY REVIEW**

The Department shall provide the written policy regarding the rights of nursing members issued by the Commissioner of Labor at initial hire, on an annual basis, and when a member returns from the birth of a child (Labor Law § 206-c).

[New York State Senate Section 206-C](#)

## Overtime Compensation

### 1017.1 PURPOSE AND SCOPE

This policy establishes guidelines and procedures regarding overtime for employees, in conformance with the collective bargaining agreement and with the Fair Labor Standards Act (FLSA) (29 USC § 201 et seq.).

### 1017.2 POLICY

The Auburn Police Department will compensate nonexempt employees who work authorized overtime either by payment of wages or by the accrual of compensatory time (29 CFR 553.22). Employees who are salary exempt from FLSA are not compensated for overtime worked.

### 1017.3 COMPENSATION

Payment of wages to nonexempt employees for overtime, or accrual of compensatory time in lieu of compensation for overtime worked, shall be at the rate of not less than one and one-half hours for each hour of employment for which overtime compensation is required (29 USC § 207(k)(2); 29 USC § 207(o)(1)).

All hours worked by employees of the Uniform Patrol Division in excess of thirty-seven and one-half (37 1/2) hours in a regular shift schedule period, excluding changeover time, shall be compensated for at one and one-half (1 1/2) times the employee's straight time hourly rate. The additional eight (8) hours paid for working a holiday or hours paid for stand-by shall not be considered as hours worked when computing hours for overtime at straight time daily rate or one and one-half (1 1/2) rate. Time during which an employee is absent from work because of regularly scheduled vacation or holiday shall be considered as time worked for the purpose of computing overtime.

Those employees scheduled to work a forty (40) hour work week will be compensated at a rate of one and one-half times the straight time rate.

### 1017.4 REQUESTS FOR OVERTIME COMPENSATION

#### 1017.4.1 EMPLOYEE RESPONSIBILITIES

Generally, no employee is authorized to work overtime without the prior approval of a supervisor. If circumstances do not permit prior approval, approval shall be sought as soon as practicable during the overtime shift and in no case later than the end of the shift in which the overtime is worked.

Nonexempt employees shall:

- (a) Obtain supervisory approval, verbal or written.
- (b) Record the actual time worked in an overtime status using the department-approved form or method. Informal notations on reports, logs or other forms not approved for overtime recording are not acceptable.
- (c) Submit the request for overtime compensation to their supervisors by the end of shift or no later than the next calendar day.

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- (d) Supervisors will make every effort to submit any approved overtime documents to the office of the Chiefs of Police within 24 hours of the overtime worked.

#### 1017.4.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall:

- (a) Prior to authorizing an employee to work overtime, evaluate the need for the overtime.
  - 1. Supervisors should not authorize any request to work overtime if the overtime would not be an appropriate use of department resources and is not necessary to accomplish authorized departmental functions
- (b) Upon receipt of a request for overtime compensation, confirm that the overtime was authorized and then verify the actual time worked.
  - 1. Supervisors identifying any unauthorized overtime or discrepancy shall initiate an investigation consistent with the Personnel Complaints Policy.
- (c) After verifying and approving the overtime amount, promptly (within 24 hours) forward the request for compensation to the Office of the Chiefs for final approval

Supervisors may not authorize or approve their own overtime, without the approval of the Chief, or his or her designee.

#### 1017.5 ACCOUNTING FOR PORTIONS OF AN HOUR

Authorized overtime work shall be accounted in the increments as listed:

<u>TIME WORKED</u>	<u>INDICATE ON SLIP</u>
8 to 15 minutes	.25 hour
16 to 30 minutes	.50 hour
31 to 45 minutes	.75 hour
46 to 60 minutes	1 hour

#### 1017.6 REQUIRED STAFFING

Minimum staffing level will be established by the Office of the Chiefs of Police. Staffing levels can be adjusted by the Chiefs of Police at any time and are discretionary.

Command officers have the discretion to adjust the staffing level in specific instances at their discretion when determined appropriate.

- (a) Minimum staffing for the patrol division shall be as follows:
  - 1. 0000 - 0800 hrs - Five patrol officers and one supervisor
  - 2. 0800 - 1600 hrs - Five patrol officers and one supervisor
  - 3. 1600 - 2400 hrs - Five patrol officers and one supervisor
- (b) Whenever staffing falls below minimums, overtime shall be offered to bring staffing levels up to minimum
- (c) Probationary police officers will not count as personnel working for minimum staffing during their Field Training Program

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- (d) Police officers assigned to schools or training programs will not be counted as personnel working
- (e) Police officers on special assignments will not be counted as personnel working
- (f) Officers working overtime at the end of their shifts will complete an authorization for overtime pay form with the reason worked, to include the complaint number if applicable, as well as a brief description of the call type and location, and will submit same to the officer in charge for approval. The officer in charge will complete overtime sheets for minimum staffing or other reasons.
- (g) The minimum staffing levels will be set at the discretion of the Chief of Police and can be adjusted by him accordingly throughout the year.

#### **1017.7 OVERTIME DISTRIBUTION**

##### **1017.7.1 VOLUNTARY OVERTIME**

Voluntary overtime will be offered on a rotational basis to equalize the distribution of all voluntary overtime. An overtime tracking list of personnel will be retained at the command center for purposes of tracking patrol overtime assignments.

PlanIt software will be utilized as the primary method of offering and assigning of patrol voluntary overtime, unless specific circumstances occur on an isolated basis rendering the use of PlanIt impractical at the time.

Any offer of overtime to an employee through PlanIt, whether accepted or not, is considered as made available to the employee for purposes of equalization of overtime.

When a patrol officer is on sick leave for an upcoming shift and the sick leave creates a vacancy on that shift, the command officer should not attempt to fill the vacancy with overtime until 4 hours prior to that shift. As it is mandatory for the officer on sick leave to notify the Officer in Charge at least 4 hours in advance of the officer's shift is the officer is returning to duty that day. This section shall not apply to personnel on long-term sick or injured leave.

[PlanIT System Overtime Procedure](#)

[Responding to an Overtime Call through Boards Procedure](#)

##### **1017.7.2 POLLING FOR OVERTIME**

When a shift falls below minimum staffing levels and OT is required, Supervisors will offer the full 8 hrs Vol. OT first.

Second means of filling the 8 hrs of Vol. OT will be by splitting the shift with 2 separate offers of 4 hrs of Vol. OT.

Third means of filling the 8 hrs of OT will be by Mandatory OT which would be assigned after all Voluntary OT offers have been exhausted.

[How to Poll for Overtime Procedure](#)

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##### 1017.7.3 MANDATORY OVERTIME

When it is determined that an overtime vacancy in the patrol division has not been filled with the voluntary overtime procedures above, the on-duty command officer is authorized to mandate that officer(s) fill such vacancy when deemed necessary.

Under no circumstances will an officer refuse to report to duty when so ordered by a superior officer. The officer may, instead, resort to the contract grievance procedures.

##### 1017.7.4 ASSIGNING MANDATORY OVERTIME

Mandatory OT must be assigned in person or through an actual phone conversation with the Officer being stuck. Mandatory OT will be assigned no less than 4 hours prior to the need for the OT unless circumstances dictate otherwise. Once Mandatory OT has been assigned the offer of Voluntary OT will no longer be available. Mandatory OT will be assigned to the least senior officer based on number of prior Mandatory sticks. All Mandatory OT will be recorded on the **Mandatory OT List**.

When Voluntary offers have been exhausted, Supervisors should first use the two 4hr split shift Mandatory OT means of polling. Only when circumstances dictate should 8 hrs Mandatory OT be mandated. Supervisors should assign mandatory OT with the first 4 hrs of the shift being covered by an officer working the shift prior and the second 4 hrs being covered by an officer working the on-coming shift. This will be accomplished by mandating the least senior officer by number of prior mandatory sticks.

In the event that no officer can be contacted to mandate for the second 4hr period of Mandatory OT it will be at the discretion of the supervisor to either mandate an officer outside of the shifts mentioned above, or to work at a reduced level of manpower based on circumstances such as time of day, call volume, number of supervisors etc.

In circumstances when mandating 8 hrs OT may be necessary, Supervisors should mandate officers assigned to the shift in need first, before considering officers on days off assigned to other shifts.(Least senior officer and prior mandatory sticks)

**\*\* Command OT will be polled in the same manner\*\***

##### **Overtime List:**

8hr Vol. OT Shift List

8hr Vol. OT Departmental List

4hr Vol. OT Departmental List

4/8hr Mandatory Departmental List

# Outside Employment and Outside Overtime

## 1018.1 PURPOSE AND SCOPE

This policy provides guidelines for department members who seek to engage in authorized outside employment or outside overtime.

### 1018.1.1 DEFINITIONS

Definitions related to this policy include:

**Outside employment** - Duties or services performed by members of this department for another employer, organization or individual who is not affiliated directly with this department when wages, compensation or other consideration for such duties or services is received. Outside employment also includes duties or services performed by those members who are self-employed and receive compensation or other consideration for services, products or benefits rendered.

**Outside overtime** - Duties or services performed by members of this department for a private organization, entity or individual, that are requested and scheduled directly through the Department. Member compensation, benefits and costs for such outside services are reimbursed to the Department.

## 1018.2 POLICY

Members of the Auburn Police Department shall obtain written approval from the Chief of Police or the authorized designee prior to engaging in any outside employment or outside overtime. Approval of outside employment or overtime shall be at the discretion of the Chief of Police in accordance with the provisions of this policy. Failure to obtain prior written approval for outside employment or overtime, or engaging in outside employment or overtime that is prohibited by this policy, may lead to disciplinary action.

## 1018.3 OUTSIDE EMPLOYMENT

Members may engage in outside employment provided that it does not interfere with regular duties or availability for emergency duty. Outside employment must not affect members' physical condition to the extent that it impairs their ability to efficiently perform such duties.

## 1018.4 OUTSIDE EMPLOYMENT PROCEDURES

### 1018.4.1 REQUEST AND APPROVAL

Members must submit the designated outside employment request form to their immediate supervisors. The request form will then be forwarded through the chain of command for consideration.

If approved, the member will be provided with a copy of the approved request form.

[Off-Duty Employment Form](#)



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##### 1018.4.2 DENIAL

Any member whose request for outside employment has been denied should be provided with a written notification of the reason at the time of the denial.

##### 1018.4.3 REVOCATION OR SUSPENSION

Any member whose approval for outside employment is revoked or suspended should be provided with a written notification of the reason for revocation or suspension.

Approval for outside employment may be revoked or suspended:

- (a) When a supervisor determines the member's performance is failing to meet standards and the outside employment may be related to the deficient performance.
  - 1. Approval for the outside employment may be reestablished when the member's performance has reached a satisfactory level and with his/her supervisor's authorization.
- (b) When a member's conduct or outside employment conflicts with department policy or any law.
- (c) When the outside employment creates an actual or apparent conflict of interest with the Department or City.

##### 1018.4.4 APPEAL

If a member's request for outside employment is denied or if previous approval is revoked or suspended, the member may file a written notice of appeal with the Chief of Police within 10 days of receiving notice of the denial, revocation or suspension.

A revocation or suspension will only be implemented after the member has completed the appeal process.

If the member's appeal is denied, he/she may file a grievance as provided in the Grievances Policy.

#### **1018.5 REQUIREMENTS**

##### 1018.5.1 PROHIBITED OUTSIDE EMPLOYMENT

The Department reserves the right to deny any request for outside employment that involves:

- (a) The use of department time, facilities, equipment or supplies.
- (b) The use of the Auburn Police Department badge, uniform or influence for private gain or advantage.
- (c) The member's receipt or acceptance of any money or other consideration for the performance of duties or services that he/she would be required or expected to render in the course or hours of his/her employment, appointment or as a part of his/her regular duties.
- (d) The performance of duties or services that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other member of this department.

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- (e) Demands upon the member's time that would render the performance of his/her duties for this department deficient or substandard.
- (f) Activities that may conflict with any other policy or rule of the Department.
- (g) The member to have an ownership interest in, or work on the premises of, any establishment that has a New York State liquor license (Alcoholic Beverage Control Law § 128).

#### 1018.5.2 RESTRICTED OUTSIDE EMPLOYMENT POSITIONS

Officers are also prohibited from working in the following capacity:

- (a) As a bill collector
- (b) As a process server
- (c) As a reposessor
- (d) As a credit investigator
- (e) As a pre-employment investigator
- (f) As a private investigator
- (g) As a tow truck operator
- (h) For a bail bondsman
- (i) For a company affected by a strike or lockout
- (j) For any interests in sale or manufacture of alcoholic beverages (ABC 128)
- (k) For any office or employment with any firm that is licensed to conduct its business at a racetrack or that owns, leases, or manages a racetrack (re: racing, wagering and breeding law section # 107)
- (l) In case preparation for a criminal defense
- (m) In any other capacity which tends to create a conflict of interest
- (n) If the employment presents a threat to the status or dignity of the police department as determined by the Chief of Police
- (o) If the employment presents an unacceptable risk of injury that would disable an officer for regular duty
- (p) If the outside employer declines to assume responsibility for workers compensation and liability insurance
- (q) Disclosure of the fact that a municipal or state employee has any interest in any real property for which an application for any sort of variance is made

#### 1018.5.3 DEPARTMENT RESOURCES

Members are prohibited from using any department equipment or resources in the course of, or for the benefit of, any outside employment. This shall include the prohibition against any member

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using his/her position with this department to gain access to official records or databases of this department or other agencies.

##### **1018.5.4 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

If a member terminates his/her outside employment, the member shall promptly submit written notification of such termination to the Chief of Police through the chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through the procedures set forth in this policy.

Members shall also promptly submit in writing to the Chief of Police any material changes in outside employment, including any change in the number of hours, type of duties or the demands of any approved outside employment. Members who are uncertain whether a change in outside employment is material are advised to report the change.

##### **1018.5.5 LEAVE OR RESTRICTED DUTY STATUS**

When the member returns to full duty with the Auburn Police Department, a written request may be submitted to the Chief of Police to approve the outside employment request.

#### **1018.6 OUTSIDE OVERTIME**

##### **1018.6.1 ACTION REQUIRED REGARDLESS OF ASSIGNMENT**

Members shall take prompt and responsible action in any crime or emergency situation or in any situation in which substantial and irreversible damage would result from failure to take police action, whether on or off-duty. Exceptions may be made for persons on special duties or assignments (e.g., undercover, vice assignments) with knowledge of their supervisor.

##### **1018.6.2 REQUESTS FOR SPECIAL SERVICES**

Any private organization, entity or individual seeking special services (e.g., security, traffic control) from members of this department must submit a written request to the Chief of Police in advance of the desired service. Such services will be assigned, monitored and compensated through the Department as outside overtime assignments.

- (a) A request for special services during or at the site of a strike, lockout, picket or other physical demonstration of a labor dispute will not be approved.
- (b) The requester will be required to enter into an agreement that includes indemnification with the Department prior to approval.
- (c) The requester will be required to reimburse the Department for the members' compensation, benefits and costs (e.g., court time) associated with such outside services.
- (d) Should such a request be approved, any member working outside overtime shall be subject to the following conditions:
  - 1. The member shall wear the department uniform and carry department identification, unless otherwise instructed
  - 2. The member shall be subject to the rules and regulations of this department.

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#### *Outside Employment and Outside Overtime*

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3. Compensation for such approved outside overtime shall be pursuant to normal overtime procedures (see the Overtime Compensation Policy).
  4. Outside overtime shall not be subject to the collective bargaining process, but will be distributed on rotation/seniority.
- (e) Outside overtime shall be assigned at the discretion of the Chief of Police or the authorized designee.

#### 1018.6.3 ARREST AND REPORTING PROCEDURE

Any officer making an arrest or taking other official law enforcement action while working in an outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to the Report Preparation Policy. Time spent on the completion of such reports shall be considered part of the outside overtime assignment.

## Work-Related Illness and Injury Reporting / 207-c

### 1019.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding timely reporting of work-related injuries and occupational illnesses, including the use and administration of the General Municipal Law 207-c disability benefits in conformance with the Collective Negotiations Agreement by and between the City of Auburn and the New York Finger Lakes Region Police Officers Local No. 195.

#### 1019.1.1 DEFINITIONS

Definitions related to this policy include:

**Work-related illness or injury** - Accidental injuries and disease arising out of and in the course of employment. Mental injury may be included unless it is a sole injury arising out of work-related stress as a direct consequence of a lawful and good faith personnel decision involving disciplinary action, work evaluation, job transfer, demotion, or termination (General Municipal Law § 207c).

### 1019.2 POLICY

The Auburn Police Department will address work-related injuries and occupational illnesses appropriately, and this policy will be used to administer General Municipal Law 207-c disability benefits paid as a result of injuries and/or illness sustained while on duty or while performing duties on behalf of the Auburn Police Department. This policy / procedure shall not prohibit a uniformed member of the Police Department from seeking or collecting any other benefits to which s/he may be entitled. For the purpose of this policy and procedure, "business day" shall mean Monday through Friday, excluding any holiday when City Hall is closed for regular business.

[207-C Procedure](#)

[207-C Instructions and Forms.pdf](#)

[Memo of Understanding 04-13-18](#)

### 1019.3 RESPONSIBILITIES

#### 1019.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational illness or work-related injury shall report such event as soon as practicable, but within 24 hours to a supervisor, and shall seek medical care when appropriate.

- (a) If the member is seriously injured, disabled or is unconscious, the first officer or supervisor at the scene will notify the O.I.C., who will then notify Patrol Captain and the Chief of Police.
- (b) In all cases, the O.I.C. will conduct an investigation into the injury of the officer. This investigation will be assigned a separate case number, using the title "officer injury", and will be documented on a case report.
- (c) The member injured will complete an Accident/Injury Report packet, which will be filed with the department. If member is incapable of completing the forms inside the

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#### *Work-Related Illness and Injury Reporting / 207-c*

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packet, the O.I.C. will see that the reports are completed. The member or one of his/her dependents will send the packet to the N.Y.S. Policeman's & Fireman's Retirement System, Governor Alfred E. Smith State Office Building, Albany, N.Y. 12225 of said duty incurred injury. This report must be filed within 30 days of the date of the Injury.

- (d) Members who are injured on duty, and/or who are unable to report for duty due to a prior unreported job related injury, must seek treatment and evaluation by a physician at an appropriate medical facility in order to receive credit for time lost for work.
- (e) When a member suffers an on-duty injury that requires treatment by a physician and/or hospital, it will be the responsibility of the member to provide the physician and/or hospital with a completed authorization form for release of information and request that the medical report (including diagnosis and prognosis) regarding the on-duty injury be forwarded to the Auburn Police Department.
  - 1. Note: If treatment is received at Auburn Community Hospital, use their Authorization For Release of information form. If member is seeing his own physician or is being treated at a facility other than ACH, then use the Auburn Police Department's authorization form.
- (f) Members who are injured on-duty and unable to work due to said injury, must submit a medical doctor's certificate or report as to the proximate cause and extent of injury and the amount of time said medical doctor says the member will not be able or allowed to work. A light duty authorization form will also be completed by the treating physician at this time.
  - 1. If upon treatment by a physician, an injured member is referred for chiropractic care, a certification will be accepted from that chiropractor relative to time missed from work for a period of time not to exceed ten (10) calendar days. Such chiropractic referral shall be valid for a maximum period of one (1) year from the date of first referral and must be renewed by a medical doctor annually. Such referral must also set forth a reasonable standard for the frequency and duration of chiropractic care.
  - 2. Personnel injured while on duty or who have re-aggravated a previous job-related injury will take a Light-Duty Authorization Form with them and have the treating physician indicate whether or not the officer is capable of being assigned to a light-duty position while recovering from his/her injury. This form will be signed by the treating physician and any physician who examines the officer on a referral basis.

#### 1019.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any work-related injury or occupational illness should ensure the member receives medical care as appropriate.

In all cases of work related injury or occupational illness, the supervisor will conduct an investigation into the injury or illness suffered by the officer. This investigation will be assigned a separate incident number, using the title "officer injury" and will be documented on an incident report detailing all factors involved in the injury/illness.

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#### *Work-Related Illness and Injury Reporting / 207-c*

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Supervisors shall ensure that required documents regarding GML are completed and forwarded promptly. Any related City-wide injury- or illness-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

#### **1019.3.3 COMMANDER RESPONSIBILITIES**

The Commander who receives a report of an occupational illness or work-related injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Deputy Chief of Police, the City's Safety Officer to ensure any required New York State Department of Labor's Division of Safety and Health (DOSH) reporting is made as required in the illness and injury prevention plan identified in the Illness and Injury Prevention Policy.

#### **1019.3.4 CHIEF OF POLICE RESPONSIBILITIES**

The Chief of Police shall review and maintain copies of the report. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

#### **1019.4 LIGHT DUTY ASSIGNMENTS**

- (a) The temporary assignment to such a position, is limited to those employees with a medical determination indicating a temporary disability, with a prognosis for an eventual return to full duty status within one year of the date the disability is diagnosed. These assignments are further limited by a requirement that there be a written statement by a medical doctor qualifying the officer for work in a light duty status.
- (b) The light duty position shall require that officers assigned to same shall have no direct contact or activity with the public that has a significant potential for creating a physical risk to the officer or others.
- (c) The Chief of Police shall determine the number and availability of light duty assignments. Seniority shall be considered to the extent an available position exists.
- (d) Light duty assignments may require schedule changes, shift changes or assignment changes.
- (e) An officer returning to full duty shall be required to provide a written physician's statement, certifying that the employee is fit to return to duty without restrictions.

#### **1019.5 SETTLEMENT OFFERS**

When a member sustains an occupational illness or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

##### **1019.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL**

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational illness or work-related injury, the member shall provide the

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#### *Work-Related Illness and Injury Reporting / 207-c*

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Chief of Police with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Police. The purpose of such notice is to permit the City to determine whether the offered settlement will affect any claim the City may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the illness or injury, and to protect the City's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

#### **1019.6 ADDITIONAL STATE LAW**

The Chief of Police or the authorized designee should coordinate with the Comptroller and any applicable collective bargaining units to develop procedures for reporting and additional documentation required for payment of benefits under General Municipal Law § 207-c.



## Personal Appearance

### 1020.1 PURPOSE AND SCOPE

This policy provides guidelines for the personal appearance of members of the Auburn Police Department.

Requirements for department uniforms and civilian attire are addressed in the Uniforms, Non-Uniform Attire and Equipment Policy.

### 1020.2 POLICY

Auburn Police Department members shall maintain their personal hygiene and appearance to project a professional image that is appropriate for this department and for their assignments. Department personal appearance standards are primarily based on safety requirements, appearance conformity and the social norms of the community served, while considering matters important to members of the Department.

### 1020.3 GROOMING

Unless otherwise stated and because deviations from these standards may present officer safety issues, the following appearance standards shall apply to all members, except those whose current assignments would deem them not applicable, and where the Chief of Police has granted an exception.

#### 1020.3.1 PERSONAL HYGIENE

All members must maintain proper personal hygiene. Examples of improper personal hygiene include, but are not limited to, dirty fingernails, bad breath, body odor and dirty or unkempt hair. Any member who has a condition due to a protected category (e.g., race, physical disability) that affects any aspect of personal hygiene covered by this policy may qualify for an accommodation and should report any need for an accommodation to the Chief of Police.

#### 1020.3.2 HAIR

All members' hair shall be neat, clean, trimmed and present a groomed appearance regardless of the style personally selected by the member.

- (a) Hair may touch, but not fall more than one inch below the top of the ear.
- (b) Hair may touch, but not fall below the top of the shirt collar.
- (c) Hair style will not preclude the wearing of the uniform hat in such a manner as to reflect a well-groomed professional image.
- (d) Hair will not be dyed in a color that draws unnecessary attention to the Officer's appearance.

#### 1020.3.3 SIDEBURNS

Sideburns will not extend beyond the lowest tip of the ear lobe and will end in a clean shaven horizontal line. Sideburns will not exceed one inch in width and shall not flare more than ¼ inch in from top to bottom of sideburns.

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#### *Personal Appearance*

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##### 1020.3.4 FACIAL HAIR

Neatly trimmed mustache may be worn, but will not exceed over the top of the upper lip more than ¼ inch beyond the corner of the mouth at the side of the mouth.

Beards and goatees are permitted, but must be neat, clean and well maintained to present a professional appearance.

Beard facial hair shall not exceed one fourth inch (1/4") in length, must be accompanied by a mustache, and is contiguous with no designs shaved into it.

The neck area is to be clean-shaven.

If a department member intends to grow facial hair, they must initiate growing the facial hair during a period of at least two consecutive days off not to give the appearance of failing to shave.

A department member may be required to shave for annual respirator fit tests or when the use of a respirator is likely.

##### 1020.3.5 FINGERNAILS

Fingernails shall be clean and neatly trimmed to a length that will not present a safety concern. The color of fingernail polish shall present a professional image.

#### **1020.4 APPEARANCE**

##### 1020.4.1 JEWELRY

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety concern for the department member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related or obscene language is not allowed. See the Uniforms, Non-Uniform Attire and Equipment Policy for jewelry specifications that apply while wearing the department uniform.

- (a) Earrings will not be worn.
- (b) No facial piercings.
- (c) Exposed body/tongue piercings will not be worn while on duty.
- (d) Necklaces, nose pins, pendant watches, jewelry, or any pins will not be attached to the uniform or other issued items.
- (e) Wedding bands/rings and wrist watches are permitted.
- (f) Religious medals may be worn under the uniform.

##### 1020.4.2 TATTOOS

**\*EMPLOYEES HIRED PRIOR TO June 15, 2016:** who have VISIBLE tattoos, brands, or body art while in the uniform of the day and on duty, such art shall be subject to the approval of the Chief of Police or his/her designee as to the appropriateness of said body art. If the Chief of Police or his designee believe that said body art is inconsistent with the values of the Auburn Police Department, the Chief of Police has the ability to require the officer to wear a long sleeve uniform

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shirt or require removal if the body art is in a location not covered by the uniform in accordance with department policy. This policy will also mandate that current employees of the Auburn Police Department be restricted from getting additional tattoos, brands, piercings, or body art that are not covered by the uniform of the day in order to maintain the current standards and values of the Auburn Police Department.

**\*EFFECTIVE JUNE 20, 2016:** Candidates and current members will be screened during the background investigation process at which time a determination will be made as to whether an applicant is in violation of this policy. If a candidate is found to be in violation of this policy then, that person will be required to abide by the stated policy as written above if they are so offered employment with this agency.

#### 1020.4.3 DENTAL ORNAMENTATION

Dental ornamentation that is for decorative purposes and that is not medically required is prohibited while on-duty or while representing the Auburn Police Department in any official capacity. Such ornamentation includes, but is not limited to:

- (a) Objects that are bonded to front teeth.
- (b) Gold, platinum or other veneers or caps used for decorative purposes.
- (c) Orthodontic appliances that are colored for decorative purposes.

#### 1020.4.4 GLASSES AND CONTACT LENSES

Eyeglasses and sunglasses shall be conservative and present a professional image. Contact lenses with designs that change the normal appearance of the eye and that are not medically required are prohibited while on-duty or while representing the Auburn Police Department in any official capacity.

#### 1020.4.5 COSMETICS AND FRAGRANCES

Cosmetics shall be conservative and present a professional image. Use of cologne, perfume, aftershave lotion and other items used for body fragrance shall be kept to a minimum.

#### 1020.4.6 UNDERGARMENTS

Proper undergarments shall be worn as necessary for reasons of hygiene and general appearance standards.

### 1020.5 RELIGIOUS ACCOMMODATION

The religious beliefs and needs of department members should be reasonably accommodated. Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The Chief of Police should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves, simple head coverings, certain hairstyles or facial hair for religious reasons should generally be accommodated absent unusual circumstances.

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##### **1020.6 EXEMPTIONS**

Members who seek cultural (e.g., protective hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Executive Law § 296). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief of Police should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a security or safety risk.

# Uniform, Non-Uniform Attire and Equipment

## 1021.1 PURPOSE AND SCOPE

This policy provides guidelines for the uniform and non-uniform attire, as well as issued and carried equipment of members of the Auburn Police Department. It is established to ensure that uniformed members will be readily identifiable to the public through the proper use and wearing of department uniforms and that the appearance of members who wear civilian attire reflects favorably on the Department.

### 1021.1.1 DEFINITIONS

**Uniform of the day:** Any clothing that is worn by a sworn member of the Auburn Police Department while on duty, that includes the standard police uniform, and plain clothed assigned officers to such divisions as the ID Bureau, Administration, Detective Bureau or Narcotics Bureau. This will include officers who are assigned light duty status and training.

## 1021.2 POLICY

This policy addresses the wearing and maintenance of department uniforms, accessories, insignia, patches and badge; the requirements for members who wear civilian attire; and the authorized use of optional equipment and accessories by members of the Department.

Other related topics are addressed in the Badges, Patches, and Identification, Department-Owned and Personal Property, and Personal Appearance policies.

## 1021.3 UNIFORMS SELECTION

The choice of wearing either long-sleeve or short-sleeve uniform shirts will be left to the discretion of the individual officer regardless of the time of year, unless otherwise requested by the Chief of Police or his designee relative to special functions like parades, memorial services, group photos, etc. The uniform will consist of:

- (a) Footwear: Black leather dress shoes or black leather boots which will be polished.
- (b) Socks: Black or dark blue in color
- (c) Pants:
  - 1. Dark blue (LAPD blue) four-pocket uniform pants with 1 inch black braid stripe on the legs extending from the waist to the cuff. Or
  - 2. Dark blue (LAPD blue) side-pocket (6 pocket) cargo style pants.
- (d) Belt: Black leather Garrison belt
  - 1. Chrome buckle for the rank of Police Officer
  - 2. Gold buckle for the ranks of Sergeant and above, to include Detective
- (e) Uniform shirts: Long and short sleeved will be LAPD blue in color. They will have shoulder epaulets, two flap pockets, and Auburn Police Department shoulder patch on both the left and right shoulders. A badge holder on the left breast.

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1. Long sleeve shirts: Sleeves will not be rolled up and sleeves will be buttoned. A black knit tie will be worn with the long sleeved shirt and the appropriate Auburn Police Department tie clip will be worn with the tie. All shirt buttons shall be buttoned when wearing a tie and tie bar.
    - (a) Chrome tie clip for the rank of Police Officer
    - (b) Gold tie clip for the rank of Sergeant and above, including Detectives.
    - (c) **\*\*Note:** In lieu of the neck tie, a black turtleneck or mock turtleneck shirt may be worn under the long sleeve uniform shirt. The initials "APD" in block style lettering are to be embroidered on the left side of the neck. Silver embroidered letters for the rank of Police Officer, gold for the ranks of Sergeant and above, including Detectives. All shirt buttons shall be buttoned except for the upper most collar button when wearing a turtleneck or mock turtleneck with the long sleeve shirt.
  2. Short sleeve shirts: Will be worn without a tie and shall be buttoned except for the upper most collar button. T-shirts worn under the short sleeve uniform shirt and will be navy blue or black in color.
- (f) Collar Brass:
1. Police Officers will wear their APD collar brass on the officer's right shirt collar and badge number on the officer's left shirt collar.
  2. Sergeants and above will wear the insignia of their rank on both collars, perpendicular to the point of collar.
  3. Detectives will wear gold APD collar brass on both shirt collars.
- (g) Regulation APD Badges and Name Tags: Badges will be worn on the left breast of the uniform shirt and regulation name tag will be worn on the right breast above the top edge of the right shirt pocket.
1. Mourning Bands: The preferred mourning band is a solid black band or black band with a thin blue line that will fit tightly around your badge. The mourning band should be worn straight across the center of the badge. The width of the band should not exceed ½ inch.
    - (a) Mourning bands shall be worn on a law enforcement badge only in the following circumstances:
      - (a) Upon the line of duty death of an active law enforcement officer of the Auburn Police Department. The mourning band will be worn for a period of thirty days from the date of death.
      - (b) By all Auburn Police Department members in uniform or in civilian clothing while displaying a badge and when attending the funeral of an active law enforcement officer. Upon the completion of the funeral, the mourning band shall be removed.

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- (c) Upon the line of duty death of an active law enforcement officer from a neighboring jurisdiction. The mourning band will be worn from the date of death and removed at the conclusion of the day of burial.
  - (d) Upon the death of a retired member, the mourning band will be worn on the date of death and removed at the conclusion of the date of burial.
  - (e) National Peace Officers Memorial Day (Annually May 15th).
  - (f) At the direction of the Chief of Police or their designee and when special circumstances dictate that a department display of official mourning is appropriate.
- (h) Name Tag: Uniformed personnel are required to wear their issued name tag on their outer most garments which is on an approved jacket, outer vest carrier or uniform shirt. \*Effective 09/30/2016, officers hired after this date will be subsequently issued (2) name tags by the Office of the Chief of Police. One name tag will have the Officer's name and hire date which will be worn on the uniform shirt and the second name tag will have the Officer's name only which will be worn on the Officer's outer most garment.
  - 1. If the Officer is utilizing an outer body armor carrier, the name tag will be the embroidered style name tag that velcros to the outer carrier.
    - (a) Embroidery will be done in gray for the rank of Patrol and gold for the rank of Sergeant and above to include detective.
- (i) Qualification/Certified Badges/U.S. Armed Forces Service Pins: Such as Firearms Instructor, ET (Evidence Technician), EMT (Emergency Medical Technician), ERT (Emergency Response Team) and FTO (Field Training Officer) badges, as well as a United States Armed Forces Service pins (issued by the Chief of Police Office) may be worn above the name tag. The US Flag pin may also be worn above the name tag.
- (j) Uniform Hat: Shall be an eight point dark blue police hat or baseball hat. Members will wear their issued hat badge and hat band according to rank with their eight point hat.
  - 1. Eight Point Uniform hats will be worn during:
    - (a) Funeral Details
    - (b) Honor Guard Details
    - (c) When Wearing Class A Dress Uniform
    - (d) At Any Other Event When Requested by the Commanding Officer
  - 2. Baseball hats will be worn with the Class B regular-duty uniform
    - (a) Baseball hat will be dark navy blue
    - (b) The brand and model number of the hat will be set forth by the Office of the Chief of Police



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- (c) The baseball hat shall display the (2"W X 2.5"L) APD patch which will be embroidered on the front of the baseball hat. The patch shall be gray for patrol, and gold for the rank of Sergeants and above, to include Detectives.
  - (d) The baseball hat shall be embroidered with the member's last name and badge number on the back of the hat in gray for patrol, and gold for rank of Sergeants and above, to include Detectives.
  - (e) No other insignias or lettering shall be displayed on the hat.
  - (f) Baseball hats shall be worn facing forward on the head and not tipped back or to the side. The brim shall be on the forehead approximately one and one-half inches above the eyebrows. The brim shall be curved, not straight, and shall not include any stickers.
  - (g) The hat will not be worn inside any buildings, which includes Auburn Police Department HQ, any courthouse or grand jury room.
  - (h) The baseball hats shall be purchased at the member's expense and shall maintain a clean and serviceable appearance.
- (k) Uniform Gun Belt: Will be a 2 ¼ ", fully lined plain black gun belt with:
  - 1. Chrome hardware for the rank of Police Officer.
  - 2. Brass hardware for Sergeant and above, including Detectives.
- (l) Uniform Jackets: Will be dark blue nylon police uniform jacket with shoulder epaulets, a badge holder on the left breast and two hand warmer pockets. An Auburn Police Department patch will be sewn on the left shoulder. The badge will be worn on the left breast and a name tag will be worn on the right breast or the officer's name can be embroidered in place of a name tag relative to jackets. An American Flag patch is optional and may be worn on the right shoulder. If the American flag patch is not worn then a second department patch will be sewn on the right shoulder.
  - (a) Service Stripes: Shall be worn on the left forearm of the uniform jacket. (Effective 09/30/2016, officers will have service stripes placed on their class A dress coat and white uniform shirt. One stripe will represent each five years of service.
- (m) Rain Coats: Black/florescent green reversible ANSI 3 compliant reflective technology rain gear is required and to be worn when directing traffic or in situations where visibility for officer safety is necessary (effective for new purchases and hires after 01/01/2013). Officers who own orange/black reversible rain gear hired prior to 01/01/2013 will be required to wear their issued traffic safety vest over the top of their rain gear when directing traffic to ensure 360 degree visibility.
- (n) Gloves: Officers may wear black gloves meeting the department standards, or the approved aqua barrier gloves only under the following circumstances:
  - 1. When climatic conditions warrant the wearing of lined gloves to protect the hands from the cold.
  - 2. During the handling of a police call where a threat of physical violence is present.



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3. During a search of a person or property where the threat of exposure to a biological hazard exists

#### Inspection of Uniform and Appearance

##### **1021.4 NON-UNIFORM ATTIRE**

There are assignments within the Department that do not require a uniform. There are also assignments for which civilian attire is necessary.

- (a) Civilian attire shall fit properly, be clean and free of stains, and not be damaged or excessively worn.
- (b) Members assigned to administrative, and support positions shall wear business-appropriate clothing that is conservative in style. Members assigned to training hosted at a remote location by another agency will adhere to the dress code required by this organization. If the dress code is not specifically addressed members will adhere to a business casual standard that consists of slacks or khakis, dress shirt or blouse, open-collar or polo shirt, optional tie or seasonal sport coat, a dress or skirt at knee-length or below, a tailored blazer, knit shirt or sweater, and loafers or dress shoes that cover all or most of the foot.
- (c) Members assigned to the department's Detective Bureau shall adhere to the following attire standards:
  1. Business Attire which will include a dress shirt and tie for male and button down shirt or blouse for female employees
  2. Optional Suit or suit coat/blazer can be worn (mandatory for Court appearances)
  3. Attire can be adjusted temporarily by the Unit's Commander as deemed necessary
- (d) Variations from this policy are allowed at the discretion of the Chief of Police or the authorized designee when the member's assignment or current task is not conducive to wearing such clothing.
- (e) No item of civilian attire may be worn while on-duty that would adversely affect the reputation of the Auburn Police Department or the morale of the members.
- (f) The following items shall not be worn while on-duty or when representing the Department in any official capacity:
  1. Clothing that reveals cleavage, the back, chest, stomach or buttocks
  2. T-shirt alone or exposed undergarments
  3. Swimsuits, tank tops, tube tops or halter tops
  4. Sweatshirts, sweatpants or similar exercise clothing
  5. Spandex-type pants or transparent clothing
  6. Denim pants of any color
  7. Shorts

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8. Open-toed shoes
9. Clothing, buttons or pins displaying racial, sexual, discriminatory, gang-related or obscene language

#### **1021.5 UNIFORM CLASSES**

The Chief of Police or the authorized designee shall determine the uniform to be worn by each department member or any deviations that may be authorized. All police officers hired by the Auburn Police Department are required to purchase both Class A and Class B uniforms before they begin their Field Training Program.

Uniforms are classified as follows:

- (a) Class A - Full dress uniform to be worn by designated department members on special occasions, such as funerals, graduations, ceremonies, or as directed by the Chief of Police or the authorized designee.
- (b) Class B - Standard issue uniform to be worn daily by designated department members.
- (c) Specialized assignment - Specific uniforms to be worn by members in special assignments or bureaus.

##### **1021.5.1 CLASS A UNIFORM**

The Class A uniform consists of the following:

- (a) Dress Coat (Four Pocket) - Dark Blue (LAPD Blue)
  1. Silver coat buttons for rank of Police officer.
  2. Gold coat buttons for rank of Sergeant and above to include Detective.
    - (a) Department patch on both sleeves.
    - (b) Service stripe(s) on left forearm.
    - (c) Name tag will be worn on the right breast above the edge of the coat pocket.
    - (d) Badge will be worn on the left breast.
- (b) Long Sleeve Shirt – (White)
  1. Department patch on both sleeves.
  2. Service stripe(s) on left forearm.
  3. Collar brass will be worn.
  4. Black knit tie will be worn.
  5. Department tie bar will be worn.
    - (a) Badge and name tag will NOT be worn on the long sleeve shirt.
- (c) Pants – Dark Blue (LAPD Blue)
  1. Pants will be 4 pocket style with 1" black braid stripe extending from the waist to the cuff.

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2. Pants will be worn with a black leather garrison belt.
  - (a) Gold Buckle for rank of Sergeant and above to include detective.
  - (b) Silver buckle for Police Officers
  - (c) Belts shall be equipped as needed for the member's assignment.
- (d) Hat
  1. Eight point dark blue police hat.
    - (a) With issued hat badge and hat band according to their rank.
- (e) Dark blue or black socks
- (f) Black polished dress shoes or boots
  1. Boots with pointed toes are not permitted.

#### 1021.5.2 CLASS B UNIFORM

The Class B uniform consists of the following:

- (a) Long-sleeve shirt
  1. Department patch on both sleeves
  2. Collar brass will be worn
  3. Issued APD badge will be worn on left breast
  4. Issued name tag will be worn on right breast above the top edge of the right shirt pocket.
  5. Black knit tie with tie bar or black mock turtleneck or turtleneck shirt will be worn with long sleeve shirt.
    - (a) The turtleneck must be embroidered with APD on the left side of the neck
    - (b) "APD" must be embroidered gray for patrol and gold for Sergeant and above, to include detective.
  6. If an officer is utilizing (wearing) an outer body armor carrier then the traditional long sleeve shirt listed above may be substituted with the under vest style / material long sleeve shirt listed below. (Note - These style shirts can only be worn when the outer body armor carrier is also being utilized).
    - (a) Armorskin (Blauer) - Under Vest Style
    - (b) Vaporcore (Flying Cross) - Under Vest Style
    - (c) Only collar brass will be worn with the under the vest style shirt. Badge and name tag will be worn on the outer body armor carrier. Department patch on both shirt sleeves / shoulders is still required.
  7. Allowed long-sleeve shirt brands and material:
    - (a) Brand
      1. Blauer

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2. Flying Cross
- (b) Material
  1. Polyester
  2. Polyester / Rayon
  3. Polyester / Wool
  4. Flex Rs (Blauer Only) Rip-Stop Material
    - (a) If you are wearing the Flex RS material both your pants and shirt must be Flex RS.
- (b) Short-sleeve shirts
  1. Department patch on both sleeves
  2. Collar brass will be worn
  3. Issued APD badge will be worn on the left breast
  4. Issued name tag will be worn on the right breast above the top edge of the right shirt pocket.
  5. If an officer is utilizing (wearing) an outer body armor carrier then the traditional short sleeve shirt listed above may be substituted with the under vest style / material short sleeve shirt listed below. (Note - These style shirts can only be worn when the outer body armor carrier is also being utilized).
    - (a) Armorskin (Blauer) - Under Vest Style
    - (b) Vaporcore (Flying Cross) - Under Vest Style
    - (c) Only collar brass will be worn with the under the vest style shirt. Badge and name tag will be worn on the outer body armor carrier. Department patch on both shirt sleeves is still required.
6. Allowed short-sleeve brands and material
  - (a) Brand
    - (a) Flying Cross
    - (b) Blauer
  - (b) Material
    1. Polyester
    2. Polyester / Rayon
    3. Polyester / Wool
    4. Flex Rs (Blauer Only) Rip-Stop Material
      - (a) If you are wearing the Flex RS material both your pants and shirt must be Flex RS
- (c) Pants (Officers have the choice of either option 1 or 2)

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1. Dark blue (LAPD blue) four-pocket uniform pants with 1 inch black braid stripe on the legs extending from the waist to the cuff.
2. Dark blue (LAPD blue) side-pocket (6 pocket) cargo style pants.
3. Allowed brands and material:
  - (a) Brand
    1. Bauer
    2. Flying Cross
  - (b) Material
    1. Polyester
    2. Polyester / Rayon
    3. Polyester / Wool
    4. Flex Rs (Blauer Only) Rip-Stop Material
      - (a) If you are wearing the Flex RS material both your pants and shirt must be Flex RS.
- (d) Black pants belt
  1. Black leather Garrison belt
    - (a) Chrome buckle for the rank of Police Officer
    - (b) Gold buckle for the ranks of Sergeant and above, to include Detective
- (e) Dark blue or black socks
- (f) Black polished shoes or boots
  1. Approved black unpolished shoes may be worn
  2. Boots with pointed toes are not permitted
  3. Decorative stitching or manufacturing logos are not permitted
- (g) Turtle Neck or Mock Turtle Neck embroidered gray for patrol and gold for Sergeant and above, to include Detective
- (h) Jacket
- (i) Rain gear
- (j) Hats
  1. Eight Point Uniform Hat
  2. Winter Hat
  3. Baseball Hat
- (k) Body Armor
  1. Can be worn wither concealed under the uniform shirt or with department issued outer carrier.

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##### 1021.5.3 SPECIALIZED ASSIGNMENT UNIFORM

The Chief of Police or the authorized designee may authorize certain uniforms to be worn by members in specialized assignments, such as canine handlers, the (ERT), bicycle patrol, motor officers and other specific assignments.

##### **1021.6 EQUIPMENT**

- (a) Members assigned to the uniformed patrol division will carry or wear issued or approved equipment only as follows:
  - 1. Service weapon properly loaded with issued ammunition and issued holster
  - 2. Magazine holder and 2 extra fully loaded magazines
  - 3. Issued handcuffs, handcuff key and handcuff case
  - 4. Issued O.C. Spray canister and holder
  - 5. Issued ASP baton and carrier
  - 6. Issued portable radio holder
  - 7. Issued "Police" safety reflective vest
  - 8. Issued Taser and holster
- (b) In addition, members will:
  - 1. All uniformed patrol personnel will wear their issued ballistic vests during their tour of duty unless assigned administrative duties.
    - (a) \*Ballistic vests will be worn under the member's uniform shirt or over the uniform shirt in a Chief of Police approved ballistic vest carrier. If an approved ballistic vest carrier is preferred the member will wear their issued badge on the left side and their issued name tag on the right side of the carrier.
  - 2. Carry 2 ballpoint pens (one black and one blue) and a pocket sized notebook.
  - 3. Have sufficient number of report forms, UTT's, parking tickets, etc., as usually required by assignment to a tour of duty.
  - 4. Carry department-issued identification.
- (c) Weapons and equipment not issued by the Auburn Police Department or approved by the Chief of Police will not be carried while on duty and are strictly prohibited.

\*Members may carry folding pocket knife with a three inch blade or less in their pocket.

[List of Issued Equipment by Department and Required Equipment Purchased by Officer](#)

# Conflict of Interest

## 1022.1 PURPOSE AND SCOPE

The purpose of this policy is to assist members in recognizing and avoiding potential conflicts of interest, thereby ensuring effective and ethical operating practices on the part of the Auburn Police Department.

### 1022.1.1 DEFINITIONS

Definitions related to this policy include:

**Conflict of interest** - Any actual, perceived or potential conflict, in which it reasonably appears that a member's action, inaction or decisions are or may be influenced by a personal or business relationship.

## 1022.2 POLICY

Members of the Auburn Police Department are expected to conduct themselves with the utmost professional integrity and objectivity. Members will guard against actual or perceived conflicts of interest in order to ensure the fair and equitable treatment of department members and the public, and thereby maintain the trust of the public and department members.

## 1022.3 PROHIBITIONS

The Department prohibits the following types of personal or business relationships among members:

- (a) Members are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other member who is a relative or with whom they are involved in a personal or business relationship.
  - 1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved member to an uninvolved supervisor.
  - 2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing members in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any member to another position within the same classification in order to avoid conflicts with any provision of this policy.
- (b) Members are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting a member who is a relative or with whom they are involved in a personal or business relationship.
- (c) Whenever possible, field training officers (FTOs) and other trainers will not be assigned to train relatives. Department FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any member they

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are assigned to train until such time as the training has been successfully completed and the person is off probation.

#### **1022.4 MEMBER RESPONSIBILITIES**

Members shall avoid situations that create a conflict of interest. Members should take reasonable steps to address a perception of a conflict of interest when such a perception is reasonably foreseeable and avoidable (e.g., deferring a decision to an uninvolved member).

Whenever any member is placed in circumstances that would require him/her to take enforcement action or to provide official information or services to any relative or individual with whom the member is involved in a personal or business relationship, that member shall promptly notify his/her uninvolved, immediate supervisor.

In the event that no uninvolved supervisor is immediately available, the member shall have another uninvolved member either relieve the involved member or, minimally, remain present to witness the action.

#### **1022.5 SUPERVISOR RESPONSIBILITIES**

Upon being notified of or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief of Police or the authorized designee of such actual or potential violations through the chain of command.



## Badges, Patches and Identification

### 1023.1 PURPOSE AND SCOPE

The Auburn Police Department (APD) badge, patch and identification card, as well as the likeness of these items and the name of the Department, are property of the Department. Their use shall be restricted as set forth in this policy.

### 1023.2 POLICY

Members of the Department will use the APD badge, patch and identification card, as well as the likeness of these items, appropriately and professionally.

### 1023.3 UNAUTHORIZED USE

The APD badge, patch and identification card shall not be displayed or used by any member except when acting in an official or authorized capacity.

Department members shall not:

- (a) Display or use the APD badge, patch or identification card for personal gain or benefit.
- (b) Loan the APD badge, patch or identification card to others or permit these items to be reproduced or duplicated.
- (c) Use images of the APD badge, patch or identification card, or the likeness thereof, or the Auburn Police Department name, for personal or private reasons including, but not limited to, letters, memoranda and electronic communications, such as email, blogs, social networking or websites.

#### 1023.3.1 LOST BADGE, PATCH OR IDENTIFICATION CARD

Department members shall promptly notify their supervisors whenever their APD badges, patches or identification cards are lost, damaged or are otherwise removed from their control.

### 1023.4 BADGES

The Chief of Police shall determine the form of badges authorized for use by department members. No other badges may be used, carried, worn or displayed.

Only badges issued by this department are authorized to be used, displayed, carried or worn by members while on-duty or otherwise acting in an official or authorized capacity.

Members, with the written approval of the Chief of Police, may purchase at their own expense a second badge or flat badge that can be carried in a wallet.

#### 1023.4.1 RETIREE BADGES

The Chief of Police may establish rules for allowing honorably retired members to keep their badges in some form upon retirement, for use as private memorabilia.

#### 1023.4.2 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the APD badge shall not be used for any purpose without the express authorization of the Chief of Police and shall be subject to the following:

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#### *Badges, Patches and Identification*

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- (a) An authorized employee group may use the likeness of the APD badge for merchandise and official employee group business provided it is used in a clear representation of the employee group and not the Auburn Police Department. The following modification shall be included:
  - 1. Any text identifying the Auburn Police Department is replaced with the name of the employee group.
  - 2. A badge number is not included. That portion of the badge may display the acronym of the employee group.

#### **1023.5 IDENTIFICATION CARDS**

All members will be issued an official APD identification card bearing the member's name, full-face photograph, member identification number, member's signature and signature of the Chief of Police or the official seal of the Department. All members shall be in possession of their department-issued identification cards at all times while on-duty or in department facilities.

- (a) Whenever on-duty or acting in an official capacity representing the Department, members shall display their department-issued identification cards in a courteous manner to any person upon request and as soon as practicable.
- (b) Officers or other members working specialized assignments may be excused from the possession and display requirements when directed by their Commanders.

#### **1023.6 BUSINESS CARDS**

The Department will supply business cards to those members whose assignments involve frequent interaction with the public or who may require the use of a business card. The only authorized business cards are those issued or approved by the Department and should contain identifying information including, but not limited to, the member's name, bureau, badge or other identification number and contact information (e.g., telephone number, email address).

Members should provide a business card upon request.

# Temporary Modified-Duty Assignments

## 1024.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, City rules or current collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

## 1024.2 POLICY

Subject to operational considerations, the Auburn Police Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

## 1024.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature (General Municipal Law § 207-c). Employees having disabilities covered under the Americans with Disabilities Act (ADA) or Executive Law § 296 of the New York Human Rights Law shall be treated equally, without regard to any preference for a work-related injury (Executive Law § 296).

No position in the Auburn Police Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief of Police or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, or engaging in outside employment, or may otherwise limit them in employing their police officer or peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

## 1024.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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#### *Temporary Modified-Duty Assignments*

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Employees seeking a temporary modified-duty assignment should submit a written request to their Commanders or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Commander will make a recommendation through the chain of command to the Chief of Police regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief of Police or the authorized designee shall confer with the Comptroller or the Corporation Counsel as appropriate.

#### **1024.5 ACCOUNTABILITY**

##### **1024.5.1 EMPLOYEE RESPONSIBILITIES**

The responsibilities of employees assigned to temporary modified duty shall include, but are not limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.

##### **1024.5.2 SUPERVISOR RESPONSIBILITIES**

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

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

- (a) Periodically apprising the Commander of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Commander and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

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#### *Temporary Modified-Duty Assignments*

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##### **1024.6 MEDICAL EXAMINATIONS**

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

##### **1024.7 PREGNANCY**

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment.

###### **1024.7.1 NOTIFICATION**

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the City's personnel rules and regulations regarding family and medical care leave.

##### **1024.8 PROBATIONARY EMPLOYEES**

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

##### **1024.9 MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

# Speech, Expression and Social Networking

## 1025.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with the use of social networking sites, and provides guidelines for the regulation and balancing of member speech and expression with the needs of the Auburn Police Department.

This policy applies to all forms of communication including, but not limited to, film, video, print media, public or private speech and use of all Internet services, including the Web, email, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit a member from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or an employee group, about matters of public concern, such as misconduct or corruption.

Members are encouraged to consult with their supervisors regarding any questions arising from the application or potential application of this policy.

## 1025.2 POLICY

It is the policy of the Auburn Police Department that official use of social media systems will be strictly regulated and used consistent with applicable laws and that any Auburn Police Department member, to include the personal use of social media by both sworn and civilian personnel, be compliant with all sections of the Auburn Police Department Policy and Procedure Manual, Rules of Conduct Manual, The City of Auburn Employee Handbook, and the City of Auburn-Office of the City Manager Policy.

Members of public entities like the Auburn Police Department occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of the Auburn Police Department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that members of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Department will carefully balance the individual member's rights against the needs and interests of the Department when exercising a reasonable degree of control over its members' speech and expression.

[Department Use of Social Media Procedure](#)

[Personal Use of Social Media Procedure](#)

[City of Auburn Website Online Publishing and Social Media Policy](#)

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#### *Speech, Expression and Social Networking*

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##### **1025.3 SAFETY**

Members should carefully consider the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of Auburn Police Department members, such as posting personal information in a public forum or posting a photograph taken with a GPS-enabled camera, can result in compromising a member's home address or family ties. Members should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any member, a member's family or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow department member.
- Otherwise disclosing where another officer can be located off-duty.

##### **1025.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the safety, performance and public-trust needs of the Auburn Police Department, the following are prohibited unless the speech is otherwise protected (for example, a member speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or an employee group, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Department or its members.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Department and tends to compromise or damage the mission, function, reputation or professionalism of the Department or its members. Examples may include:
  1. Statements that indicate disregard for the law or the state or U.S. Constitutions.
  2. Expression that demonstrates support for criminal activity.
  3. Participation in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the member as a witness. For example, posting to a website statements or expressions that glorifies or endorses dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the members of the Department (e.g., a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape).
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Department.



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- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment or appointment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.
- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Auburn Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police or his designee.

Members must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

##### **1025.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS**

While members are not restricted from engaging in the following activities as private citizens or as authorized members of recognized bargaining units or employee groups, members may not represent the Auburn Police Department or identify themselves in any way that could be reasonably perceived as representing the Department in order to do any of the following, unless specifically authorized by the Chief of Police:

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video or public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization, including as an authorized member of a recognized bargaining unit or an employee group, is affiliated with this department, the member shall give a specific disclaiming statement that any such speech or expression is not representative of the Auburn Police Department.

Members retain their rights to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of recognized bargaining units or employee groups, on political subjects and candidates at all times while off-duty. However, members may not use their official authority or influence to interfere with or affect the result of elections or nominations for office. Members are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

##### **1025.5 PRIVACY EXPECTATION**

Members forfeit any expectation of privacy with regard to emails, texts or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that



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is accessed, transmitted, received or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

#### **1025.6 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or the authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

#### **1025.7 TRAINING**

Subject to available resources, the Department should provide training regarding the limitations on speech, expression and use of social networking to all members of the Department.

## Illness and Injury Prevention

### 1026.1 PURPOSE AND SCOPE

The purpose of this policy is to establish an ongoing and effective plan to reduce the incidence of illness and injury for members of the Auburn Police Department.

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces illness and injury, it may be supplemented by procedures outside the Policy Manual.

This policy does not supersede, but supplements any related City-wide safety efforts.

### 1026.2 POLICY

The Auburn Police Department is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injuries. The Department will establish and maintain an illness and injury prevention plan and will provide tools, training and safeguards designed to reduce the potential for accidents, injuries and illness. It is the intent of the Department to comply with all laws and regulations related to occupational safety.

### 1026.3 ILLNESS AND INJURY PREVENTION PLAN

The Training and Planning Administrator is responsible for developing an illness and injury prevention plan that shall include:

- (a) Workplace safety and health training programs.
- (b) Regularly scheduled safety meetings.
- (c) Posted or distributed safety information.
- (d) A system for members to anonymously inform management about workplace hazards.
- (e) The City of Auburn will establish a safety and health committee that will:
  - 1. Meet regularly.
  - 2. Prepare a written record of safety and health committee meetings.
  - 3. Review the results of periodic scheduled inspections.
  - 4. Review investigations of accidents and exposures.
  - 5. Make suggestions to command staff for the prevention of future incidents.
  - 6. Review investigations of alleged hazardous conditions.
  - 7. Submit recommendations to assist in the evaluation of member safety suggestions.
  - 8. Assess the effectiveness of efforts made by the Department to meet applicable standards.
- (f) Establishing a process to ensure illnesses and injuries are reported as required under the New York Public Employee Safety and Health (PESH) Act (Labor Law § 27-a; 12 NYCRR § 801.1 et seq.).

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#### **1026.4 TRAINING AND PLANNING ADMINISTRATOR RESPONSIBILITIES**

The responsibilities of the Training and Planning Administrator include but are not limited to:

- (a) Managing and implementing a plan to reduce the incidence of member illness and injury.
- (b) Ensuring that a system of communication is in place that facilitates a continuous flow of safety and health information between supervisors and members. This system shall include:
  - 1. New member orientation that includes a discussion of safety and health policies and procedures.
  - 2. Regular member review of the illness and injury prevention plan.
- (c) Ensuring that all safety and health policies and procedures are clearly communicated and understood by all members.
- (d) Taking reasonable steps to ensure that all members comply with safety rules in order to maintain a safe work environment. This includes but is not limited to:
  - 1. Informing members of the illness and injury prevention guidelines.
  - 2. Ensuring that the member evaluation process includes member safety performance.
  - 3. Ensuring department compliance to meet standards regarding the following:
    - (a) Respiratory protection (29 CFR 1910.134; 12 NYCRR § 800.3)
      - 1. [Respiratory Protection Program Procedure](#);
      - 2. [Respirator \(Gas Mask\) Monthly Inspection Record](#)
    - (b) Communicable diseases (29 CFR 1910.1030; Labor Law § 27-a; 12 NYCRR § 800.3)
    - (c) Exit routes, Emergency Action Plans, and Fire Prevention Plans (29 CFR 1910.33 et seq.; 12 NYCRR § 800.3)
    - (d) Workplace safety and violence prevention, specifically addressing the essential elements related to (Labor Law § 27-b; 12 NYCRR § 800.6):
      - 1. Risk evaluation and determination
      - 2. Written workplace violence prevention program
      - 3. Employee information and training
    - (e) The placement and maintenance of the Safety Data Sheets (SDS)
    - (f) Personal Protective Equipment (PPE) (see the Personal Protective Equipment Policy)
    - (g) Walking-Working Surfaces (29 CFR 1910.21; 12 NYCRR § 800)
- (e) Making available a form to document inspections, unsafe conditions, or unsafe work practices, and actions taken to correct unsafe conditions and work practices.
- (f) Making available a form to document individual incidents or accidents.

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- (g) Making available a form to document the safety and health training of each member. This form will include the member's name or other identifier, training dates, type of training, and training providers.
- (h) Conducting and documenting a regular review of the illness and injury prevention plan.

#### **1026.5 SUPERVISOR RESPONSIBILITIES**

Supervisor responsibilities include, but are not limited to:

- (a) Ensuring member compliance with illness and injury prevention guidelines and answering questions from members about this policy.
- (b) Training, counseling, instructing or making informal verbal admonishments any time safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Standards of Conduct Policy.
- (c) Establishing and maintaining communication with members on health and safety issues. This is essential for an injury-free, productive workplace.
- (d) Completing required forms and reports relating to illness and injury prevention; such forms and reports shall be submitted to the Training and Planning Administrator
- (e) Notifying the Training and Planning Administrator when:
  - 1. New substances, processes, procedures or equipment that present potential new hazards are introduced into the work environment.
  - 2. New, previously unidentified hazards are recognized.
  - 3. Occupational illnesses and injuries occur.
  - 4. New and/or permanent or intermittent members are hired or reassigned to processes, operations or tasks for which a hazard evaluation has not been previously conducted.
  - 5. Workplace conditions warrant an inspection.

#### **1026.6 HAZARDS**

All members should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Members should make their reports to a supervisor (as a general rule, their own supervisors).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner, based on the severity of the hazard. These hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering members or property, supervisors should protect or remove all exposed members from the area or item, except those necessary to correct the existing condition.

Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

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All significant actions taken and dates they are completed shall be documented on the appropriate form. This form should be forwarded to the Training and Planning Administrator via the chain of command.

The Training and Planning Administrator will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

#### **1026.7 INSPECTIONS**

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards and permit mitigation of those hazards. A hazard assessment checklist should be used for documentation and to ensure a thorough assessment of the work environment.

The Training and Planning Administrator shall ensure that the appropriate documentation is completed for each inspection.

##### [Global Harmonized System Procedure](#)

#### **1026.7.1 EQUIPMENT**

Members are charged with daily vehicle inspections of their assigned vehicles and of their PPE prior to working in the field. Members shall complete the appropriate form if an unsafe condition cannot be immediately corrected. Members should forward this form to their supervisors.

#### **1026.8 INVESTIGATIONS**

Any member sustaining any work-related illness or injury, as well as any member who is involved in any accident or hazardous substance exposure while on-duty, shall report such event as soon as practicable to a supervisor. Members observing or learning of a potentially hazardous condition are to promptly report the condition to their immediate supervisors.

A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

- (a) A visit to the accident scene as soon as possible.
- (b) An interview of the injured member and witnesses.
- (c) An examination of the workplace for factors associated with the accident/exposure.
- (d) Determination of the cause of the accident/exposure.
- (e) Corrective action to prevent the accident/exposure from reoccurring.
- (f) Documentation of the findings and corrective actions taken.

Additionally, the supervisor should proceed with the steps to report an on-duty injury, as required under the Work-Related Illness and Injury Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting.

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##### **1026.9 TRAINING**

The Administration Commander should work with the Training and Planning Administrator to provide all members, including supervisors, with training on general and job-specific workplace safety and health practices. Training shall be provided:

- (a) To supervisors to familiarize them with the safety and health hazards to which members under their immediate direction and control may be exposed.
- (b) To all members with respect to hazards specific to each member's job assignment.
- (c) To all members given new job assignments for which training has not previously been provided.
- (d) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.
- (e) Whenever the Department is made aware of a new or previously unrecognized hazard.

##### **1026.9.1 TRAINING TOPICS**

The Training and Planning Administrator shall ensure that training includes:

- (a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.
- (b) Use of appropriate clothing, including gloves and footwear.
- (c) Use of respiratory equipment.
- (d) Availability of toilet, hand-washing and drinking-water facilities.
- (e) Provisions for medical services and first aid.
- (f) Handling of blood borne pathogens and other biological hazards.
- (g) Prevention of heat and cold stress.
- (h) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).
- (i) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.
- (j) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.
- (k) Back exercises/stretchers and proper lifting techniques.
- (l) Avoidance of slips and falls.
- (m) Good housekeeping and fire prevention.
- (n) Other job-specific safety concerns.

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##### **1026.10 RECORDS**

Records and training documentation relating to illness and injury prevention will be maintained in accordance with the established records retention schedule.

# Line-of-Duty Deaths or Serious Injury

## 1027.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Auburn Police Department in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's survivors.

The Chief of Police may also apply some or all of this policy for a non-line-of-duty member death, or in situations where members are injured in the line of duty and the injuries are life-threatening.

### 1027.1.1 DEFINITIONS

Definitions related to this policy include:

**Line-of-duty death** - The death of a sworn member during the course of performing law enforcement-related functions while on- or off-duty, or a civilian member during the course of performing their assigned duties.

**Serious Physical Injury** - Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.

**Survivors** - Immediate family members of the deceased / seriously injured member, which can include spouse, children, parents, other next of kin or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

For an officer, a line-of-duty death includes death that is the direct and proximate result of a personal injury sustained in the line of duty (34 USC § 10281).

## 1027.2 POLICY

It is the policy of the Auburn Police Department to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies or is seriously injured in the line of duty.

It is also the policy of this department to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

## 1027.3 INITIAL ACTIONS BY COMMAND STAFF

- (a) Upon learning of a line-of-duty death or serious injury, the deceased member's supervisor should provide all reasonably available information to the Shift Commander and Dispatch.
- (a) Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).



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- (b) The Shift Commander should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.
- (c) If the member has been transported to the hospital, the Shift Commander or the authorized designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.
- (d) The Chief of Police or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

#### **1027.4 NOTIFYING SURVIVORS**

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Chief of Police or the authorized designee should review the deceased or seriously injured member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief of Police, Shift Commander or the authorized designee should select at least two members to conduct notification of survivors, one of which may be the Department Chaplain.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.
- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in department vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital and should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.

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- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.
- (g) Offer to call other survivors, friends or clergy to support the survivors and to avoid leaving survivors alone after notification.
- (h) Assist the survivors with meeting childcare or other immediate needs.
- (i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.
- (j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Department Liaison.
- (k) Provide their contact information to the survivors before departing.
- (l) Document the survivor's names and contact information, as well as the time and location of notification. This information should be forwarded to the Department Liaison.
- (m) Inform the Chief of Police or the authorized designee once survivor notifications have been made so that other Auburn Police Department members may be apprised that survivor notifications are complete.

#### 1027.4.1 OUT-OF-AREA NOTIFICATIONS

The Department Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- (a) The Department Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the department member that the survivors can call for more information following the notification by the assisting agency.
- (b) The Department Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Department to pay travel expenses without the authorization of the Chief of Police.

#### 1027.5 NOTIFYING DEPARTMENT MEMBERS

Supervisors or members designated by the Chief of Police are responsible for notifying department members of the line-of-duty death or serious injury as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shift. Members reporting for duty from their residence

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#### *Line-of-Duty Deaths or Serious Injury*

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should be instructed to contact their supervisor as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased /seriously injured member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support group, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

#### **1027.6 LIAISONS AND COORDINATORS**

The Chief of Police or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death or serious injury, including, but not limited to:

- (a) Department Liaison.
- (b) Hospital Liaison.
- (c) Survivor Support Liaison.
- (d) Critical Incident Stress Management (CISM) coordinator.
- (e) Funeral Liaison.
- (f) Mutual aid coordinator.
- (g) Benefits Liaison.
- (h) Finance coordinator.

Liaisons and coordinators will be directed by the Department Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed. The Department should consider seeking assistance from surrounding law enforcement agencies to fill liaison and coordinator positions, as appropriate.

##### **1027.6.1 DEPARTMENT LIAISON**

The Department Liaison should be a Commander or of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the deceased or seriously injured member's survivors and the Department. The Department Liaison reports directly to the Chief of Police. The Department Liaison's responsibilities include, but are not limited to:

- (a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System (NIMS).

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- (b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.
- (c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.
- (d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.
- (e) Coordinating all official law enforcement notifications and arrangements.
- (f) Making necessary contacts for authorization to display flags at half-mast.
- (g) Ensuring that department members are reminded of appropriate information—sharing restrictions regarding the release of information that could undermine future legal proceedings.
- (h) Coordinating security checks of the member's residence as necessary and reasonable.
- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

#### 1027.6.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

- (a) Establish a command post or incident command system, as appropriate, to facilitate management of the situation and its impact on hospital operations (e.g., influx of people, parking).
- (b) Arrange for appropriate and separate waiting areas for:
  - 1. The survivors and others whose presence is requested by the survivors.
  - 2. Department members and friends of the deceased member.
  - 3. Media personnel.
- (c) Ensure, as practicable, that any suspects who are in the hospital and their families or friends are not in proximity to the member's survivors or Auburn Police Department members (except for members who may be guarding a suspect).
- (d) Arrange for survivors to receive timely updates regarding the member before information is released to others.
- (e) Arrange for survivors to have private time with the member, if requested.
  - 1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
  - 2. The Hospital Liaison should accompany the survivors into the room, if requested.
- (f) Stay with survivors and provide them with other assistance as needed at the hospital.
- (g) If applicable, explain to the survivors why an autopsy may be needed.
- (h) Make arrangements for hospital bills to be directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment,

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and that the member's residence address, insurance information, and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting their actions at the conclusion of duties.

#### 1027.6.3 SURVIVOR / FAMILY MEMBER SUPPORT LIAISON

The Survivor Support Liaison should work with the Department Liaison to fulfill the immediate needs and requests of the survivors of any member who has died or was seriously injured in the line of duty, and serve as the long-term department contact for survivors.

The Survivor Support Liaison should be selected by the deceased or seriously injured member's Commander. The following should be considered when selecting the Survivor Support Liaison:

- The liaison should be an individual the survivors know and with whom they are comfortable working.
- If the survivors have no preference, the selection may be made from names recommended by the deceased or seriously injured member's supervisor and/or coworkers. The deceased or seriously injured member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.
- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include, but are not limited to:

- (a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes and other locations, as appropriate.
- (b) Communicating with the Department Liaison regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (d) Providing assistance with travel and lodging arrangements for out-of-town survivors.
- (e) Returning the deceased member's personal effects from the Department and the hospital to the survivors. The following should be considered when returning the personal effects:
  - 1. Items should not be delivered to the survivors until they are ready to receive the items.
  - 2. Items not retained as evidence should be delivered in a clean, unmarked box.

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3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
  4. The return of some personal effects may be delayed due to ongoing investigations.
- (f) Assisting with the return of department-issued equipment that may be at the deceased member's residence.
1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.
- (g) Working with the CISM coordinator to ensure that survivors have access to available counseling services.
- (h) Coordinating with the department's Public Information Officer (PIO) to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the Public Information Officer section of this policy).
- (i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal and administrative investigations.
- (j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.
- (k) Introducing survivors to prosecutors, victim's assistance personnel and other involved personnel as appropriate.
- (l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).
- (m) Inviting survivors to department activities, memorial services or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the Department to facilitate communications necessary to the assignment. The department-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

#### 1027.6.4 CRITICAL INCIDENT STRESS MANAGEMENT COORDINATOR

The CISM coordinator should work with the Chief of Police or the authorized designee, liaisons, coordinators and other resources to make CISM and counseling services available to members

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and survivors who are impacted by a line-of-duty death or serious injury. The responsibilities of the CISM coordinator include, but are not limited to:

- (a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for CISM and counseling services, including:
  - 1. Members involved in the incident.
  - 2. Members who witnessed the incident.
  - 3. Members who worked closely with the deceased member but were not involved in the incident.
- (b) Ensuring that members who were involved in or witnessed the incident are relieved of department responsibilities until they can receive CISM support as appropriate and possible.
- (c) Ensuring that CISM and counseling resources (e.g., peer support, debriefing, grief counselors) are available to members as soon as reasonably practicable following the line-of-duty death or serious injury.
- (d) Coordinating with the Survivor Support Liaison to ensure survivors are aware of available CISM and counseling services and assisting with arrangements as needed.
- (e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional CISM or counseling services are needed.

#### 1027.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the Department Liaison, Survivor Support Liaison and survivors to coordinate funeral arrangements to the extent the survivors wish. The Funeral Liaison's responsibilities include, but are not limited to:

- (a) Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.
- (b) Completing funeral notification to other law enforcement agencies.
- (c) Coordinating the funeral activities of the Department, including, but not limited to the following:
  - 1. Honor Guard
    - (a) Casket watch
    - (b) Color guard
    - (c) Pallbearers
    - (d) Bell/rifle salute
  - 2. Bagpipers/bugler
  - 3. Uniform for burial
  - 4. Flag presentation
  - 5. Last radio call



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- (d) Briefing the Chief of Police and command staff concerning funeral arrangements.
- (e) Assigning an officer to remain at the family home during the viewing and funeral.
- (f) Arranging for transportation of the survivors to and from the funeral home and interment site using department vehicles and drivers.
- (g) Addressing event-related logistical matters (e.g., parking, visitor overflow, public assembly areas).

#### 1027.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Department Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for, but not limited to:

- (a) Traffic control during the deceased member's funeral.
- (b) Area coverage so that as many Auburn Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform duties in accordance with the Outside Agency Assistance Policy.

Where practicable, the Chief of Police should appoint a mutual aid coordinator to identify external resources in advance of any need (e.g., regional honor guard teams, county- or state-wide resources).

#### 1027.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and will assist them in applying for benefits. Responsibilities of the Benefits Liaison include but are not limited to:

- (a) Confirming the filing of workers' compensation claims and related paperwork (see the Work-Related Illness and Injury Reporting Policy).
- (b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the following:
  - 1. Public Safety Officers' Benefits Program, including financial assistance available through the Public Safety Officers' Educational Assistance (PSOEA) Program, as applicable (34 USC § 10281 et seq.).
  - 2. Social Security Administration.
  - 3. Department of Veterans Affairs.
- (c) Researching and assisting survivors with application for state and local government survivor benefits through:
  - 1. New York State Office of Victim Services.
- (d) Researching and assisting survivors with application for other survivor benefits such as:
  - 1. Private foundation survivor benefits programs.



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2. Survivor scholarship programs.
- (e) Researching and informing survivors of support programs sponsored by police associations and other organizations.
- (f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.
  1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.
- (g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.
- (h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

#### **1027.6.8 FINANCE COORDINATOR**

The finance coordinator should work with the Chief of Police and the Department Liaison to manage financial matters related to the line-of-duty death or serious injury. The finance coordinator's responsibilities include, but are not limited to:

- (a) Establishing methods for purchasing and monitoring costs related to the incident.
- (b) Providing information on finance-related issues, such as:
  1. Paying survivors' travel costs if authorized.
  2. Transportation costs for the deceased.
  3. Funeral and memorial costs.
  4. Related funding or accounting questions and issues.
- (c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.
- (d) Providing accounting and cost information as needed.

#### **1027.7 PUBLIC INFORMATION OFFICER**

In the event of a line-of-duty death, the department's PIO should be the department's contact point for the media. As such, the PIO should coordinate with the Department Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Ensure that department members are instructed to direct any media inquiries to the PIO.
- (c) Prepare necessary press releases.
  1. Ensure coordination with other entities having media roles (e.g., outside agencies involved in the investigation or incident).

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2. Ensure that important public information is disseminated, such as information on how the public can show support for the department and deceased member's survivors.
- (d) Arrange for community and media briefings by the Chief of Police or the authorized designee as appropriate.
- (e) Respond, or coordinate the response, to media inquiries.
- (f) If requested, assist the member's survivors with media inquiries.
1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.
- (g) Release information regarding memorial services and funeral arrangements to department members, other agencies and the media as appropriate.
- (h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member's survivors have been notified. If the media has obtained identifying information for the deceased member prior to survivor notification, the PIO should request that the media withhold the information from release until proper notification can be made to survivors. The PIO should ensure that media are notified when survivor notifications have been made.

#### **1027.8 DEPARTMENT CHAPLAIN**

The Department chaplain may serve a significant role in line-of-duty deaths or serious injury. His/her duties may include, but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting department members with counseling or emotional support, as requested and appropriate.

Further information on the potential roles and responsibilities of the chaplain is in the Chaplains Policy.

#### **1027.9 INVESTIGATION OF THE INCIDENT**

The Chief of Police should make necessary assignments to conduct thorough investigations of any line-of-duty death and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends, or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

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Involved department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

#### **1027.10 LINE-OF-DUTY DEATH OF A LAW ENFORCEMENT ANIMAL**

The Chief of Police may authorize appropriate memorial and funeral services for law enforcement animals killed in the line of duty.

#### **1027.11 NON-LINE-OF-DUTY DEATH**

The Chief of Police may authorize certain support services for the death of a member not occurring in the line of duty.

## Maternity Leave

### 1028.1 PURPOSE AND SCOPE

This policy ensures that all sworn female officers of the department affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment purposes as non-pregnant employees with respect to their ability or inability to work. It also ensures that a member of the department who is pregnant is both physically and mentally able to do so.

### 1028.2 POLICY

Because pregnancy is a condition with the potential to affect an employee's ability to perform her job functions, when pregnancy is confirmed, the employee shall notify the Chief of Police, or if he/she is not available, the Lieutenant/Captain responsible for her division. (Patrol or Detective Captain). The employee shall notify the Chief of Police of any restrictions or limitations on her ability to work, as determined by her physician. Unless the employee's physician has restricted her duties, the employee shall continue to function as she would absent the pregnancy related restriction. If the employee is unable to continue her regularly assigned duties, due to a pregnancy related restriction, available light duty assignments may be extended to the employee, if her physician approves it. Light duty assignment may require, schedule changes, shift changes or assignment changes.

#### 1028.2.1 RESTRICTIONS OF LIGHT-DUTY ASSIGNMENTS

The maternity policy on clothing shall be flexible during an officer's pregnancy. A light duty assignment may or may not allow wearing a uniform. An officer on light-duty assignment shall not respond to a situation where there is a potential for physical confrontation.

#### 1028.2.2 AVAILABLE LEAVE

A member shall be granted maternity leave from the time the Chief of Police receives a written statement from the employee's attending physician, indicating the inability to work. Upon such notification, the employee shall be placed on family medical leave for a period of up to twelve weeks within a one year time period. An employee may elect to use sick leave and or any accrued time during this period. When an employee uses paid leave in connection with the family medical leave, such leave shall be applied toward the employee's total FMLA entitlement. Upon written request by the employee indicating special circumstances for extension, the Chief of Police may extend the leave for an additional three (3) months.

#### 1028.2.3 RETURN TO DUTY

Any officer returning to full duty shall be required to provide a written physician's statement, certifying that the employee is fit to return to duty without restriction.

# Wellness Program

## 1029.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance on establishing and maintaining a proactive wellness program for department members.

The wellness program is intended to be a holistic approach to a member's well-being and encompasses aspects such as physical fitness, mental health, and overall wellness.

Additional information on member wellness is provided in the:

- Chaplains Policy.
- Line-of-Duty Deaths Policy.
- Drug- and Alcohol-Free Workplace Policy.

### 1029.1.1 DEFINITIONS

Definitions related to this policy include:

**Critical incident** – An event or situation that may cause a strong emotional, cognitive, or physical reaction that has the potential to interfere with daily life.

**Critical Incident Stress Debriefing (CISD)** – A standardized approach using a discussion format to provide education, support, and emotional release opportunities for members involved in work-related critical incidents.

**Critical Incident Stress Management (CISM)** - A team of individuals trained to conduct CISD in Cayuga County.

**Peer support** – Mental and emotional wellness support provided by peers trained to help members cope with critical incidents and certain personal or professional problems.

## 1029.2 POLICY

It is the policy of the Auburn Police Department to prioritize member wellness to foster fitness for duty and support a healthy quality of life for department members. The Department will maintain a wellness program that supports its members with proactive wellness resources, critical incident response, and follow-up support.

## 1029.3 WELLNESS COORDINATOR

The Chief of Police should appoint a wellness coordinator. The coordinator should report directly to the Chief of Police or the authorized designee and should collaborate with advisers (e.g., Comptroller, legal counsel, licensed psychotherapist, qualified health professionals), as appropriate, to fulfill the responsibilities of the position, including but not limited to:

- (a) Identifying wellness support providers (e.g., licensed psychotherapists, external peer support providers).

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1. Selected providers should be trained and experienced in providing mental wellness support and counseling to public safety personnel.
  2. When practicable, the Department should not use the same licensed psychotherapist for both member wellness support and fitness for duty evaluations.
- (b) Verifying members have reasonable access to peer support or licensed psychotherapist support.
- (c) Establishing procedures for CISDs, including:
1. Defining the types of incidents that may initiate debriefings.
  2. Steps for organizing debriefings.
- (d) Facilitating the delivery of wellness information, training, and support through various methods appropriate for the situation (e.g., phone hotlines, electronic applications).

#### **1029.4 CRITICAL INCIDENT STRESS DEBRIEFINGS**

A Critical Incident Stress Debriefing should occur as soon as practicable following a critical incident. The coordinator is responsible for organizing the debriefing. The debriefing will be conducted by the Cayuga County Critical Incident Stress Management Team. Notes and recorded statements shall not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a critical incident.

The debriefing is not part of any investigative process. Care should be taken not to release or repeat any communication made during a debriefing unless otherwise authorized by policy, law, or a valid court order.

Attendance at the debriefing should only include CISM support members and those directly involved in the incident.

#### **1029.5 PEER SUPPORT COMMUNICATIONS**

Although the Department will honor the sensitivity of communications with peer support members, there is no legal privilege to such communications.

#### **1029.6 TRAINING**

The coordinator or the authorized designee should collaborate with the Training and Planning Administrator to provide all members with regular education and training on topics related to member wellness, including but not limited to:

- The availability and range of department wellness support systems.
- Suicide prevention.
- Recognizing and managing mental distress, emotional fatigue, post-traumatic stress, and other possible reactions to trauma.
- Alcohol and substance disorder awareness.
- Countering sleep deprivation and physical fatigue.

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- Anger management.
- Marriage and family wellness.
- Benefits of exercise and proper nutrition.
- Effective time and personal financial management skills.

Training materials, curriculum, and attendance records should be forwarded to the Training and Planning Administrator as appropriate for inclusion in training records.