

Kingston Police Department

Kingston PD Policy Manual

CHIEF'S PREFACE

The success of the Kingston Police Department is predicated on our ability to serve the Kingston community. Effective service requires the trust, faith, and confidence of our community. Every member of the Department holds a special position of public trust. We must strive to never violate the public's confidence in us. At the core of every action we take must be a desire to always do what is right.

The Policy Manual is a resource for us to use in our daily service to the community. It provides guidance in reaching decisions, many of which surround difficult circumstances. The Policy Manual cannot possibly address every situation we will face but it forms a solid foundation from which we can draw.

The Policy Manual is never complete and remains a work in progress. It reflects our best current practices and the known case law that shapes our everyday decisions. Continual updating and redrafting will be necessary and will be an ongoing part of making our Policy Manual a living document. Every member of the Department is expected to participate in this process and is obligated to bring forward issues that may need to be modified.

It is the responsibility of every member to know and understand the contents of this Policy Manual including updates, corrections, and revisions. The Policy Manual is available in hard and electronic versions that allow for easy access.

Egidio F. Tinti
Chief of Police
City of Kingston Police Department

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LAW ENFORCEMENT CODE OF ETHICS

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

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

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

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

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

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

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MISSION STATEMENT

The purpose and mission of this department is to protect persons and property in the City of Kingston. The responsibilities associated with this mission are many. They include enforcement of City ordinances, federal and state laws; maintaining the peace and order of the City; protecting property and personal safety; promoting and preserving a feeling of security; recognizing and protecting the constitutional rights of all persons; generally assisting persons in urgent situations, and delivering quality services to members of the community. In joining this department, officers make its responsibilities their own. They are expected to carry out these responsibilities diligently and courteously and to take pride in the services they provide.

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

100.2 POLICY

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

While this department recognizes the power of police 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.

See procedure - [ARREST ON WARRANT](#)

100.3.1 ARREST AUTHORITY WITHIN THE GEOGRAPHICAL AREA OF EMPLOYMENT OF THE KINGSTON POLICE DEPARTMENT

Members serving as police officers have arrest authority within the geographical area of employment of the Kingston 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 KINGSTON POLICE DEPARTMENT

A member serving as a police officer may arrest a person outside the geographical area of employment of the Kingston 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).

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Law Enforcement Authority for Police Officers

- (c) Without a warrant when there is reasonable cause to believe that an offense has been committed in the presence of the officer.
 - 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 Kingston 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 Kingston 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 Kingston 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 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 Kingston 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, and the constitution of the State of New York, and that I will faithfully discharge the duties of the office of (police officer/peace officer), according to the best of my ability."

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 Kingston 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.

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 Kingston 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 Kingston Police Department reserves the right to revise any policy content, in whole or in part.

103.3 AUTHORITY

The Board of Police Commissioners 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 Kingston.

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

Department/KPD - The Kingston Police Department.

DCJS - New York State Division of Criminal Justice Services.

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

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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 Kingston 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
- Non-sworn employees
- Volunteers

NYSP - New York State Police.

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 Kingston 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 discharge, assignment, reward or discipline of other department members, or directing the work of other members. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

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 Board of Police Commissioners or the authorized designee. The policies in the manual will

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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.

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 Program Manager for indexing and distribution. This policy shall not affect informational bulletins within or between Divisions. 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 Program Manager 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 Lieutenant 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 Lieutenants, 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

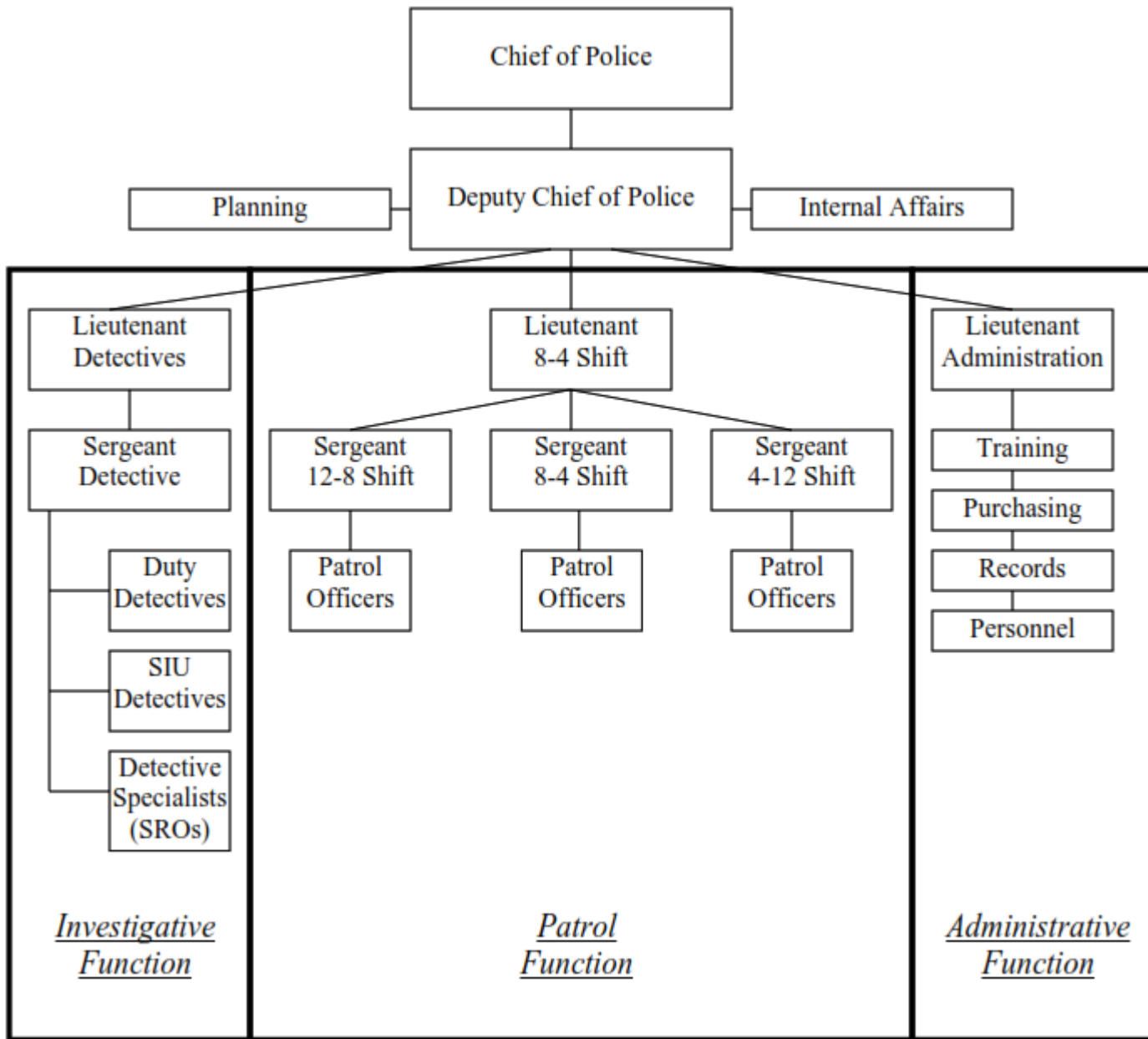
The Kingston Police Department will implement and maintain an organizational structure that provides clear and identifiable roles for command, control and guidance of the Department. Each position and assignment should have clearly identified responsibilities and a defined chain of command.

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Organizational Structure and Responsibility

200.3 ORGANIZATIONAL CHART



200.4 DIVISIONS

The Chief of Police is responsible for administering and managing the Kingston Police Department. There are three divisions in the department:

- Administration Division
- Patrol Division

Organizational Structure and Responsibility

- Detective

200.4.1 ADMINISTRATION DIVISION

The Administration Division is commanded by an assigned Lieutenant, whose primary responsibility is to provide general management, direction and control for the Administration Division. The Administration Division consists of technical and administrative services, accreditation management, the Training Unit and Evidence and Property Control Officers.

200.4.2 PATROL DIVISION

The Patrol Division is commanded by an assigned Lieutenant, whose primary responsibility is to provide general management, direction and control for the Patrol Division. The Patrol Division consists of uniformed patrol and special operations, which includes the Patrol Division, Dispatch and police aides/assistants.

200.4.3 DETECTIVE

The Detective is commanded by an assigned Lieutenant, whose primary responsibility is to provide general management, direction and control for the Detective . The Detective consists of the Detective Division, Special Investigations Unit, School Resource Officers, crime analysis and forensic services.

200.5 COMMAND PROTOCOL

200.5.1 SUCCESSION OF COMMAND

The Chief of Police exercises command over all members of the Kingston Police Department. During planned absences, the Deputy Chief of Police will 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) On-duty Lieutenant
- (b) On-duty Sergeant

200.5.2 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 any supervisor may temporarily direct any subordinate if an operational necessity exists.

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

Organizational Structure and Responsibility

200.6 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.

- CHIEF OF POLICE
- DEPUTY CHIEF OF POLICE
- LIEUTENANTS
- SERGEANTS
- DETECTIVES
- DETECTIVE SPECIALISTS
- POLICE OFFICERS
- DISPATCHERS
- SCHOOL RESOURCE OFFICERS
- SECRETARY
- POLICE CLERK
- SPECIAL INVESTIGATIONS UNIT (SIU)

200.7 PLANNING COMMITTEE

Chief of Police shall appoint a committee to address long term planning and the establishment of goals and objectives for the Kingston Police Department. The members of this committee shall consist of the Chief of Police, the Deputy Chief of Police, and a Lieutenant from each division. The Committee will meet annually and will communicate regularly throughout the year to set both long and short-term goals and objectives and discuss the strategies required to meet them. The goals and objectives set by the committee will be disseminated through department email or directly through each units' supervisors during roll call. The committee will continuously evaluate the progress made in attaining previously set goals and objectives.

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 Kingston 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 Deputy 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.

See procedure: [PREPARATION OF WRITTEN ORDERS](#)

See procedure: [INDEXING AND GENERAL FORMAT](#)

201.4 RESPONSIBILITIES

201.4.1 COMMAND STAFF

Command staff shall periodically, but no less than once during the five-year accreditation period, 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, modify, 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. Members shall seek clarification as needed from an appropriate supervisor for any provisions they do not fully understand.

See procedure: [DISTRIBUTION AND RETENTION OF WRITTEN ORDERS](#)

Comprehensive Emergency Management Plan

202.1 PURPOSE AND SCOPE

This policy clarifies the role of the Kingston 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 Kingston Police Department can continue to provide its essential functions and perform its primary mission during an emergency.

202.2 POLICY

The Kingston 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.

202.3 DEPARTMENT RESPONSIBILITIES

In the event police assistance is needed during an emergency by another police agency, members of the Kingston 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 Kingston 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 Kingston 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 Ulster County Office of Emergency Management to assist with mutual aid response from local, state and federal law enforcement agencies (Executive Law § 29-b).

See the [DISASTER AND/OR DISORDER PLAN](#)

See the [EMERGENCY MOBILIZATION PLAN](#)

202.4.1 RECALL OF PERSONNEL

In the event that the Comprehensive Emergency Management Plan is activated, all employees of the Kingston 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

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

Compensation for call-back, hold-overs, or standby will be made in accordance with the current collective bargaining agreement.

See [STANDBY STATUS](#)

202.4.2 CHAIN OF COMMAND

In the event that normal chain of command is disrupted, the highest-ranking on-duty supervisor will temporarily assume command until relieved in accordance with normal organizational structure.

If the normal chain of command is functioning properly, the Chief of Police or Deputy Chief of Police shall make the determination to activate the COOP plan.

If the normal chain of command is disrupted, the on-duty supervisor will make the determination to activate the COOP plan.

202.5 LOCATION OF THE COMPREHENSIVE EMERGENCY MANAGEMENT PLAN

Copies of the Comprehensive Emergency Management Plan are available in Administration, the Shift Supervisor'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 Lieutenant 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 periodically to 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.

202.7 CONTINUITY OF OPERATIONS PLAN (COOP)

The Chief of Police and command staff shall oversee a review of the COOP at least once during the period of accreditation and ensure the plan is sound and current.

Copies of the COOP will be made available to all Kingston Police Department members for review and training.

See [CONTINUITY OF OPERATIONS PLAN](#)

202.8 TRAINING

The Department should provide periodic 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 Officer 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 Officer 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.

LESSON PLANS

TRAINING PLAN

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, Right-to-Know, and the use of

Training

force and deadly force. Firearms training must include actual range training. The Training Officer should consider recommendations from the Command Staff.

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 must include training for all supervisors that is designed to enhance supervisory skills.

MANDATED TRAINING

RIGHT TO KNOW TRAINING

203.4.2 SPECIALIZED TRAINING

The Training Officer 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, Special Weapons and Tactics (SWAT), investigative specialists 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, unless that course has already been successfully completed. 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.
 - 2. 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).

Training

203.6 TRAINING ATTENDANCE

- (a) All members assigned to attend training shall attend as scheduled unless excused by the Administrative Lieutenant. Excused absences should be limited to:
 - 1. Court appearances.
 - 2. Illness or medical leave.
 - 3. Physical limitations preventing the member's participation.
 - 4. 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 one hour prior to the start of training and shall:
 - 1. Document his/her absence in a special report to his/her lieutenant.
 - 2. Make arrangements through his/her supervisor or the Training Officer to attend the required training on an alternate date.
- (c) Members assigned to training will promptly report to the designated area for training with the proper attire and equipment needed for that particular module.

203.7 DAILY TRAINING BULLETINS

The Lexipol Daily Training Bulletins (DTBs) are contained in a Web-accessed system that provides training on the Kingston Police Department Policy Manual and other important topics. Generally, one training bulletin is available for each day of the month. However, the number of DTBs may be adjusted by the Training Officer.

Members assigned to participate in DTBs shall only use the login credentials assigned to them by the Training Officer. 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.

203.8 TRAINING RECORDS

The Training Officer is responsible for the creation, filing and storage of all training records. Training records shall be retained in accordance with the established records retention

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schedule. The Training Officer 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 Officer will ensure that accurate records are on file for all training courses sponsored by the Kingston Police Department and/or attended by sworn personnel, including copies of lesson plans, curricula or course descriptions. Such records shall be retained indefinitely.

Whenever a member of this department attends any training course not conducted by the Kingston Police Department, he/she will submit to the Training Officer a copy of the certificate of completion (diploma), and will obtain and submit a copy of an outline of the course curriculum.

203.8.1 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; 9 NYCRR § 6022.5-a).

Electronic Mail

204.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the electronic mail (email) system provided by the Department.

204.2 POLICY

Kingston Police Department members shall use email in a professional manner in accordance with this policy, the City of Kingston's [Computer Use 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).

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.

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.

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Electronic Mail

The Records Access Officer 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.).

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 Kingston 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, signature and disclaimer guidelines, as applicable.

205.3 DEPARTMENT EMAILS

Department Emails 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, all official external correspondence shall be on department letterhead. All department letterhead shall bear the signature element of the Chief of Police. Official correspondence and use of letterhead requires approval of a supervisor. Department letterhead may not be used for personal purposes.

Official internal correspondence shall be on the appropriate department electronic or non-electronic memorandum forms.

Electronic correspondence shall contain the sender's department-approved signature and electronic communications disclaimer language.

205.5 SPECIAL REPORTS

Special reports are to be filed with a supervisor regarding any serious accident, death, personal injury, special investigation, personnel complaint or recommendation, suspicious activity observed, damage to or loss of police equipment, or as directed by a supervisor.

Do not editorialize in the report. State all facts as known regarding the subject of the report. Incomplete or improper reports will be returned to the reporting employee.

Special reports will be filed on orders a superior officer when he/she requires it. Special reports shall be filed immediately and without question as to its necessity.

Administrative Communications

205.6 PERSONNEL ORDERS

Personnel orders announce the following:

- (a) Appointment of new personnel.
- (b) Assignment or transfer of members.
- (c) Promotion or demotion of personnel
- (d) Suspension, dismissal, and restoration to duty.
- (e) Assignment of, and special instructions for personnel in training programs.

205.7 SURVEYS

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

205.8 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).

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 Divisions.

206.2 POLICY

The Kingston 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

Minimum staffing levels should be established by the Chief of Police. The supervision staffing levels should support proper supervision, span of control, compliance with any collective bargaining agreement and activity levels to meet the needs of members and the goals of the Department.

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 Kingston 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).

207.2 POLICY

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

207.3 LEOSA

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

- (a) Separated from service in good standing from this department as an officer.
- (b) Before such separation, had regular employment as an officer for an aggregate of 10 years or more or, if employed as an officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with this department where the officer acknowledges that he/she is not qualified to receive a 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 Kingston Police Department qualifies the former officer, the LEOSA identification card or separate certification should indicate the date the former officer was tested or otherwise found by the Department to meet the active duty standards for qualification to carry a firearm.

207.3.2 AUTHORIZATION

Any qualified former 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:

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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.

207.4 FORMER OFFICER RESPONSIBILITIES

A former officer with a card issued under this policy shall immediately notify the Shift Supervisor 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.

207.4.1 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.

207.5 FIREARM QUALIFICATIONS

The Range Officer 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

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Retiree Concealed Firearms

date of the qualification. The Range Officer will maintain a record of the qualifications and weapons used.

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).

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

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

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

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

300.2 POLICY

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

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

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

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Use of Force

300.2.1 DUTY TO INTERCEDE 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, intercede 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.

300.2.2 PERSPECTIVE

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

300.3 USE OF FORCE

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

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

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

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

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

USE OF FORCE

300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, officers should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce

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the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

300.3.2 USE OF FORCE TO EFFECT AN ARREST

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.

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and 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.

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

300.3.4 PAIN COMPLIANCE TECHNIQUES

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

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

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

300.3.5 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 Kingston Police Department for this specific purpose.

300.3.6 CAROTID CONTROL HOLD

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

- (a) At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.
- (b) Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until such examination occurs.

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- (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.

300.3.7 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.

300.4 DEADLY FORCE APPLICATIONS

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

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

- (a) An officer may use deadly force to protect him/herself or others from what he/she 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 that the individual has a weapon or is attempting to access one and intends to use it against the officer or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the officer believes the individual intends to do so.

USE OF FIREARMS - DEADLY PHYSICAL FORCE

300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

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

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

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

300.5 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.

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 (Executive Law § 840).

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 conducted energy device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

300.6 MEDICAL CONSIDERATIONS

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

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

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

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain (sometimes called "excited delirium"), 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 should 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 should document requests for medical or mental health treatment as well as efforts to arrange for such treatment.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to (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:

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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.
- (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 SUPERVISOR RESPONSIBILITIES

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

300.7.2 RECORDSHEAD RESPONSIBILITIES

The Police Clerk 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) Uses a carotid control hold or similar restraint that applies pressure to the throat or windpipe of a person in a manner that is reasonably likely to hinder breathing or reduce intake of air.

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- (c) 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).
- (d) Brandishes, uses, or deploys an impact weapon.
- (e) 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).
- (f) Engages in conduct which results in the death or serious bodily injury of another person.

300.7.3 ADDITIONAL SHIFT SUPERVISOR RESPONSIBILITIES

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

300.8 TRAINING

Officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

Subject to available resources, officers should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.
- (c) Applications of use of force and conflict strategies as required by the state 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 Deputy Chief of Police should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects, or case numbers, and should include:

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

Handcuffing and Restraints

301.1 PURPOSE AND SCOPE

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

301.2 POLICY

The Kingston 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.

301.3 USE OF RESTRAINTS

Only members who have successfully completed Kingston 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.

301.3.1 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.

301.3.2 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.

301.3.3 RESTRAINT OF JUVENILES

A juvenile under 12 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

301.3.4 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.

301.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety. Prisoners shall not be handcuffed to any part of the vehicle during transport.

Although recommended for most arrest situations, 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 with their palms facing outward. 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. Officers may handcuff a prisoner with his/her hands in front, or use other appropriate and approved restraining devices or techniques where the prisoner:

- Has injuries that could be aggravated by standard handcuffing procedures.
- Has a physical or age-related handicap.
- Upon request from a doctor or hospital medical staff.
- In any case of extreme emergency when life or limb is endangered.

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.

USE OF HANDCUFFS

Handcuffing and Restraints

301.5 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.

301.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

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

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

301.7 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).

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- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

301.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) 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.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by 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).

301.8 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 handcuffs or other restraints shall be documented in the related report.

Officers should document the following information in reports, as appropriate, when restraints other than handcuffs are used on a person:

- (a) The factors that led to the decision to use restraints.
- (b) Supervisor notification and approval of restraint use.
- (c) The types of restraint used.
- (d) The amount of time the person was restrained.
- (e) How the person was transported and the position of the person during transport.

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- (f) Observations of the person's behavior and any signs of physiological problems.
- (g) Any known or suspected drug use or other medical problems.

301.9 TRAINING

Subject to available resources, the Training Officer 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

302.1 PURPOSE AND SCOPE

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

302.2 POLICY

In order to control individuals who are violent or who demonstrate the intent to be violent, the Kingston Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy. The Chief of Police may also authorize other positions or individual department members to use specific control devices.

302.3 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 department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a 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.

302.4 RESPONSIBILITIES

302.4.1 SHIFT SUPERVISOR RESPONSIBILITIES

The Shift Supervisor may authorize the use of a control device 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.

302.4.2 TRAINING OFFICER RESPONSIBILITIES

The Training Officer shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

Every control device will be periodically inspected by the Training Officer or the designated instructor for a particular control device. The inspection shall be documented.

302.4.3 USER RESPONSIBILITIES

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

Control Devices

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

302.5 BATON GUIDELINES

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

EXPANDABLE BATON USE

302.6 TEAR GAS GUIDELINES

Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects, based on the circumstances. Only the Incident Commander or Emergency Services Unit (ESU) Team Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

Tear gas will not be employed unless the officer involved have sufficient enclosed breathing devices (gas masks or Scott Pack) to ensure their own safety and be able to rescue others who may be overcome.

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

302.7 OLEORESIN CAPSICUM (OC) GUIDELINES

As with other control devices, OC spray and pepper projectiles 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. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of department members or the public.

302.7.1 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 USE

Control Devices

302.7.2 PEPPER PROJECTILE SYSTEMS

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas launcher delivers the projectiles with enough force to burst the projectiles on impact and release the OC powder, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel using a pepper projectile system should not intentionally target those areas, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

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

Each deployment of a pepper projectile system shall be documented. This includes situations where the launcher was directed toward an individual, whether or not the launcher was used. Unintentional discharges shall be promptly reported to a supervisor and documented on the appropriate report form. Only non-incident use of a pepper projectile system, such as training or a product demonstration, is exempt from the reporting requirement.

302.7.3 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.

302.8 POST-APPLICATION NOTICE

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

302.9 KINETIC ENERGY PROJECTILE GUIDELINES

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

302.9.1 DEPLOYMENT AND USE

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option. At no time will less-lethal devices be used without the authorization of the Chief of Police, Deputy Chief of Police, Lieutenant, or ESU Commander.

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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.

302.9.2 DEPLOYMENT CONSIDERATIONS

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

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

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

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

The need to immediately incapacitate the 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.

Control Devices

302.9.3 SAFETY PROCEDURES

Officers will inspect launchers and projectiles at the beginning of each shift to ensure that the launchers 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, launchers will be unloaded and properly and securely stored in ESU vehicles.

302.10 TRAINING FOR CONTROL DEVICES

The Training Officer 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.
- (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.

302.11 REPORTING USE OF CONTROL DEVICES

Any application of a control device shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

Conducted Energy Device

303.1 PURPOSE AND SCOPE

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

303.2 POLICY

The conducted energy device is used to control a violent or potentially violent individual. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

303.3 ISSUANCE AND CARRYING CONDUCTED ENERGY DEVICES

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

Conducted energy devices are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department inventory.

Officers shall only use the conducted energy device and cartridges that have been issued by the Department. Uniformed officers who have been issued the conducted energy device shall wear the device in an approved holster.

Members carrying the conducted energy device should perform a spark test prior to every shift.

When carried while in uniform, officers shall carry the conducted energy device in a holster on the side opposite the duty weapon.

- (a) All conducted energy devices 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 conducted energy device is properly maintained and in good working order.
- (c) Officers should not hold a firearm and the conducted energy device at the same time.

303.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the conducted energy 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:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the conducted energy device 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, officers may display the laser in an attempt to gain compliance prior to the application of the conducted energy device. The aiming laser should not be intentionally directed into anyone's eyes.

Conducted Energy Device

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 conducted energy device in the related report.

303.5 USE OF THE CONDUCTED ENERGY DEVICE

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

CED USE

303.5.1 APPLICATION OF THE CONDUCTED ENERGY DEVICE

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

- (a) The subject is 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 (absent probable cause for an arrest), is not good cause for the use of the conducted energy device to apprehend an individual. The conducted energy device shall not be used to psychologically torment, to elicit statements or to punish any individual.

303.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the conducted energy device 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).

Conducted Energy Device

Because the application of the conducted energy device in the direct contact mode relies primarily on pain compliance, the use of the direct contact mode should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

303.5.3 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, unless the dynamics of a situation or officer safety do not permit the officer to limit the application of the conducted energy device probes to a precise target area.

303.5.4 MULTIPLE APPLICATIONS OF THE CONDUCTED ENERGY DEVICE

Officers should apply the conducted energy device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Officers should not intentionally apply more than one conducted energy device at a time against a single individual.

If the first application of the conducted energy device appears to be ineffective in gaining control of an individual, the officer should evaluate the situation and consider certain factors before additional applications of the conducted energy device, including:

- (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.

303.5.5 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 conducted energy device. As soon as practicable, officers shall notify a supervisor any time the conducted energy device has been discharged.

Officers who deploy the CED are required to turn their CED into his/her supervisor for downloading. The supervisor will issue the officer a temporary CED. The supervisor will turn the deployed CED over to the Administrative Lieutenant for downloading. The administrative Lieutenant shall submit the download report to the Deputy Chief of Police.

303.5.6 DANGEROUS ANIMALS

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

Conducted Energy Device

303.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department conducted energy devices while off-duty.

Officers shall ensure that conducted energy devices 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.

303.6 DOCUMENTATION

Officers shall document all conducted energy device discharges in the related arrest/crime reports and the conducted energy device report forms. 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.

303.6.1 CONDUCTED ENERGY DEVICE REPORT FORM

Items that shall be included in the conducted energy device report form are:

- (a) The type and brand of conducted energy device 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 number of conducted energy device activations, the 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 conducted energy device was used.
- (f) The type of mode used (probe or direct contact).
- (g) Location of any probe impact.
- (h) Location of contact in direct contact mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

The Training Officer should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Administrative Lieutenant should conduct reviews of data downloads and reconcile conducted energy device report forms with recorded activations..

303.6.2 REPORTS

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

- (a) Identification of all personnel firing conducted energy devices
- (b) Identification of all witnesses
- (c) Medical care provided to the subject

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- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication or other medical problems

303.7 MEDICAL TREATMENT

Used conducted energy device 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 conducted energy device 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 conducted energy device probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck) or any portion of the probes have broken off under the subject's skin.
- (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 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 conducted energy device (see the Medical Aid and Response Policy).

303.8 SUPERVISOR RESPONSIBILITIES

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

A supervisor should review each incident where a person has been exposed to an activation of the conducted energy device. The device's onboard memory should be downloaded through the data port by Administrative Lieutenant and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.

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303.9 TRAINING

Personnel who are authorized to carry the conducted energy device shall be permitted to do so only after successfully completing the initial department-approved training.

Training for personnel who have been issued conducted energy devices 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 Officer. All training and proficiency for conducted energy devices will be documented in the officer's training files.

Command staff, supervisors, and investigators should receive conducted energy device training as appropriate for the investigations they conduct and review.

The Training Officer is responsible for ensuring that all members who carry conducted energy devices have received initial and annual training.

Application of conducted energy devices during training could result in injuries and should not be mandatory for certification.

The Training Officer should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws 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 near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the conducted energy device and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the conducted energy device.

Officer-Involved Shootings and Deaths

304.1 PURPOSE AND SCOPE

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

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

304.2 POLICY

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

304.3 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.

304.4 CONTROL OF INVESTIGATIONS

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

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

304.4.1 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 Kingston Police Department would control the investigation if the suspect's crime occurred in Kingston.

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

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304.4.2 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.

304.4.3 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.

304.4.4 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 Lieutenant is responsible for coordinating with the Office of Special Investigation before proceeding with the criminal investigation.

304.5 INVESTIGATION PROCESS

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

304.5.1 UNINVOLVED OFFICER RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting or death, the first uninvolved KPD 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.

304.5.2 SUPERVISOR RESPONSIBILITIES

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

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
 - 1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.

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- (b) If necessary, the supervisor may administratively order any KPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
 - 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
 - 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Shift Supervisor and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional KPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 - 1. Each involved KPD officer should be given an administrative order not to discuss the incident with other involved officers or KPD members pending further direction from a supervisor.
 - 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

304.5.3 SHIFT SUPERVISOR RESPONSIBILITIES

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

All outside inquiries about the incident shall be directed to the Shift Sergeant.

304.5.4 NOTIFICATIONS

The following persons shall be notified as soon as practicable:

- Chief of Police
- Deputy Chief of Police
- Outside agency investigators (if appropriate)
- Psychological/peer support personnel
- Medical Examiner (if necessary)
- Involved officer's agency representative (if requested)
- The Office of Special Investigation

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304.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
 - 1. It is recommended that involved KPD officers not meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 - 2. Requests from involved non-KPD 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) A licensed psychotherapist shall be provided by the Department to each involved KPD officer. A licensed psychotherapist may also be provided to any other affected KPD members, upon request.
 - 1. Interviews with a licensed psychotherapist will be considered privileged.
 - 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, the involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 - 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy). See [EMPLOYEE ASSISTANCE PROGRAM](#) and [AUTOMATIC REFERRALS](#) for more information.
- (e) Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer.

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

304.6 CRIMINAL INVESTIGATION

The prosecuting office with jurisdiction over the incident is responsible for the criminal investigation into the circumstances of any officer-involved shooting involving injury or death.

If available, 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:

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- (a) KPD supervisors and Deputy Chief personnel should not participate directly in any voluntary interview of KPD 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.

304.6.1 REPORTS BY INVOLVED KPD OFFICERS

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

While the involved KPD 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 KPD 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.

304.6.2 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.

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

304.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Detective Division supervisor to assign appropriate investigative personnel to handle the investigation of related crimes. 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 Division supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Lieutenant.

304.7 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 KPD officers to determine conformance with department policy. This investigation will be conducted under the supervision of the Deputy Chief and will be considered a confidential officer personnel file.

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

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

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the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.

- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 - 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative collectively or in groups prior to being interviewed.
 - 3. Administrative interviews should be recorded by the investigator. The officer may also record the interview.
 - 4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
 - 5. The Deputy Chief shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
 - 6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
 - 7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

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304.8 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.

304.9 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.

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.

304.10 DEBRIEFING

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

304.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING

A critical incident/stress debriefing should occur as soon as practicable. The Administration Lieutenant 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, non-sworn 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 command personnel.

304.10.2 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.

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304.11 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the supervisor and the department representative responsible for each phase of the investigation. Releases will be available to the Shift Supervisor, Detective Lieutenant and Chief of Police in the event of inquiries from the media.

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

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

Firearms

305.1 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.

305.2 POLICY

The Kingston 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.

305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

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

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

305.3.1 HANDGUNS

The authorized department-issued handguns are the Glock Model 22 .40 cal or the Glock Model 23.40 cal.

305.3.2 PATROL RIFLES

The authorized department-issued patrol rifle is the Colt AR-15 .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.

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- (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, the trigger pulled to release the hammer and the selector lever in the fire position (selector lever cannot be in the safe position with the hammer released).

305.3.3 AUTHORIZED SECONDARY HANDGUN

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

- (a) The handgun shall be in good working order and on the department list of approved firearms.
- (b) Only one secondary handgun may be carried at a time.
- (c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the Department.
- (d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (e) The handgun shall be inspected by the Range Officer prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (f) Ammunition shall be the same as department issue. If the caliber of the handgun is other than department issue, the Chief of Police or the authorized designee shall approve the ammunition.
- (g) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.
- (h) Members shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Range Officer, who will maintain a list of the information.

305.3.4 AUTHORIZED OFF-DUTY FIREARMS

The carrying of firearms by members while off-duty is permitted by the Chief of Police but may be rescinded should circumstances dictate (e.g., administrative leave). Members who choose to

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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) A personally owned firearm shall be used, carried and inspected in accordance with the Personally Owned Duty Firearms requirements in this policy.
 - 1. The purchase of the personally owned firearm and ammunition shall be the responsibility of the member.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the member to submit the firearm to the Range Officer for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Range Officer.
- (d) Prior to carrying any off-duty firearm, the member shall demonstrate to the Range Officer that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The member will successfully qualify with the firearm prior to it being carried.
- (f) Members who possess or carry a firearm (as defined in Penal Law § 265.00) under a license exemption shall report to the Department in writing the make, model, caliber and serial number of each such firearm on the form specified by the New York State Police (NYSP). The Range Officer will forward the form to the Chief of Police for signing. The original form will then be submitted to the NYSP Pistol Permit Unit. The Range Officer will maintain a list of the information in the member's personnel record and the Range Officer's records (Penal Law § 400.00(12-c)).
 - 1. Within 10 days of any acquisition or disposition of any firearm, members shall report the name and address of the person from whom the weapon was acquired or to whom it was disposed. The Department shall promptly forward that information to the NYSP (Penal Law § 400.00(12-c)).
- (g) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Members shall only carry department-authorized ammunition.
- (i) When armed, officers shall carry their badges and Kingston Police Department identification cards under circumstances requiring possession of such identification.

305.3.5 AMMUNITION

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

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

305.4 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.

305.4.1 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 Officer.

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

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

305.4.2 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.

305.4.3 TACTICAL LIGHTS

Tactical lights may only be installed on a firearm carried on-duty after they have been examined and approved by the Range Officer. Once the approved tactical lights have been properly installed on any firearm, the member shall train and qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

305.4.4 OPTICS OR LASER SIGHTS

Optics or laser sights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Range Officer. Any approved sight shall only be installed in strict accordance with manufacturer specifications. Once approved sights have been properly installed on any firearm, the member shall train and qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

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

305.5 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.

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- (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 Officer. Members shall not dry fire or practice quick draws except under Range Officer supervision.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (d) Rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle.
- (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 prisoner cells to persons from outside agencies are responsible for ensuring firearms are not brought into the prisoner cells.
- (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 Officer approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Range Officer 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.
- (h) If loss or theft of an assigned handgun occurs, report it immediately to the Chief of Police.

305.5.1 INSPECTION AND STORAGE

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

All non-issued firearms and ammunition shall be kept secure in the ammunition locker, the ESU equipment room, or patrol rifle vault. Firearms and ammunition will be inventoried on a regular basis and the training officer shall maintain the records.

Personally owned firearms may be safely stored in lockers at the end of the shift. Department-owned firearms shall be stored in the appropriate equipment storage room. Handguns may remain loaded if they are secured in an appropriate holster. Rifles shall be unloaded in a safe manner outside the building and then stored in the appropriate equipment storage room.

305.5.2 STORAGE AT HOME

Members shall ensure that all department-owned firearms and ammunition are locked and secured while in their homes or any other area under their control, and in a manner that will keep them

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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.

305.5.3 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.

305.6 POLICE OFFICER FIREARMS TRAINING AND QUALIFICATIONS

Police officers who carry a firearm while on-duty are required to successfully complete training and will qualify with their duty firearms twice a year, unless more frequent standards are required by the Municipal Police Training Council (MPTC). Police officers will qualify with their secondary firearms at least twice a year. 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.

305.7 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.

Those who fail to meet minimum standards or qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

- (a) Additional range assignments may be scheduled to assist the member in demonstrating consistent firearm proficiency.
- (b) Members shall be given credit for a range training or qualification when obtaining a qualifying score or meeting standards after remedial training.
- (c) No range credit will be given for:
 - 1. Unauthorized range make-up.
 - 2. Failure to meet minimum standards or qualify after remedial training.

Members who repeatedly fail to meet minimum standards will be removed from field assignment and may be subject to disciplinary action.

305.8 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).

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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 Lieutenant within 48 hours of the incident (Executive Law § 837-v).

305.8.1 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.

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

305.8.2 INJURED ANIMALS

With the approval of a supervisor, a member may euthanize an animal that is so badly injured that human compassion requires its removal from further suffering and where other dispositions are impractical (Agriculture and Markets Law § 374).

305.8.3 WARNING AND OTHER SHOTS

Warning shots are prohibited. Generally, shots fired for the purpose of summoning aid are discouraged and may not be discharged unless the member reasonably believes that they appear necessary, effective and reasonably safe.

305.9 RANGE OFFICER DUTIES

The range will be under the exclusive control of the Range Officer. All members attending will follow the directions of the Range Officer. The Range Officer will maintain a roster of all members attending the range and will submit the roster to the Training Officer after each range date. Failure of any member to sign in and out with the Range Officer 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 Officer 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 Officer has the authority to deem any department-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to his/her personally owned firearm; it will not be returned to service until it has been inspected and approved by the Range Officer.

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The Range Officer 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 Officer shall complete and submit to the Training Officer 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 Officer should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Training Officer.

SIMULATED AMMUNITION TRAINING

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

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- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Officers should try to resolve any problems 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.

305.11 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 Kingston 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

306.1 PURPOSE AND SCOPE

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

306.1.1 DEFINITIONS

Definitions related to this policy include:

Blocking or vehicle intercept - A slow-speed coordinated maneuver where two or more pursuing vehicles simultaneously intercept and block the movement of a suspect vehicle, the driver of which may be unaware of the impending enforcement stop. The goal is containment and preventing a pursuit. Blocking is not a moving or stationary road block.

Boxing-in - A tactic designed to stop a suspect's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

Primary unit - The police unit, which initiates a pursuit or any unit which assumes control of the pursuit.

Ramming - The deliberate act of contacting a suspect's vehicle with another law enforcement vehicle to functionally damage or otherwise force the suspect's vehicle to stop.

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

Secondary unit - Any police vehicle, which becomes involved as a backup to the primary unit and follows the primary unit at a safe distance.

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

Tire deflation device - A device designed to puncture the tires of the pursued vehicle.

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 high-speed driving or other 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.

306.2 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.

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306.3 OFFICER RESPONSIBILITIES

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

Officers shall drive with reasonable care for the safety of all persons and property. Officers shall drive with due regard for the safety of all persons and are not protected from consequences of reckless disregard for the safety of others. 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

306.3.1 WHEN TO INITIATE A PURSUIT

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,

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concealable or temporary emergency lighting equipment and concealed or obstructed siren positioning.

- (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.

306.3.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be terminated whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present 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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306.4 PURSUIT VEHICLES

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

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.

An officer or supervisor 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.

306.4.1 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.

306.4.2 EMERGENCY SERVICES UNIT (ESU) VEHICLES

ESU vehicles have different performance capabilities than the conventional patrol cars. The center of gravity on these vehicles is higher and therefore, the risk of rollover accidents during higher speed operations or extreme steering situations is greater. ESU vehicles may be used for pursuit but only in exigent circumstances. They shall disengage immediately when support from other marked patrol units becomes available.

306.4.3 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.

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- (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, 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.

306.4.4 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.

306.5 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) As a general rule, 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:

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1. Maintain visual contact with the pursued vehicle by paralleling the vehicle while driving on the correct side of the roadway.
 2. Request other officers to observe exits available to the suspect.
- (d) Notify other law enforcement agency if it appears that the pursuit may enter its jurisdiction.
- (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.

PURSUIT OPERATIONS

306.5.1 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.

306.5.2 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.

Non-pursuing members needed at the pursuit termination point should respond in a non-emergency manner, observing the rules of the road.

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.

306.6 SUPERVISORY CONTROL AND RESPONSIBILITIES

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

The supervisor of the officer initiating the pursuit 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 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.

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- (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 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 Kingston Police Department officers when a pursuit enters another jurisdiction.
- (j) Responding to the location where a vehicle has been stopped following a pursuit, when practicable.
- (k) Preparing a post-pursuit review and documentation of the pursuit as required.

306.7 DISPATCH

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.

306.7.1 RESPONSIBILITIES

Upon notification or becoming aware that a pursuit has been initiated, the dispatcher is responsible for:

- (a) Clearing the radio channel of non-emergency traffic.
- (b) Coordinating pursuit communications of the involved officers.
- (c) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (d) Ensuring that a supervisor is notified of the pursuit.
- (e) Notifying and coordinating with other involved or affected agencies as practicable.
- (f) Monitoring AVL information for vehicle locations.
- (g) Assigning an incident number and logging all pursuit activities.

306.8 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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306.9 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.

306.9.1 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 Kingston 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. Requests to or from another agency to assume a pursuit should be specific. Because of communication limitations between local law enforcement agencies, a request for another agency's assistance will mean that its personnel will assume responsibility for the pursuit. For the same reasons, when a pursuit leaves another jurisdiction and a request for assistance is made to this department, the other agency should relinquish control.

306.9.2 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 or take over a pursuit that has entered the jurisdiction of the Kingston 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.

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- (e) The ability to maintain the pursuit.

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

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.

306.10 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, boxing-in, ramming or roadblock procedures.

306.10.1 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.

306.10.2 USE OF 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.

306.10.3 INTERVENTION STANDARDS

Any intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of force, including deadly force, and are subject to policies guiding such use. Officers shall consider these facts and requirements prior to deciding how, when, where and if an intervention tactic should be employed.

- (a) Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to the public's safety, and when officers

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reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risks involved, this intervention tactic should only be employed by properly trained officers and after giving consideration to the following:

1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risk of injury or death to occupants of the suspect vehicle, officers or others.
 2. All other reasonable intervention tactics have failed or reasonably appear ineffective.
 3. Employing the blocking or vehicle intercept maneuver does not unreasonably increase the risk of safety to those involved or the public.
 4. The suspect vehicle is stopped or traveling at a low speed.
 5. Only law enforcement vehicles should be used in this tactic.
- (b) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the officer's disposal have been exhausted or would not be effective, and immediate control is necessary. Ramming should be reserved for situations where there does not appear to be another reasonable alternative method. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized. When ramming is used as a means to stop a fleeing vehicle, the following factors should be present:
- (c) The suspect is an actual or suspected felon, who reasonably appears to represent a serious threat to the public if not apprehended.
- (d) The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner or using the vehicle as a weapon.
- (e) Boxing-in a suspect vehicle should only be attempted upon approval by a supervisor. The use of such a tactic must be carefully coordinated with all involved vehicles, taking into consideration the circumstances and conditions apparent at the time, as well as the potential risk of injury to officers, the public and occupants of the pursued vehicle. Officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.
- (f) Tire deflation devices should be deployed only after notification of pursuing officers 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 officer 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 officers, the public and occupants of the pursued vehicle.
 4. Takes into account whether the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials or a school bus transporting children.

Vehicle Pursuits

- (g) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor. If roadblocks are deployed, it should only be done under extraordinary conditions when all other reasonable intervention tactics have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risks of injury or death to occupants of the pursued vehicle, officers or the public. No form of roadblock shall be set up without considering the safety of the public and pursuing officers and not until after authorized by a supervisor.

INTERVENTION TECHNIQUES

306.11 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.

306.12 REPORTING REQUIREMENTS

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

- (a) The primary pursuing officer shall complete appropriate crime/arrest reports.
- (b) The primary pursuing officer or supervisor shall complete the appropriate pursuit report.
- (c) After first obtaining the available information, the involved, or if unavailable, on-duty supervisor shall promptly complete a supervisor's log or interoffice memorandum, briefly summarizing the pursuit to the Deputy Chief of Police or the authorized designee. This log or memorandum should include, at a minimum:
 - 1. Date and time of the pursuit.
 - 2. Initial reason and circumstances surrounding the pursuit.
 - 3. Length of pursuit in distance and time, including the starting and termination points.
 - 4. Involved vehicles and officers.
 - 5. Alleged offenses.
 - 6. Whether a suspect was apprehended, as well as the means and methods used.

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- (a) Any use of force shall be reported and documented in compliance with the Use of Force Policy.
- 7. Arrestee information, if applicable.
- 8. Any injuries and/or medical treatment.
- 9. Any property or equipment damage.
- 10. Name of supervisor at the scene or who handled the incident.
- 11. A preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.
- (d) After receiving copies of reports, logs and other pertinent information, the Chief of Police or the authorized designee shall conduct or assign the completion of a post-pursuit review, as appropriate.

306.13 REGULAR AND PERIODIC PURSUIT TRAINING

In addition to initial and supplementary training on pursuits, all officers will participate in regular and 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

307.1 PURPOSE AND SCOPE

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

307.2 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.

307.3 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.

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- (e) Air support.
- (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.

307.4 GENERAL GUIDELINES

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

- (a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory.
- (b) The officer is acting alone.
- (c) Two or more officers become separated, lose visual contact with one another or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.
- (d) The officer is unsure of his/her location and direction of travel.
- (e) The officer is pursuing multiple suspects and it is not reasonable to believe that the officer would be able to control the suspects should a confrontation occur.
- (f) The physical condition of the officer renders him/her incapable of controlling the suspect if apprehended.
- (g) The officer loses radio contact with the dispatcher or with assisting or backup officers.
- (h) 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.
- (i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.
- (j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.
- (k) The officer loses possession of his/her firearm or other essential equipment.
- (l) The officer or a third party is injured during the foot pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- (m) The suspect's location is no longer known.

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- (n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to department members or the public if the suspect is not immediately apprehended.
- (o) The officer's ability to safely continue the foot pursuit is impaired by inclement weather, darkness or other environmental conditions.

307.5 RESPONSIBILITIES IN FOOT PURSUITS

307.5.1 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.

307.5.2 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.

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307.5.3 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; 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.

307.5.4 DISPATCH RESPONSIBILITIES

Upon notification or becoming aware that a foot pursuit is in progress, the dispatcher is responsible for:

- (a) Clearing the radio channel of non-emergency traffic.
- (b) Coordinating pursuit communications of the involved officers.
- (c) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (d) Ensuring that a field supervisor is notified of the foot pursuit.
- (e) Notifying and coordinating with other involved or affected agencies as practicable.
- (f) Notifying the Shift Supervisor as soon as practicable.
- (g) Assigning a blotter number and logging all pursuit activities.

307.6 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.

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- (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

308.1 PURPOSE AND SCOPE

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

308.2 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.

308.3 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.

308.3.1 EMERGENCY CALLS

Officers responding to an emergency call shall proceed immediately as appropriate and should continuously 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 so dispatched or 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.

If an officer believes an emergency response to any call is appropriate, the officer shall immediately notify the dispatcher.

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.

VEHICLE AND TRAFFIC LAWS

EMERGENCY OPERATION

308.4 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:

Officer Response to Calls

- Identifying car number
- Location of the emergency situation
- Suspect information, including weapons
- Reason for the request and type of emergency
- The number of officers or 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.

308.5 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.

308.5.1 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.

An emergency response involving more than one police vehicle should be coordinated by Dispatch to avoid any unanticipated intersecting of response routes. The dispatcher shall notify the supervisor, who will make a determination regarding the appropriateness of the response and reduce or enhance the response as warranted.

308.6 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.

Officer Response to Calls

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 supervisor or the dispatcher of the equipment failure so that another officer may be assigned to the emergency response.

308.7 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 dispatcher. 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.

308.8 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.

DISPATCH PROTOCOL

308.8.1 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 supervisor as soon as practicable.
- (f) Controlling all radio communications during the emergency and coordinating assistance under the direction of the supervisor.

Officer Response to Calls

308.9 SUPERVISOR RESPONSIBILITIES

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

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

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

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

When making the decision to authorize an emergency response, the 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.

Canines

309.1 PURPOSE AND SCOPE

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

309.2 POLICY

It is the policy of the Kingston Police Department that officers may contact an outside agency for canine team assistance in compliance with this policy to reasonably carry out legitimate law enforcement objectives.

309.3 REQUESTS FOR CANINE TEAMS

Division Requests for a canine team from an outside agency shall be approved by the Shift Supervisor. Upon approval, Dispatch shall contact the appropriate assisting agency to make the request.

309.4 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.

309.4.1 REPORTING DEPLOYMENTS, BITES AND INJURIES

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 an appropriate report. The injured person shall be promptly treated by Emergency Medical Services personnel and, if appropriate, transported to an appropriate medical facility for further treatment.

Canines

309.5 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.

309.5.1 ARTICLE DETECTION

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

309.5.2 NARCOTICS DETECTION

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

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

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

309.5.3 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.

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

Domestic Violence

310.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of the Kingston Police Department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence.

When a domestic violence incident may also include an indication of child abuse, members should refer to the Child Abuse Policy.

310.1.1 DEFINITIONS

Definitions related to this policy include:

Court order - All forms of orders related to domestic violence that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

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.

Domestic Violence

4. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an intimate relationship.

310.2 POLICY

The Kingston Police Department's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this department to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

310.3 OFFICER SAFETY

The investigation of domestic violence cases often places officers in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all officers to exercise due caution and reasonable care in providing for the safety of any officers and parties involved.

310.4 INVESTIGATIONS

The following guidelines should be followed by officers when investigating domestic violence cases:

- (a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
 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 Division 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.

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- (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:
 - 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.

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- (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).

310.4.1 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.

310.4.2 IF NO ARREST IS MADE

If no arrest is made, the officer should:

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

310.4.3 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 Evidence Control 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).

310.5 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).

Domestic Violence

- (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.

310.6 DISPATCH ASSISTANCE

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

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

310.6.1 RECLASSIFICATION OR CANCELLATION

A domestic incident should not be reclassified or recoded without a supervisor's review. Responses to domestic incidents should not be cancelled regardless of whether such a request is made by someone at the scene during the initial call or a follow-up call. However, officers should be informed of any request to cancel a response.

310.7 FOREIGN COURT ORDERS

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

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310.8 VERIFICATION OF COURT ORDERS

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

- (a) Ask the subject of the order about his/her notice or receipt of the order, 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.

ORDERS OF PROTECTION

310.9 STANDARDS FOR ARRESTS

Officers investigating a domestic violence report should consider the following (CPL § 140.10):

- (a) Officers who are police 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 who are police 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 who are police officers shall make an arrest for certain violations of a duly served order of protection, an order of protection which the defendant has actual knowledge of because he/she was present in court when such order was issued, or other court orders related to domestic violence found in the following provisions:
 - 1. Domestic Relations Law § 240 (custody and child support)

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2. Domestic Relations Law § 252 (actions for divorce)
 3. Family Court Act Articles 4, 5, 6, or 8 (support, paternity, termination/adoption, or family offenses proceedings)
 4. CPL § 530.12 (protection for victims of family offenses)
 5. CPL § 330.20 (procedure following verdict or plea of not responsible by reason of mental disease or defect)
 6. These arrests require that:
 - 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.
 - 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.
- (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):
1. The comparative extent of any injuries inflicted by and between the parties.
 2. Whether any party is threatening or has threatened future harm against another party or another family or household member.
 3. Whether any party has a prior history of domestic violence that the officer can reasonably ascertain.
 4. Whether any party acted defensively to protect him/herself from injury.
 5. 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 Kingston Police Department (Executive Law § 646).
- (f) Police officers who respond to a domestic violence call, who do not have arrest authority for such calls as part of their assigned duties, shall summon a police officer who has arrest authority under such circumstances.

310.10 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 Division 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 Division 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 Kingston Police Department, the Records Division 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).

DOMESTIC VIOLENCE INCIDENT REPORT

310.11 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.

310.11.1 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).

Search and Seizure

311.1 PURPOSE AND SCOPE

Both the federal and state constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Kingston Police Department personnel to consider when dealing with search and seizure issues.

311.2 POLICY

It is the policy of the Kingston Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

311.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions 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.
- 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 restrictive when interpreting the New York Constitution than the federal courts' interpretation of the United States Constitution.

Search and Seizure

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

311.4 SEARCH PROTOCOL

Although conditions will vary, and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

- (a) Members of this department will strive to conduct searches with dignity and courtesy.
- (b) Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
- (e) 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, the following guidelines should be followed:
 1. Another officer or a supervisor should witness the search.
 2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.
- (g) A Consent to Search form should be used any time a search of a building or vehicle is to be conducted with the permission of the owner thereof.

311.5 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.

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Search and Seizure

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

312.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Kingston 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.

312.1.1 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.

312.2 POLICY

The Kingston Police Department will investigate all reported incidents of alleged criminal child abuse and ensure the local CPS division and the New York State Child Abuse and Maltreatment Register are notified as required by law.

312.3 MANDATORY NOTIFICATION

Members of the Kingston 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 Medical Examiner 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).

312.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows (Social Services Law § 415):

- (a) Immediately contact the appropriate CPS division and the Child Advocacy Center.
- (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 Medical Examiner.
- (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 Detective Lieutenant (Social Services Law § 413).

312.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available for child abuse investigations. These investigators should:

- (a) Conduct interviews in child-appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Present all cases of alleged child abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable.

312.5 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.

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- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (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).

See procedure for further guidance: [RESPONDING OFFICERS](#)

312.6 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.

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- (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).
 - 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).

312.6.1 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).

312.7 INTERVIEWS

312.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child 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.

312.7.2 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.

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2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
 3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.
- (b) A court order or warrant has been issued.

312.7.3 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)).

312.8 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.

312.9 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.

312.9.1 SUPERVISOR RESPONSIBILITIES

The Detective Division 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 Detective Division 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.

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- (c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the child.

312.9.2 OFFICER RESPONSIBILITIES

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

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

312.10 STATE MANDATES AND OTHER RELEVANT LAWS

New York requires or permits the following:

312.10.1 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).

312.10.2 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).

312.10.3 CHILD FATALITY REVIEW TEAMS

If established and 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).

312.10.4 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)).

312.11 TRAINING

The Department should provide training on best practices in child abuse investigations. The training should include:

- (a) For all officers:

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1. Recognizing the signs of unlawful methamphetamine laboratories (Social Services Law § 413).
- (b) 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.
 7. Recognizing abuse that requires mandatory notification to another agency.

Adult Abuse

313.1 PURPOSE AND SCOPE

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

313.1.1 DEFINITIONS

Definitions related to this policy include:

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

313.2 POLICY

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

313.3 MANDATORY NOTIFICATION

A police or peace officer member of the Kingston 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 Kingston 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.

313.3.1 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. The report shall include (Social Services Law § 491; Social Services Law § 492):
 - 1. The name and contact information of the abused vulnerable person.
 - 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.

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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.

313.4 QUALIFIED INVESTIGATORS

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

- (a) Conduct interviews in appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to adult abuse investigations.
- (c) Present all cases of alleged adult abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and facility administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the victim and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable.

313.5 INVESTIGATIONS AND REPORTING

All reported or suspected cases of adult abuse require investigation and a 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, and why other alternatives were not appropriate.
- (d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.
- (e) Whether the victim was transported for medical treatment or a medical examination.
- (f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence or others who may have access to the victim.

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- (g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
- (h) Previous addresses of the victim and suspect.
- (i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

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.

313.6 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. 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.

313.7 INTERVIEWS

313.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should audio record the preliminary interview with a suspected adult abuse victim. Officers should avoid multiple interviews with the victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available.

313.7.2 DETAINING VICTIMS FOR INTERVIEWS

An officer should not detain 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:

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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.

313.8 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 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.

313.9 DRUG-ENDANGERED VICTIMS

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of an adult abuse victim who has been exposed to the manufacturing, trafficking or use of narcotics.

313.9.1 SUPERVISOR RESPONSIBILITIES

The Detective Division 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 Division 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.

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313.9.2 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 Detective Division supervisor so an interagency response can begin.

313.10 STATE MANDATES AND OTHER RELEVANT LAWS

New York permits the following:

313.10.1 INVESTIGATING MEMBER RESPONSIBILITIES

The investigating member 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.

313.10.2 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.

313.11 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

314.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department members from being subjected to discriminatory harassment, including sexual harassment and retaliation (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.

Kingston Police Department members shall abide by the City of Kingston's [Workplace_Violence_Prevention_Policy](#) .

Missing Persons

315.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

315.1.1 DEFINITIONS

Definitions related to this policy include:

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.
 - 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).

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 Persons

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).

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).

315.2 POLICY

The Kingston 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).

315.3 REQUIRED FORMS AND BIOLOGICAL SAMPLE COLLECTION KITS

The Detective Division 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
- Medical and dental records release forms
- Biological sample collection kits

315.4 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. Those members who do not take such reports or who are unable to give immediate assistance shall promptly dispatch or alert a member who can take the report.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any question of jurisdiction.

315.5 INITIAL INVESTIGATION

Officers or other members conducting the initial investigation of a missing person should take the following investigative actions, as applicable:

- (a) Respond to a dispatched call as soon as practicable.

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- (b) Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.
- (c) Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).
- (d) Broadcast an alert if the person is under 21 years of age 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 or may 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 (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.

See procedure for further guidance: [REPORTS](#)

315.6 REPORT PROCEDURES AND ROUTING

Members should complete all missing person reports and forms promptly and advise the appropriate supervisor as soon as a missing person report is ready for review.

315.6.1 SUPERVISOR RESPONSIBILITIES

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

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- (a) Reviewing and approving missing person reports upon receipt.
 - 1. The reports should be promptly sent to the Records Division.
- (b) Ensuring resources are deployed as appropriate.
- (c) Initiating a command post as needed.
- (d) Ensuring applicable notifications and public alerts are made and documented.
- (e) Ensuring that records have been entered into the appropriate missing 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.

315.6.2 RECORDS DIVISION RESPONSIBILITIES

The responsibilities of the Records Division 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 Division.
- (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).
- (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.

315.7 DETECTIVE DIVISION FOLLOW-UP

In addition to completing or continuing any actions listed above, the investigator 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.

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2. The investigator should meet with school officials as appropriate to stress the importance of including the notice in the child's student file, along with the investigator's contact information, if the school receives a call requesting the transfer of the missing child's files to another school (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 Medical Examiner.
- (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).
- (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).

315.8 WHEN A MISSING PERSON IS FOUND

When any person reported missing is found, the assigned investigator shall document the location of the missing person in the appropriate report, notify the relatives and/or reporting party, as appropriate, and other involved agencies, and refer the case for additional investigation if warranted.

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The assigned detective 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).

315.8.1 UNIDENTIFIED PERSONS

Members investigating a case of an unidentified person who is deceased or a living person who cannot assist in identifying him/herself should:

- (a) Obtain a complete description of the person.
- (b) Enter the unidentified person's description into the NCIC Unidentified Person File.
- (c) Use available resources, such as those related to missing persons, to identify the person.

315.9 CASE CLOSURE

The Detective Division supervisor may authorize the closure of a missing person case after considering the following:

- (a) Closure is appropriate when the missing person is confirmed returned or evidence matches an unidentified person or body.
- (b) If the missing person is a resident of Kingston 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.

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315.10 TRAINING

Subject to available resources, the Training Officer 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.

Public Alerts

316.1 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.

316.2 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.

316.3 RESPONSIBILITIES

316.3.1 MEMBER RESPONSIBILITIES

Members of the Kingston Police Department should notify their supervisors, Shift Supervisor or Detective Division 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.

316.3.2 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 Deputy Chief of Police, or the Chief of Police 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.
- (d) Preparing an after-action evaluation of the investigation to be forwarded to the Lieutenant

316.4 AMBER ALERTS™

AMBER Alerts™ are used to provide a statewide system for the rapid dissemination of information regarding abducted children. See [DCJS website](#).

316.4.1 CRITERIA

The following criteria are utilized to determine if an AMBER Alert should be issued:

- (a) The person is under 18 years of age.

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- (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.

316.4.2 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.

316.5 MISSING CHILD

Missing Child Alerts are used for missing children under the age of 21 who do not meet the AMBER Alert criteria.

316.5.1 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).
- (b) The missing child is deemed to be endangered.
- (c) The missing child does not meet AMBER Alert criteria.

316.5.2 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) 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.

316.6 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).

316.6.1 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.

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316.6.2 PROCEDURE

The following is the procedure for initiating a Missing Vulnerable Adult Alert:

- (a) Obtain descriptive information for a Missing Vulnerable Adult Alert.
- (b) Contact the MPC 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.

316.7 MISSING COLLEGE STUDENT

Missing College Student Alerts are used for missing college students of any age who do not meet the AMBER Alert criteria.

316.7.1 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.

316.7.2 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 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.

316.8 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.

Victim and Witness Assistance

317.1 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.

317.2 POLICY

The Kingston Police Department is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the Kingston 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.

317.3 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.

317.3.1 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).

Officers shall 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 when a person appears to be a human trafficking victim (Social Services Law § 483-cc; 9 NYCRR § 6174.3).

317.4 VICTIM INFORMATION

The Administration Lieutenant 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).
 - 1. 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.

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- (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).
- (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).

See procedure for further guidance: [VICTIMS ASSISTANCE](#)

317.5 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.

317.6 WITNESS INFORMATION

The Administration Lieutenant 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).

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Hate Crimes

318.1 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.

318.1.1 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.

318.2 POLICY

The Kingston 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.

318.3 PREVENTION AND PREPARATION

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.

COMMUNITY RELATIONS AND CRIME PREVENTION

318.4 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 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 should take reasonable steps to preserve evidence that establishes a possible hate crime.
- (d) Based upon available information, officers should take appropriate action to mitigate further injury or damage to potential victims or the community.

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- (e) Depending on the situation, the assigned officers or supervisor may request assistance from investigators or other resources.
- (f) The assigned officers 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 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 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." **INCIDENT REPORT PREPARATION**
- (i) The assigned officers and supervisor should take reasonable steps to ensure that any such situation does not escalate further and should provide information to the victim regarding legal aid.

HATE CRIMES

INITIAL RESPONSE PROCEDURES

318.4.1 DETECTIVE DIVISION RESPONSIBILITIES

If a hate crime case is assigned to the Detective Division, the assigned investigator will be responsible for:

- (a) Coordinating further investigation with the Ulster County District Attorney's Office 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).

INVESTIGATOR RESPONSIBILITIES

318.4.2 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."

ARREST PROCESSING

Hate Crimes

318.5 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

319.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Kingston 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.

319.2 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.

319.3 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.

319.3.1 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.

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The person countermanding the original order shall notify, in writing, the person issuing the original order, indicating the action taken and the reason.

319.3.2 SUPERVISOR RESPONSIBILITIES

Supervisors 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.

319.4 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.

319.5 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.

319.5.1 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.

LAWS, RULES, AND ORDERS

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319.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the Kingston 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.

GIFTS, GRATUITIES, AND PRIVILEGES

319.5.3 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.

319.5.4 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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- (f) Affiliation with any organization or body, the constitution or regulations of which would in any way exact prior consideration, and prevent him/her from performing his/her department duties. However, membership in any union or other organization in connection with and relating solely to approved secondary employment of members of the department and required membership in military reserve units are specifically excepted from this regulation.

319.5.5 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.

ATTENDANCE

319.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, or reports obtained as a result of the member's position with this department.
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any department property for personal use, personal gain, or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include but are not limited to personnel, vehicles, equipment, and non-subpoenaed records.

319.5.7 EFFICIENCY

- (a) **NEGLECT OF DUTY**
- (b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.

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- (e) Failure to notify the Department within 24 hours of any change in residence address, including a temporary change.
- (f) Failure to maintain a telephone number where the member can be reached by the Department in an emergency and not notifying the Department within 24 hours of a change in telephone number.
- (g) Failure to keep the department vehicle in public view while assigned to general patrol duty, except when authorized by a supervisory officer.
- (h) Riding in or on a non-department vehicle during duty hours except when authorized by a supervisory officer or in pursuit of official police business.
- (i) Failure to notify the Civil Service Department of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

319.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive, or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in 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, including any judge, justice, or other officer of any court or department member, to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency, and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - 1. While on department premises.
 - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
 - 3. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.

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- (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.

319.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful police officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City. [COURTESY](#)
- (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) Failure to provide name, rank, and badge number upon request.

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- (o) Obliging the Department financially in any manner except as authorized by the Chief of Police or Deputy Chief of Police.
- (p) Participating in or urging the participation by other persons in any strike, slow-down, or other concerted action which is in any degree adverse to the maintenance of the public safety or welfare.

CONDUCT

MILITARY ETIQUETTE

319.5.10 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). [LICENSES](#)
- (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 while acting in their official capacity.
- (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.

319.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

INTOXICANTS

319.5.12 LEGISLATIVE RESTRICTIONS

Officers are prohibited from the following activities by New York statute:

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- (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:
 - 1. Accepting gifts of \$75 or more in value (General Municipal Law § 805-a)
 - 2. Disclosing confidential information obtained in the course of official duties (Public Officers Law § 96)
 - 3. Receiving payment for official acts except as authorized by law (Public Officers Law § 67)
 - 4. Failing to disclose an interest in any contract or business with the employing governmental entity (General Municipal Law § 801)
 - 5. Failing to disclose an interest in property for which a variance is requested (General Municipal Law § 809)

Information Technology Use

320.1 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. Kingston Police Department members shall follow the City of Kingston's Computer Use Policy found here - [Computer Use Policy.pdf](#)

TELEPHONES

Department Use of Social Media

321.1 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. Kingston Police Department members shall follow the City of Kingston's policy which can be found here - [City of Kingston Social Media Policy.pdf](#)

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).

Report Preparation

322.1 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.

322.2 POLICY

It is the policy of the Kingston 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 and successful prosecution.

322.3 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.

322.4 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 where the suspect remains in custody 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.

Arrest reports should be as complete as possible including scars, tattoos, and other identifying features.

REPORTS, RECORDS AND DEPARTMENT INFORMATION

322.4.1 HANDWRITTEN OR TYPED REPORTS

County, state and federal agency forms may be block printed unless the requirement for typing is apparent. Supervisors may require block printing or typing of reports of any nature for department consistency.

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.

Report Preparation

In general, the narrative portion of reports where an arrest is made or when there is a long narrative should be typed.

Members who generate reports on computers are subject to all requirements of this policy.

322.4.2 ELECTRONIC SIGNATURES

The Kingston Police Department has established an electronic signature procedure for use by all members of the Kingston Police Department. The Patrol Lieutenant shall be responsible for ensuring that each member creates a unique, confidential password for his/her electronic signature and that the use of electronic signatures otherwise complies with the law (State Technology Law § 304).

- (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.

322.5 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.

SUPPLEMENTARY REPORTS will be filled out by all personnel whenever they have additional information to be added to a case file.

SUPPLEMENTARY REPORTS

322.5.1 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. **ARREST REPORTS**
- (b) All felony crimes.
- (c) All offenses involving threats or stalking behavior.
- (d) Situations covered by separate policy. These include:
 - 1. Use of Force Policy
 - 2. Domestic Violence Policy
 - 3. Child Abuse Policy
 - 4. Adult Abuse Policy

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- 5. Hate Crimes Policy
- 6. Suspicious Activity Reporting Policy

- (e) All misdemeanor crimes where the victim desires a report.

Misdemeanor crimes where the victim does not desire a report shall be documented using the department-approved alternative reporting method (e.g., a dispatch log).

322.5.2 NON-CRIMINAL ACTIVITY

Non-criminal activity to be documented includes:

- (a) Any found property or found evidence.
- (b) All protective custody and welfare detentions.
- (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 time a member points a firearm at any person.
- (i) Any traffic accidents above the minimum reporting level (see the Traffic Accidents Policy).
- (j) Whenever the member believes the circumstances should be documented or at the direction of a supervisor.
- (k) Any contact with a person or persons claiming diplomatic privilege or immunity.
 - 1. A copy of the report should be forwarded to the U.S. Department of State.

322.5.3 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, and potentially fatal.
- (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 Kingston Police Department is injured on-duty.

Report Preparation

- (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).

322.5.4 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 (no physician or qualified hospice care during the period preceding death)
- (b) Sudden, accidental or suspicious deaths
- (c) Suicides
- (d) Homicides or suspected homicides
- (e) Found dead bodies or body parts

322.5.5 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.

322.6 REVIEW AND CORRECTIONS

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should return the report with suggested corrections.

The original report with suggested corrections 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.

322.6.1 CHANGES AND ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Records Division for filing and distribution shall not be modified or altered except by way of a supplemental report.

Reviewed reports that have not yet been submitted to the Records Division may be corrected or modified by the authoring member only with the knowledge and authorization of the reviewing supervisor.

Media Relations

323.1 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.

323.2 POLICY

It is the policy of the Kingston 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.

323.3 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, Lieutenants and sergeants may prepare and release information to the media in accordance with this policy and applicable laws regarding confidentiality.

323.4 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.

323.5 MEDIA REQUESTS

Any media request for information or access to a law enforcement incident shall be referred to the Chief of Police, or if unavailable, 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 the Chief of Police.
- (b) In situations involving multiple agencies or government departments, every reasonable effort should be made to coordinate media releases with the authorized

Media Relations

representative of each involved agency prior to the release of any information by this department.

- (c) Under no circumstance should any member of this department make any 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.

323.6 ACCESS

Authorized media representatives shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities as constitutionally required.

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 Chief of Police 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.
- (e) When members of this department are in control of private property or any area not open to the public, permission must be granted by the person having authority over the premises as well as from the commanding officer in charge of the scene.

No representatives of the press will be allowed inside the headquarters work area when they come to get information for news reports.

ACCESS TO INCIDENT/CRIME SCENES

323.6.1 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 Chief of Police.

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323.6.2 TEMPORARY FLIGHT RESTRICTIONS

Whenever the presence of media or other aircraft pose a threat to public or member safety or significantly hamper incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Shift Supervisor. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration (FAA) should be contacted (14 CFR 91.137).

323.7 CONFIDENTIAL OR RESTRICTED INFORMATION

It shall be the responsibility of the Chief of Police 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) Information that identifies or relates to the arrest and disposition of a juvenile delinquent (Family Court Act § 301.2; Family Court Act § 381.3).
- (b) 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).
- (c) Information concerning incidents involving persons whose identities are classified as private or confidential under state law (i.e., sex crime victims).
- (d) 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.
- (e) Information contained in the personnel record of any member, unless otherwise specifically allowed by law.
- (f) Criminal history information.
- (g) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.
- (h) Information pertaining to pending litigation involving this department unless authorized by the Chief of Police.
- (i) Information obtained in confidence.
- (j) Any information that is otherwise privileged or restricted under state or federal law.

323.7.1 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.

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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 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 Supervisor 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).

323.8 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.

RELEASE OF INFORMATION

Subpoenas and Court Appearances

324.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Kingston Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

324.2 POLICY

Kingston Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances (CPLR § 2305).

324.3 SUBPOENAS

324.3.1 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 Ulster County District Attorney's Office or other prosecutor shall notify his/her immediate supervisor without delay regarding:

- (a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Kingston Police Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Kingston 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.

324.3.2 CIVIL SUBPOENA

The Department will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current collective bargaining agreement.

The Department may seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

Subpoenas and Court Appearances

324.3.3 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. Arrangements for time off shall be coordinated through their immediate supervisors.

324.4 FAILURE TO APPEAR

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

324.5 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.

Uniformed members shall dress in the regulation uniform of the day. Other members of the Department shall dress in suitable business attire.

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.

324.5.1 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.

324.6 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.

324.7 EXCEPTIONS

Exceptions to this order may be granted by the Chief of Police or Deputy Chief of Police.

All members of this department shall report the reason for any court absence or tardiness to the Chief of Police through the duty supervisor.

Outside Agency Assistance

325.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when requesting or responding to a request for mutual aid or when assisting another law enforcement agency.

325.2 POLICY

It is the policy of the Kingston Police Department to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

325.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the supervisor's office for approval. In some instances, a collective bargaining agreement or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from this department, the 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 as soon as practicable.

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 this department will not ordinarily be booked at 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 unless otherwise directed by a supervisor. When such incidents arise, the supervisor shall notify the Chief of Police.

325.3.1 INITIATED ACTIVITY

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Kingston Police Department shall be aware of the statutory limitations of his/her authority and shall notify his/her supervisor or the supervisor and Dispatch as soon as practicable (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.

Outside Agency Assistance

325.4 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).

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. When such incidents arise, the supervisor shall notify the Chief of Police. The handling member or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting member should arrange for appropriate radio communication capabilities, if necessary and available, so that communication can be coordinated between assisting personnel.

325.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented in a general case report or as directed by the supervisor.

EMERGENCY ASSISTANCE

325.6 MANDATORY SHARING

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies should be documented and updated as necessary by the Administration Lieutenant or the authorized designee.

The documentation should include:

- (a) The conditions relative to sharing.
- (b) The training requirements for:
 - 1. The use of the equipment and supplies.
 - 2. The members trained in the use of the equipment and supplies.
- (c) Any other requirements for use of the equipment and supplies.

The Training Officer should maintain documentation that the appropriate members have received the required training.

Registered Offender Information

326.1 PURPOSE AND SCOPE

This policy establishes guidelines by which the Kingston 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.

326.2 POLICY

It is the policy of the Kingston Police Department to identify and monitor registered offenders living within this jurisdiction and to take reasonable steps to address the risks those persons may pose.

326.3 REGISTRATION

The Detective Lieutenant supervisor 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, the detective 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 detective 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 (Correction Law § 168-t).

STANDARDS

PROCEDURE

326.3.1 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).

Registered Offender Information

326.4 MONITORING OF REGISTERED OFFENDERS

The Detective Lieutenant should establish a system to periodically, verify that a registrant remains in compliance with his/her registration requirements after the initial registration. This verification should include:

- (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.

Any discrepancies should be reported to DCJS.

The Detective Lieutenant should also establish a procedure to routinely disseminate information regarding registered offenders to Kingston Police Department members, including timely updates regarding new or relocated registrants.

CHARGING OF VIOLATIONS

326.5 DISSEMINATION OF PUBLIC INFORMATION

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 Kingston Police Department's website.

The Police Clerk may release local registered offender information to residents in accordance with Correction Law § 168-l and in compliance with a New York State Freedom of Information Law request.

RELEASE OF INFORMATION

326.5.1 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.

Registered Offender Information

326.5.2 DISSEMINATION

The Department shall compile, maintain and update a listing of vulnerable organizational entities within this jurisdiction. Such listing shall be utilized for proper notification and dissemination of appropriate information (Correction Law § 168-l).

The information that may be released is as follows:

- (a) A photograph and description of the offender
- (b) Name and aliases used
- (c) Home address of the offender. For a level one offender, this is limited to the release of the zip code only. For a level three offender, this includes the address of the offender's place of employment.
- (d) Crimes of which the offender has been convicted
- (e) Method of operation of the offender
- (f) Types of victims targeted
- (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

327.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Kingston Police Department in determining when, how and to whom notification of major incidents should be made.

327.2 POLICY

The Kingston 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.

327.3 CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief of Police 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 Kingston official
- Significant injury or death to a member of the Department, whether on- or off-duty
- Arrest of a member of the Department, prominent Kingston 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

327.4 SHIFT SUPERVISOR RESPONSIBILITIES

The Shift Supervisor is responsible for making the appropriate notifications. The Shift Supervisor 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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Major Incident Notification

A supervisor will be required to respond to and assume command of the following incident:

- (a) Serious injury to an officer.
- (b) Major crimes, to include murder, bank robbery, escape, or a heinous crime of assault where death may occur.
- (c) Barricade/hostage situations.
- (d) Disasters, catastrophes, or severe weather producing emergency conditions.
- (e) Serious complaint or incident involving a police officer.
- (f) Serious accident.
- (g) Injury or incident involving city personnel or property.
- (h) Any other incident where a supervisor is requested.

327.4.1 COMMAND STAFF NOTIFICATION

In the event an incident occurs as identified in the Criteria for Notification section above, the Chief of Police and Command Staff shall be notified.

327.4.2 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.

327.4.3 PATROL DIVISION NOTIFICATION

In the event of a major injury or traffic fatality, the on-duty supervisor shall be notified, who will then contact the appropriate detective. The on-duty supervisor will notify the Patrol Lieutenant.

Death Investigation

328.1 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.

328.2 POLICY

It is the policy of the Kingston Police Department to respond, document and investigate incidents where a person is deceased. Investigations involving the death of a person, including those from natural causes, accidents, workplace incidents, suicide and homicide, shall be initiated, conducted and properly documented.

328.3 INVESTIGATION CONSIDERATIONS

Emergency medical services shall be called in all suspected death cases unless death is obvious (e.g., decapitated, decomposed).

A supervisor shall be notified as soon as possible to assist and provide appropriate personnel and resources. The on-duty supervisor should determine whether follow-up investigation is required and notify the Detective Division as necessary. The Shift Supervisor will make notification to command staff in accordance with the Major Incident Notification Policy.

328.3.1 REPORTING

All incidents involving a death shall be documented in a supplemental report.

328.3.2 MEDICAL EXAMINER REQUEST

Officers are not authorized to pronounce death. The Medical Examiner shall be called in all sudden or unexpected deaths or deaths due to other than natural causes. State law requires that the Medical Examiner 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 a correctional facility or other public institution other than a hospital, infirmary, or nursing home

Death Investigation

328.3.3 SEARCHING DEAD BODIES

- (a) The Medical Examiner, 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 Medical Examiner or his/her assistant shall be promptly notified.
- (c) The Medical Examiner, 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 Medical Examiner, sign the property forms listing the items found on the body. The Medical Examiner will retain the property and forms. The Medical Examiner 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 Medical Examiner or his/her assistant, the investigating officer should first obtain verbal consent from the Medical Examiner 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 available to the officer pending the arrival of the Medical Examiner 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 Medical Examiner or his/her assistant, a receipt shall be obtained. This receipt shall be attached to the death report.

328.3.4 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 Detective Division shall be notified to determine the possible need for an investigator to respond to the scene.

If the on-duty supervisor, through consultation with the Detective Division, is unable to determine the manner of death, the investigation shall proceed as though it is a homicide. When appropriate or necessary the Shift Supervisor shall contact the New York State Police or local Bureau of Criminal Investigation for assistance.

The detective assigned to investigate a homicide or death that occurred under suspicious circumstances may, with the approval of his/her supervisor, request the Medical Examiner to conduct physical examinations and tests, and to provide a report.

Death Investigation

328.3.5 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.

328.3.6 DROWNING INVESTIGATIONS

In the case of a drowning the following procedure shall be followed:

- (a) Immediately notify Ulster County 9-1-1 for the first available dive team.
- (b) Attempt to locate witnesses and determine where the victim may be located. Do not let witnesses leave the scene.
- (c) Establish inner perimeter with police lines, excluding everyone except authorized personnel.
- (d) Attempt to comfort relatives or friends of the victim and prevent them from endangering themselves by making rescue attempts of their own.

328.4 UNIDENTIFIED DEAD BODY

If the identity of a dead body cannot be established, the handling officer will request from the Medical Examiner 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.

328.5 DEATH NOTIFICATION

When reasonably practicable, and if not handled by the Medical Examiner's Office, notification to the next-of-kin of the deceased person shall be made, in person, by the officer assigned to the incident. 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.

NOTIFICATION OF NEXT OF KIN

Private Person's Arrest

329.1 PURPOSE AND SCOPE

This policy provides guidance for the handling and acceptance of a private person's arrest.

329.2 POLICY

It is the policy of the Kingston Police Department to accept a private person's arrest only when legal and appropriate.

329.3 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).

329.4 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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Private Person's Arrest

The officer shall then proceed as required by the Temporary Custody of Juveniles Policy (CPL § 140.40).

329.5 PRIVATE PERSON'S ARREST FORM

The arresting person should be asked to complete and sign the accusatory instrument or a supporting deposition and incident 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

330.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

330.1.1 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 Kingston 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).

330.2 POLICY

It is the policy of the Kingston 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.

330.3 TYPES OF LEP ASSISTANCE AVAILABLE

Kingston 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.

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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.

330.4 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered.

330.5 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.

When a qualified bilingual member from this department is not available, personnel from local law enforcement departments who have been identified by the Department as having the requisite skills and competence may be requested.

330.6 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.

Other sources may include:

- Qualified bilingual members of this department or personnel from local law enforcement agencies.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.

330.7 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

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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.

330.8 CONTACT AND REPORTING

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.

330.9 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Kingston Police Department will take reasonable steps and will work with the Civil Service Department to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

330.9.1 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.

330.10 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

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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.

330.11 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, officers should consider calling for an authorized interpreter in the following order:

- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

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.

330.12 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.

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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.

330.13 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.

330.14 COMPLAINTS

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during a complaint investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

330.15 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional law enforcement duties. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

330.16 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 Officer shall be responsible for ensuring new members receive LEP training. The Training Officer 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.

Communications with Persons with Disabilities

331.1 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.

331.1.1 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.

331.2 POLICY

It is the policy of the Kingston 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.

331.3 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

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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.

331.4 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

Members should exercise special care in the use of all gestures and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

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 Kingston Police Department, consideration should be given, safety permitting,

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to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

331.5 TYPES OF ASSISTANCE AVAILABLE

Kingston 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.

331.6 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.

331.7 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.

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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).

331.8 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.

331.9 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.

331.10 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.

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- (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.

331.11 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.

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 individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning 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.

331.12.1 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.

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- (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.

331.13 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.

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.

331.14 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.

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Notification to the court should be made to allow for the appointment of a qualified interpreter prior to any legal proceeding (Judiciary Law § 390).

331.15 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.

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.

331.16 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.

331.17 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:

- (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 Officer 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. The Training Officer 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.

Biological Samples

332.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required to provide samples upon conviction 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.

332.2 POLICY

The Kingston 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.

332.3 OFFENDERS SUBJECT TO BIOLOGICAL SAMPLE COLLECTION

The following offenders must submit a biological sample (Executive Law § 995; Executive Law § 995-c):

- (a) When the Kingston 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.

332.4 PROCEDURE

When an offender is required to provide a biological sample, a processing member shall attempt to obtain the sample in accordance with this policy.

332.4.1 COLLECTION

The following steps should be taken to collect a sample:

- (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. [DNA COLLECTION AND PROCESSING](#)
- (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.

332.5 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.

Biological Samples

Force will not be used in the collection of samples except as authorized by court order or approval of legal counsel, 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.

At no time shall force be used to collect a specimen for inclusion into the State DNA Databank. If an offender refuses to submit a specimen, the offender shall be held and arraigned on present charges and the court notified of the offender's refusal to meet the requirements of NYS Executive Law 995-c.

332.5.1 VIDEO RECORDING

A video recording should be made any time force is used to obtain a biological sample. The recording should document all 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.

Child and Dependent Adult Safety

334.1 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.

334.2 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 Kingston 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.

334.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. 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 his/her 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 explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

334.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

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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 Supervisor 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.

334.3.2 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

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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.

334.3.3 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

334.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling officers, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis response telephone number, the appropriate referral information may be provided.

334.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service 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.

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Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

334.5 TRAINING

The Training Officer is responsible for ensuring that all members of this department who may be involved in arrests affecting children or dependent adults receive approved training on effective safety measures when a parent, guardian or caregiver is arrested.

Service Animals

335.1 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).

335.1.1 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)).

335.2 POLICY

It is the policy of the Kingston 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.).

335.3 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.

Service Animals

- 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.

335.4 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 Kingston Police Department affords to all members of the public (28 CFR 35.136).

335.4.1 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.

335.4.2 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.

335.4.3 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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335.4.4 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.

Interns

336.1 PURPOSE AND SCOPE

The City of Kingston Police Department will work in conjunction with local approved colleges and universities to allow interns to work within the Department to better gain knowledge in the career path that they may choose to pursue in the future. The program will be structured, meeting requirements set forth by the college or university to meet required hours and field studies in their program.

336.1.1 DEFINITIONS

Definitions related to this policy include:

Intern - An individual who is taking part in an internship program at a recognized college or university.

336.2 POLICY

The Kingston Police Department shall ensure that interns are properly supervised to carry out specified tasks and duties in order to create an efficient department and improve services to the community and meet the requirements of their internship program.

336.3 ELIGIBILITY

Requirements for participation as an intern with the Department may include, but are not limited to:

- (a) Being part of a recognized college internship program.
- (b) Being at least 18 years of age.
- (c) Possession of a valid driver license if the position requires vehicle operation.
- (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.

Interns

336.4 IDENTIFICATION AND UNIFORMS

As representatives of the Department, interns are responsible for presenting a professional image to the community. Interns shall dress appropriately for the conditions and performance of their duties. Uniforms and necessary safety equipment will be provided for each intern. Identification symbols worn by interns shall be different and distinct from those worn by officers or other members of this department through the inclusion of "Intern" on the uniform.

Interns will be issued Kingston Police Department identification cards, which must be carried at all times while on-duty. The identification cards will be the standard Kingston Police Department identification cards, except that "Intern" will be indicated on the cards.

336.5 INTERN COORDINATOR

The intern coordinator shall be appointed by and directly responsible to the Administration Lieutenant or the authorized designee.

The function of the coordinator is to provide a central coordinating point for effective intern management within the Department.

The responsibilities of the coordinator or the authorized designee include, but are not limited to:

- (a) Maintaining records for each intern.
- (b) Tracking and evaluating the contribution of interns.
- (c) Maintaining a record of volunteer schedules and work hours.
- (d) Completing and disseminating, as appropriate, all necessary paperwork and information.

336.6 COMPLIANCE

Interns shall be required to adhere to all department policies and procedures. A copy of the policies and procedures will be made available to each intern. The intern shall become thoroughly familiar with these policies.

Whenever a rule, regulation or guideline in this Policy Manual refers to regular department personnel, it shall also apply to a intern, unless by its nature it is inapplicable.

Interns are required by this department to meet department-approved training requirements as applicable to their assignments.

INTERN PROCEDURES

336.7 SUPERVISION

Each intern must have a clearly identified supervisor who is responsible for direct management of that intern. This supervisor will be responsible for day-to-day management and guidance of the work of the intern and should be available to the intern for consultation and assistance.

Interns

Functional supervision of interns is the responsibility of the supervisor in charge of the intern's assigned duties. The following are some considerations that supervisors should keep in mind while supervising interns:

- (a) Take the time to introduce interns to members on all levels.
- (b) Ensure interns have work space and necessary office supplies.
- (c) Make sure the work is challenging. Do not hesitate to give interns an assignment or task that will utilize these valuable resources.

An intern may be assigned as a supervisor of other interns, provided that the supervising intern is under the direct supervision of an employee of the Kingston Police Department.

336.7.1 EVALUATIONS

Interns should be continuously evaluated using appropriate forms.

336.7.2 FITNESS FOR DUTY

No intern 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.

Interns 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.
- (b) Medical condition.
- (c) Arrests.
- (d) Criminal investigations.
- (e) All law enforcement contacts.

336.8 INFORMATION ACCESS

With appropriate security clearance, an intern 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.

An intern 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. Interns 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 intern is grounds for immediate dismissal and possible criminal prosecution.

Interns

Interns 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.

336.8.1 RADIO AND MDT USAGE

Interns 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. The intern coordinator should ensure that radio and database access training is provided for interns whenever necessary.

336.9 EQUIPMENT

Any property or equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to an intern shall remain the property of the Department and shall be returned at the termination of service.

336.10 DISCIPLINARY PROCEDURES/TERMINATION

If an intern 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.

Interns are considered at-will and may be removed from service at the discretion of the Chief of Police, with or without cause. Interns shall have no property interest in their continued appointments. However, if an intern is removed for alleged misconduct, the intern will be afforded an opportunity solely to clear his/her name through a liberty interest hearing, which shall be limited to a single appearance before the Chief of Police or the authorized designee.

Interns may resign from their internship with the Department at any time. It is requested that interns who intend to resign provide advance notice and a reason for their decision.

336.10.1 EXIT INTERVIEWS

The intern coordinator should conduct exit interviews, where possible. These interviews should ascertain why the intern is leaving the position and should solicit the intern'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.

Native American Graves Protection and Repatriation

337.1 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).

337.1.1 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.

337.2 POLICY

It is the policy of the Kingston 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.

337.3 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.

Native American Graves Protection and Repatriation

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

337.4 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).

337.5 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

338.1 PURPOSE AND SCOPE

This policy is intended to provide guidelines for officers of the Kingston Police Department with respect to taking law enforcement action while off-duty.

338.2 POLICY

It is the policy of the Kingston 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.

338.3 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.
- (i) Stress-induced distractions that impede visual and auditory acuity.

338.3.1 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.

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Whenever practicable, the officer should loudly and repeatedly identify him/herself as an officer with the Kingston Police Department until acknowledged. Official identification should also be displayed when possible.

338.3.2 COMPENSATION

Compensation for enforcement action while off-duty will be in accordance with the current collective bargaining agreement.

338.4 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.

338.4.1 NON-SWORN RESPONSIBILITIES

Non-sworn 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.

338.4.2 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.

338.5 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 Supervisor regarding any law enforcement action taken while off-duty. The Shift Supervisor may send a supervisor to the location. The supervisor may request assistance from the Deputy Chief, if deemed appropriate.

The Shift Supervisor shall determine whether a crime report or an administrative report should be completed by the involved officer.

Community Relations

339.1 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.
- Patrol Policy.
- Suspicious Activity Reporting Policy.

339.2 POLICY

It is the policy of the Kingston Police Department to promote positive relationships between department members and the community by treating community members with dignity and respect and engaging them in public safety strategy development and relationship-building activities, and by making relevant policy and operations information available to the community in a transparent manner.

339.3 MEMBER RESPONSIBILITIES

The community relations function is primarily the responsibility of the Chief of Police or the authorized designee.

Officers should, as time and circumstances reasonably permit:

- (a) Make casual and consensual contacts with community members to promote positive community relationships (see the Contacts and Temporary Detentions Policy).
- (b) Become reasonably familiar with the schools, businesses and community groups in their assigned jurisdictional areas.
- (c) Work with community members and the department community relations coordinator to identify issues and solve problems related to community relations and public safety.
- (d) Conduct periodic foot patrols of their assigned areas to facilitate interaction with community members. Officers carrying out foot patrols should notify an appropriate supervisor and Dispatch of their status (i.e., on foot patrol) and location before beginning and upon completion of the foot patrol. They should also periodically inform Dispatch of their location and status during the foot patrol.

Community Relations

339.4 COMMUNITY AND YOUTH ACTIVITIES AND PROGRAMS

The Department should 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 program.
- (e) Neighborhood Watch and crime prevention programs.

339.5 INFORMATION SHARING

The Department should 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.

339.6 LAW ENFORCEMENT OPERATIONS EDUCATION

The Department 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) Scenario/Simulation exercises with community member participation.
- (f) Citizen academies.

Instructional information should include direction on how community members should interact with the police during enforcement or investigative contacts and how community members can make a complaint to the Department regarding alleged misconduct or inappropriate job performance by department members.

Community Relations

No member of this department will lecture, speak, or give any police-related instruction to or before any group or organization unless permission is granted by the Chief of Police.

CRIME PREVENTION PROGRAMS

339.7 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.

339.8 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

340.1 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.

340.1.1 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).

340.2 POLICY

It is the policy of the Kingston 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.

340.3 EXTREME RISK PROTECTION ORDER COORDINATOR

The Detective Lieutenant shall serve as the extreme risk protection order coordinator. 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 Officer 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:

Extreme Risk Protection Orders

1. Accepting prohibited items at times other than when an order is being served by the Department.
 2. Preparing and providing a receipt describing the prohibited items (CPLR § 6344).
- (f) Managing court-ordered background investigations.

340.4 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.

340.4.1 STANDARDS

Extreme risk protection orders may be appropriate when there is probable cause to believe the respondent is likely to engage in conduct that would result in serious harm to him/herself or others (CPLR § 6342; CPLR § 6345).

340.4.2 REQUIREMENTS OF APPLICATION

An application for an extreme risk protection order should be prepared consistent with state law and the procedures developed by the extreme risk protection order coordinator (CPLR § 6341; CPLR § 6342).

340.5 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).

340.5.1 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.

340.5.2 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).

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 Detective Lieutenant as soon as practicable.

All items collected should be handled and booked in accordance with the Evidence Control Policy.

Extreme Risk Protection Orders

340.5.3 SEARCH WARRANTS

Officers should consider 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.

340.6 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 Evidence Control.

340.7 RENEWAL OF EXTREME RISK PROTECTION ORDER

The Detective Lieutenant 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).

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 Kingston 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.

CULTURAL AWARENESS

400.3 FUNCTION

Patrol will generally be conducted by uniformed officers in clearly marked law enforcement vehicles in assigned jurisdictional areas of Kingston. [PATROL SECTORS](#) 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 emergency calls for service.
- (b) Apprehending criminal offenders.
- (c) Providing mutual aid and assistance to other agencies for emergency and law enforcement-related activities.
- (d) Preventing criminal acts, traffic violations and collisions, maintaining public order and discovering hazardous situations or conditions.
- (e) Responding to reports of both criminal and non-criminal acts.
- (f) Responding to routine calls for service, such as public assistance or public safety.
- (g) Directing and controlling traffic.
- (h) Carrying out crime prevention activities, such as residential inspections, business inspections and community presentations.
- (i) 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.
- (j) 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 through the use of traffic flares or cones.

PATROL FUNCTION

CRITICAL TASKS

400.4 INFORMATION SHARING

To the extent feasible, all information relevant to the mission of the Department should be shared among all divisions and specialized units on a timely basis. Members should be provided with opportunities on a regular basis to share information during the daily Line Ups.

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 divisions.

400.5 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.

Bias-Based Policing

401.1 PURPOSE AND SCOPE

This policy provides guidance to department members that affirms the Kingston 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 - An inappropriate reliance on 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 affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement.

401.2 POLICY

The Kingston 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.

401.4 MEMBER RESPONSIBILITIES

Every member of this department shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any 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.

Bias-Based Policing

To the extent that written documentation would otherwise be completed, the involved officer should include those facts giving rise to the contact, as applicable.

401.4.2 REPORTING TRAFFIC STOPS

Each time an officer makes a traffic stop, the officer shall report any information as required in the Traffic and Parking Tickets Policy.

401.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

- (a) Supervisors should discuss any issues with the involved officer and his/her supervisor in a timely manner.
 - 1. Supervisors should document these discussions, in the prescribed manner.
- (b) Supervisors should periodically review Mobile Audio/Video (MAV) recordings, portable audio/video recordings, Mobile Data Terminal (MDT) data and any other available resource used to document contact between officers and the public to ensure compliance with this policy.
 - 1. Supervisors should document these periodic reviews.
 - 2. Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this department who discloses information concerning bias-based policing.

401.6 ADMINISTRATION

The Patrol Lieutenant should review the efforts of the Department to provide fair and objective policing, including public concerns and complaints, to the Chief of Police.

401.7 TRAINING

Training on fair and objective policing and review of this policy should be conducted periodically as directed by the Administrative Lieutenant.

Line Up

402.1 PURPOSE AND SCOPE

This policy discusses the activity of Line Up and includes the tasks that should be accomplished during this short period.

402.2 POLICY

Line Up 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 LINE UP

The Patrol Division will conduct regular Line Up to discuss, disseminate and exchange information among department members, work groups and other organizations. Supervisors will conduct Line Up.

Line Up 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 LINE UP TRAINING RECORDS

Line Up training materials and a curriculum or summary shall be maintained by the Training Officer for inclusion in training records, as appropriate.

402.4 PREPARATION OF MATERIALS

The supervisor conducting Line Up is responsible for preparation of the materials necessary for a constructive Line Up.

Line Up

402.5 TRAINING

Line Up 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 Kingston 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.

Crime and Disaster Scene Integrity

403.5 SEARCHES

Officers arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat. Once officers are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Officers should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

403.5.1 CONSENT

When possible, officers should seek written consent to search from authorized individuals. However, in the case of serious crimes or major investigations, it may be prudent to also obtain a search warrant. Consent as an additional authorization may be sought, even in cases where a search warrant has been granted.

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).

403.6 DETECTIVE LIEUTENANT RESPONSIBILITIES

The Detective Lieutenant 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.
- (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.

403.7 TRAINING

The Training Officer shall ensure that members who are responsible for processing crime or disaster scenes receive the appropriate training.

Hazardous Material Response

405.1 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.

405.1.1 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.

405.2 POLICY

It is the policy of the Kingston Police Department to respond to hazardous material emergencies with due regard for the safety of the public and those members responding to such incidents.

405.3 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.

405.4 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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Hazardous Material Response

- (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.
 - 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) Establish a decontamination area when needed.
- (j) Activate automated community notification systems, if applicable.
- (k) Notify the New York State Department of Environmental Conservation (Environmental Conservation Law § 17-1007; 6 NYCRR § 613.8).

405.5 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 an incident report that shall be forwarded via chain of command to the Shift Supervisor 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 crime report or incident report as applicable.

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405.5.1 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.

To ensure the safety of members, safety equipment is available from supervisors. Safety items not maintained by this department may be available through the appropriate fire department or emergency response team.

405.6 TRAINING

The Training Officer should ensure that members charged with responding to hazardous materials incidents receive periodic training in the use of appropriate personal protective equipment (PPE) and hazardous materials awareness.

Hostage and Barricade Incidents

406.1 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.

406.1.1 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.

406.2 POLICY

It is the policy of the Kingston 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.

406.3 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.

406.3.1 EMERGENCY COMMUNICATIONS

The following laws and regulations apply to emergency interception and disconnection of phone services:

Hostage and Barricade Incidents

- (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).

406.4 FIRST RESPONDER CONSIDERATIONS

First responding officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding officer should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The first responding officer shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The officer 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.

406.4.1 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.

Hostage and Barricade Incidents

- (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 ESU and outside resources.
- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.

406.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).
- (d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated, if practicable, pending further interview.
- (e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (f) Provide responding emergency personnel with a safe arrival route to the location.
- (g) Evacuate 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.

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- (k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (l) Determine the need for and notify the appropriate persons within and outside the Department, such as command officers and the Chief of Police.
- (m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

406.5 SUPERVISOR RESPONSIBILITIES

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander. This includes requesting ESU response and apprising the ESU Commander of the circumstances. In addition, the following options, listed here in no particular order, should be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
- (b) Ensure the completion of necessary first responder responsibilities or assignments.
- (c) Request crisis negotiators, specialized 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 Chief of Police 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.

406.6 ESU RESPONSIBILITIES

It will be the ESU Commander's decision, with input from the Incident Commander, whether to deploy the ESU during a hostage or barricade situation. Once the ESU Commander authorizes deployment, the ESU Commander or the authorized designee will be responsible for the tactical response and negotiations. The Incident Commander shall continue to supervise the command

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post operation, outer perimeter security, evacuation and media access, and will support the ESU. The Incident Commander and the ESU Commander or the authorized designees shall maintain direct communications at all times.

406.7 REPORTING

Unless otherwise relieved by a supervisor or Incident Commander, the handling officer at the scene is responsible for completion and/or coordination of incident reports.

Response to Bomb Calls

407.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Kingston 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.

407.2 POLICY

It is the policy of the Kingston Police Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

407.3 RECEIPT OF BOMB THREAT

Department members receiving a bomb threat should attempt to keep the caller on the line and obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established department evidence procedures.

The member receiving the bomb threat should ensure that the Shift Supervisor is immediately advised and informed of the details. This will enable the Shift Supervisor to ensure that the appropriate personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

BOMB THREATS

407.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

407.4.1 KINGSTON POLICE DEPARTMENT FACILITY

If the bomb threat is against the Kingston Police Department facility, the Shift Supervisor will direct and assign officers as required for coordinating a general building search or evacuation of the police department, as he/she deems appropriate.

407.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the Kingston 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 Supervisor deems appropriate.

Response to Bomb Calls

407.4.3 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.

407.5 PRIVATE FACILITY OR PROPERTY

When a member of this department receives notification of a bomb threat at a location in the City of Kingston, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

- (a) The location of the facility.
- (b) The nature of the threat.
- (c) Whether the type and detonation time of the device is known.
- (d) Whether the facility is occupied, and if so, the number of occupants currently on-scene.
- (e) Whether the individual is requesting police assistance at the facility.
- (f) Whether there are any internal facility procedures regarding bomb threats in place, such as:
 - 1. No evacuation of personnel and no search for a device.
 - 2. Search for a device without evacuation of personnel.
 - 3. Evacuation of personnel without a search for a device.
 - 4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Shift Supervisor is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

407.5.1 ASSISTANCE

The Shift Supervisor should be notified when police assistance is requested. The Shift Supervisor 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 Supervisor determine that the Department will assist or control such an incident, he/she will determine:

- (a) The appropriate level of assistance.

Response to Bomb Calls

- (b) The plan for assistance.
- (c) Whether to evacuate and/or search the facility.
- (d) Whether to involve facility staff in the search or evacuation of the building.
 - 1. The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.
 - 2. The safety of all participants is the paramount concern.
- (e) The need for additional resources, including:
 - 1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request police assistance to clear the interior of a building, based upon the circumstances and known threat, officers may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

407.6 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.
- (e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
- (f) A safe access route should be provided for support personnel and equipment.
- (g) Search the area for secondary devices as appropriate and based upon available resources.
- (h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.

Response to Bomb Calls

- (i) Promptly relay available information to the Shift Supervisor 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.

407.7 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.

407.7.1 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.

407.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Fire department
- Bomb squad
- Additional department personnel, such as detectives and ESU
- Shift Supervisor

Response to Bomb Calls

- 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

407.8 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.

407.8.1 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. The Shift Supervisor 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

408.1 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.

408.1.1 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.

408.2 POLICY

The Kingston Police Department is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Department will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

408.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

- (a) A known history of mental illness
- (b) Threats of or attempted suicide
- (c) Loss of memory
- (d) Incoherence, disorientation or slow response
- (e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
- (f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
- (g) Social withdrawal
- (h) Manic or impulsive behavior, extreme agitation or lack of control
- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility or paranoia

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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.

408.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS

The Chief of Police should designate an appropriate Lieutenant 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.

408.5 FIRST RESPONDERS

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises and unusual behavior are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer responding to a call involving a person in crisis should:

- (a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
- (b) Request available backup officers and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.
- (c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (d) Attempt to determine if weapons are present or available.
- (e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the officer.
- (f) Secure the scene and clear the immediate area as necessary.
- (g) Employ tactics to preserve the safety of all participants.
- (h) Determine the nature of any crime.
- (i) Request a supervisor, as warranted.
- (j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.
- (k) If circumstances reasonably permit, consider and employ alternatives to force.

Crisis Intervention Incidents

408.6 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 or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

408.7 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:

- (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.

Crisis Intervention Incidents

408.8 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene, if practicable, of any interaction with a person in crisis, if practicable. Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources, including on-duty Crisis Intervention Team (CIT) trained members.
- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
- (e) Evaluate whether a critical incident stress management debriefing for involved members is warranted.

408.9 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.

408.9.1 DIVERSION

Individuals who are not being arrested should be processed in accordance with the Emergency Admissions Policy.

408.10 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS

Non-sworn 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.
- (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.

Crisis Intervention Incidents

408.11 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.

Emergency Admissions

409.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may place a person under an Emergency Admission (Mental Hygiene Law § 9.41).

409.1.1 DEFINITIONS

Definitions related to this policy include (Mental Hygiene Law § 9.39):

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.

409.2 POLICY

It is the policy of the Kingston Police Department to protect the public and individuals through legal and appropriate use of emergency admission process.

409.3 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. The person shall be transported to a hospital or comprehensive psychiatric emergency program (CPEP) 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 for an emergency admission or assist in the transporting of the person for an emergency admission. The person shall be transported to a designated hospital or CPEP (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).
- (d) Shall, upon written request of the director or 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 director's designee of the hospital (Mental Hygiene Law § 9.57).

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Emergency Admissions

- (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).

409.3.1 VOLUNTARY EVALUATION

If an officer encounters an individual who may qualify for emergency admission, they may inquire as to whether the person desires to be voluntarily evaluated at an appropriate facility. If the person so desires, the officer should:

- (a) Arrange for transportation of the person to an appropriate facility that is able to conduct the evaluation and admit the person.
- (b) If at any point the person changes his/her mind regarding voluntary evaluation, the officers should proceed with the emergency admission, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.
- (d) 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).

409.4 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.

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 should be preferred over arrest for people who have mental health issues and are suspected of committing minor crimes or creating other public safety issues.

Emergency Admissions

409.5 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.

Generally, individuals should be transported by ambulance, however 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 Supervisor approval is required before transport commences.

409.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the officer will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking 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.

Absent exigent circumstances, the transporting officer should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the officer may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, officers will not apply facility-ordered restraints.

409.7 DOCUMENTATION

The officer should complete the New York State Office of Mental Health (OMH) Emergency or CPEP Emergency Admission Form, or other form approved by the Department, whenever a person is taken into custody pursuant to Mental Hygiene Law § 9.41. A copy of the form will be left with the treating mental health staff. The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

The officer will document his/her actions in an incident report.

409.8 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 may 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.

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- (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 arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this department to regain custody of the individual, department resources (e.g., posting a guard) and other relevant factors in making this decision.

409.9 FIREARMS AND OTHER WEAPONS

Whenever 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.

The handling officer should further advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody.

409.10 TRAINING

This department will endeavor to provide department-approved training on interaction with mentally disabled persons, an emergency admission and crisis intervention.

Appearance Tickets

410.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of the Kingston 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.

410.2 POLICY

The Kingston 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.

410.3 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).

410.3.1 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.

FINGERPRINT CARDS AND PHOTOGRAPHS

410.3.2 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

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session of the appropriate court, if such session is scheduled to occur more than 20 days from date of issuance (CPL §150.40).

410.4 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 or a violation of the following class E felonies (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.

410.5 INITIAL CONSIDERATIONS

Officers should issue an appearance ticket, rather than effect a custodial arrest, for any offense other than a class A, B, C, D felony or a violation of § 130.25, 130.40, 205.10, 205.17, 205.19, or 215.56 of the Penal Code, 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 his/her 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 their driver license.
- (h) Reasonably appears to need immediate medical or mental health care such that it would be in their 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).

410.5.1 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

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impaired suspected offenders who do not require medical aid, officers should consider arranging release to a responsible person.

410.5.2 CONSIDERATIONS

In determining whether to cite and release a person when discretion is permitted, officers should consider:

- (a) The type of offense committed.
- (b) The known criminal history of the suspected offender.
- (c) The ability to identify the suspected offender with reasonable certainty.
- (d) Whether there is any record of the individual failing to appear in previous cases or other articulable indications that the individual may not appear in court for this offense.
- (e) The individual's ties to the area, such as residence, employment, or family.
- (f) Whether there is reasonable likelihood that criminal conduct by the individual will continue.

Foreign Diplomatic and Consular Representatives

411.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Kingston Police Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

411.2 POLICY

The Kingston Police Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

411.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol or, in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll-free at 866-217-2089, or at another current telephone number, and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

411.4 ENFORCEMENT ACTION

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- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
 - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
 - 1. Diplomatic-level staff of missions to international organizations and recognized family members
 - 2. Diplomatic agents and recognized family members
 - 3. Members of administrative and technical staff of a diplomatic mission and recognized family members
 - 4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
 - 1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents
 - 2. Support staff of missions to international organizations
 - 3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries
 - 4. Honorary consular officers

411.5 DOCUMENTATION

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

411.6 DIPLOMATIC IMMUNITY

Reference table on diplomatic immunity:

| Category | Arrested or Detained | Enter Residence Subject to Ordinary Procedures | Issued Traffic Citation | Subpoenaed as Witness | Prosecuted | Recognized Family Members |
|----------|----------------------|--|-------------------------|-----------------------|------------|---------------------------|
| | | | | | | |

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Foreign Diplomatic and Consular Representatives

| | | | | | | |
|--|---|-------------------|-----|--|--|---|
| Diplomatic Agent | No (note (b)) | No | Yes | No | No | Same as sponsor (full immunity and inviolability) |
| Member of Admin and Tech Staff | No (note (b)) | No | Yes | No | No | Same as sponsor (full immunity and inviolability) |
| Service Staff | Yes (note (a)) | Yes | Yes | Yes | No for official acts. Yes otherwise (note (a)) | No immunity or inviolability (note (a)) |
| Career Consul Officer | 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 |
| Honorable Consul Officer | Yes | Yes | Yes | No for official acts Yes otherwise | No for official acts Yes otherwise | No immunity or inviolability |
| Consulate Employees | 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)) |
| Int'l Org Staff (note (b)) | Yes (note (c)) | Yes (note (c)) | Yes | Yes (note (c)) | No for official acts Yes otherwise (note (c)) | No immunity or inviolability |
| Diplomatic-Level Staff of Missions to Int'l Org | No (note (b)) | No | Yes | No | No | Same as sponsor (full immunity and inviolability) |

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| | | | | | | |
|--|-----|-----|-----|-----|---|---------------------------------|
| Support Staff of Missions to Int'l Orgs | 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.

Rapid Response and Deployment

412.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist officers in situations that call for rapid response and deployment.

412.2 POLICY

The Kingston 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.

412.3 CONSIDERATIONS

When dealing with a crisis situation members should:

- (a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.
- (b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.
- (c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.
- (d) Attempt, if feasible and based upon the suspect's actions and danger to others, a negotiated surrender of the suspect and release of the hostages.

412.4 FIRST RESPONSE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers should consider reasonable options to reduce, prevent or eliminate the threat. Officers must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, officers should take immediate action, if reasonably practicable, while requesting additional assistance.

Officers should remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to incidents at other locations.

When deciding on a course of action officers should consider:

Rapid Response and Deployment

- (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, 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., ESU).

412.5 PLANNING

The ESU 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).

Rapid Response and Deployment

412.6 TRAINING

The Training Officer 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).

Utility Service Emergencies

413.1 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.

413.2 POLICY

It is the policy of the Kingston Police Department to appropriately respond to City emergency utility service requests received by this department.

413.3 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.

413.3.1 WATER LINES

The City's responsibility for water lines ends at the water meter; any break or malfunction in the water system from the water meter to a residence or business is the responsibility of the customer.

If a water line break occurs on the City side of the water meter, water department personnel should be notified as soon as practicable.

413.3.2 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.

413.3.3 RESERVOIRS, PUMPS, WELLS

In the event of flooding or equipment malfunctions involving City reservoirs, pumps or wells, the water department should be contacted as soon as practicable.

413.3.4 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 Central Hudson 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.

413.3.5 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

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

414.1 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.

414.1.1 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.

414.2 POLICY

It is the policy of the Kingston Police Department to provide an appropriate emergency response to aircraft accidents. This includes emergency medical care and scene management.

414.3 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).

414.4 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.

Aircraft Accidents

414.5 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)

414.6 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) Medical Examiner.
- (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.

414.7 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.

Aircraft Accidents

- Pressure vessels, compressed gas bottles, accumulators and tires.
- Fluids, batteries, flares and igniters.
- Evacuation chutes, ballistic parachute systems and composite materials.

414.8 DOCUMENTATION

All aircraft accidents occurring within the City of Kingston 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 KPD 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.

414.8.1 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.

414.8.2 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.

Aircraft Accidents

414.9 MEDIA RELATIONS

The Chief of Police 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 Chief of Police should coordinate with other involved entities before the release of information.

Field Training

415.1 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 Kingston Police Department. The policy addresses the administration of field training and the selection, supervision, training and responsibilities of the Field Training Officer (FTO).

415.2 POLICY

It is the policy of the Kingston 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 commencing on the date of appointment.

415.3 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 for recruit officers, 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, weekly and monthly 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 Training Officer and Administrative Lieutenant.
 - 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) The trainee's confidential evaluation of his/her assigned FTOs and the field training process.
- (e) Retention of all field training documentation in the officer trainee's training file including:
 - 1. All performance evaluations.

Field Training

2. A certificate of completion certifying that the trainee has successfully completed the required number of field training hours.

415.4 FTO COORDINATOR

The Chief of Police shall delegate certain responsibilities to the Administrative Lieutenant who shall serve as the FTO coordinator. The coordinator shall be appointed by and directly responsible to the Patrol Lieutenant or the authorized designee.

The responsibilities of the coordinator 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) Mentoring and supervising individual FTO performance.
- (f) Monitoring the overall performance of field training.
- (g) Maintaining a liaison with police academy staff on recruit officer performance during academy attendance.

415.5 FTO SELECTION, TRAINING AND RESPONSIBILITIES

415.5.1 SELECTION PROCESS

The selection of an FTO will be at the discretion of the Chief of Police or the authorized designee.

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.
- (d) Successful completion of an internal oral interview process.
- (e) Evaluation by supervisors and current FTOs.
- (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.

415.5.2 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.

Field Training

415.5.3 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 coordinator regarding specific questions related to FTO or field training.

415.5.4 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, noting the methods of learning and evaluating the performance of his/her assigned trainee.
- (b) Completing and reviewing daily performance evaluations with the trainee.
- (c) Completing and submitting a written evaluation on the performance of his/her assigned trainee to the FTO coordinator on a daily basis.
- (d) Completing a detailed weekly performance evaluation of his/her assigned trainee at the end of each week.
- (e) Completing a monthly evaluation report of his/her assigned trainee at the end of each month.
- (f) Providing the shift supervisor with a verbal synopsis of the trainee's activities at the end of each day or during any unusual occurrence needing guidance or clarification.

Air Support

416.1 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.

416.2 POLICY

It is the policy of the Kingston Police Department to prioritize requests for air support to enhance law enforcement objectives and provide additional safety to officers and the community.

416.3 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.

416.3.1 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 Supervisor or equivalent authority determines a reasonable need exists.

416.3.2 ALLIED AGENCY REQUEST

After consideration and approval of the request for air support, the Shift Supervisor 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

417.1 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 and pat-down searches, and the taking and disposition of photographs.

417.1.1 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 - 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.

417.2 POLICY

The Kingston 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 a field interview or pat-down search shall be left to the officer based on the totality of the circumstances, officer safety considerations and constitutional safeguards.

All police contacts shall be made in accordance with the Department's Right to Know Policy.

Contacts and Temporary Detentions

417.3 FIELD INTERVIEWS

Based on observance of suspicious circumstances or upon information from investigation, an officer may initiate the stop of a person, and conduct a field interview, 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 Kingston Police Department to strengthen community involvement, community awareness and problem identification.

417.3.1 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.

417.4 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.

417.4.1 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.

417.5 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or detective to utilize available members for the following:

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

Criminal Organizations

418.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that the Kingston Police Department appropriately utilizes criminal intelligence systems and temporary information files to support investigations of criminal organizations and enterprises.

418.1.1 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.

418.2 POLICY

The Kingston 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.

418.3 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to or obtain information from a criminal intelligence system unless the Chief of Police has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

A designated supervisor will be responsible for maintaining each criminal intelligence system that has been approved for department use. The supervisor or the authorized designee should ensure the following:

- (a) Members using any such system are appropriately selected and trained.
- (b) Use of every criminal intelligence system is appropriately reviewed and audited.
- (c) Any system security issues are reasonably addressed.

418.3.1 SYSTEM ENTRIES

It is the designated supervisor's responsibility to approve the entry of any information from a report, field interview, 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 Detective Sergeant should ensure copies of those documents are retained. Any supporting documentation for an entry

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shall be retained by the Detective Sergeant in accordance with the established records retention schedule and for at least as long as the entry is maintained in the system.

The Detective Sergeant should ensure that any documents retained are appropriately marked as intelligence information.

418.3.2 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).

418.4 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.

418.4.1 FILE CONTENTS

A temporary information file may only contain information and documents that, within one year, will have a reasonable likelihood to meet the criteria for entry into an authorized criminal intelligence system.

Information and documents contained in a temporary information file:

- (a) Must only be included upon documented authorization of the responsible department supervisor.
- (b) Should not be originals that would ordinarily be retained by the Detective Sergeant or Evidence Control, but should be copies of, or references to, retained documents, such as copies of reports, field interview 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.

418.4.2 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 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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418.5 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 Detective Sergeant to train members to identify information that may be particularly relevant for inclusion.

418.6 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.

418.7 CRIMINAL STREET GANGS

The Detective Division 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.

418.8 TRAINING

The Detective Sergeant 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 Supervisors

419.1 PURPOSE AND SCOPE

This policy provides guidelines for the designation of a Shift Supervisor.

419.2 POLICY

Each shift will be directed by a Shift Supervisor capable of making decisions and managing in a manner consistent with the mission of the Kingston Police Department. To accomplish this, a Sergeant shall be designated as the Shift Supervisor for each shift.

419.3 SHIFT SUPERVISOR RESPONSIBILITIES

The Shift Supervisor 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) Performing all duties as assigned by any superior officer.
- (b) Ensuring sufficient members are on-duty to accomplish the mission of the Kingston 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) Managing risk exposure.
- (i) Ensuring the security of all department facilities.
- (j) Ensuring the proper equipment and vehicles are available for member use.
- (k) Representing the Department at community functions.
- (l) Performing prisoner checks, if any, and logging checks in the detention book.
- (m) Supervising dispatcher activities.
- (n) Taking complaints from civilians and completing accusatory instruments for officer arrests and forwarding them to City court.
- (o) Reviewing all paperwork submitted by officers.
- (p) Reviewing and approving all blotter entries prior to going off-duty.
- (q) Responding to as many calls for service as practicable.

Shift Supervisors

419.4 STAFFING RESPONSIBILITIES

The minimum manning for the various components of the Kingston Police Department shall be set by the Chief of Police.

If the shift supervisor is unable to muster the required personnel for a particular tour, he/she has full authorization to call out the necessary manpower on an overtime basis.

All shift supervisors will require their desk personnel to advise them of all sick calls that are received during their tour of duty.

If during any tour, a shift supervisor becomes aware that the minimum manpower cannot be met for another shift, it will be his/her responsibility to notify that shift's supervisor and then make the necessary arrangements to cover that particular shift with the minimum number of officers required.

Mobile Audio/Video

420.1 PURPOSE AND SCOPE

The Kingston Police Department has equipped marked law enforcement vehicles with Mobile Audio/Video (MAV) recording systems to provide records of events and to assist officers in the performance of their duties. This policy provides guidance on the use of these systems.

420.1.1 DEFINITIONS

Definitions related to this policy include:

Activate - Any process that causes the MAV system to transmit or store video or audio data in an active mode.

In-car camera system and MAV system - Synonymous terms that refer to any system that captures audio and video signals, that is capable of installation in a vehicle, and that includes, at a minimum, a camera, microphone, recorder and monitor.

MAV technician - Personnel certified or trained in the operational use and repair of MAVs, duplicating methods, and storage and retrieval methods, and who have a working knowledge of video forensics and evidentiary procedures.

Recorded media - Audio/video signals recorded or digitally stored on a storage device or portable media.

420.2 POLICY

It is the policy of the Kingston Police Department to use mobile audio/video technology to more effectively fulfill the mission of the Department and to ensure these systems are used securely and efficiently.

420.3 OFFICER RESPONSIBILITIES

Prior to going into service, each officer will properly equip him/herself to record audio and video in the field. At the end of the shift, each officer will follow the established procedures for providing to the Department any recordings or used media and any other related equipment. Each officer should have adequate recording media for the entire duty assignment.

At the start of each shift, officers should test the MAV system's operation in accordance with manufacturer specifications and department operating procedures and training.

If the system is malfunctioning, the officer shall take the vehicle out of service unless a supervisor requests the vehicle remain in service.

420.4 ACTIVATION OF THE MAV

The MAV system is designed to turn on whenever the vehicle's emergency lights are activated or as a result of inertia caused by a motor vehicle accident. The system may also be synched

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with the portable audio/video recorder to turn on any time the portable audio/video recorder is activated. The system remains on until it is turned off manually.

OPERATING PROCEDURES

420.4.1 REQUIRED ACTIVATION OF THE MAV

This policy is not intended to describe every possible situation in which the MAV system may be used, although there are many situations where its use is appropriate. An officer should activate the system any time the officer believes it would be appropriate or valuable to document an incident.

In some circumstances it is not possible to capture images of the incident due to conditions or the location of the camera. However, the audio portion can be valuable evidence and is subject to the same activation requirements as the MAV. The MAV system should be activated in any of the following situations:

- (a) All field contacts involving actual or potential criminal conduct within video or audio range:
 - 1. Traffic stops (including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
 - 2. Priority responses
 - 3. Vehicle pursuits
 - 4. Suspicious vehicles
 - 5. Arrests
 - 6. Vehicle searches
 - 7. Physical or verbal confrontations or use of force
 - 8. Pedestrian checks
 - 9. Driving while intoxicated (DWI) investigations, including field sobriety tests
 - 10. Consensual encounters
 - 11. Crimes in progress
 - 12. Responding to an in-progress call
- (b) All self-initiated activity in which an officer would normally notify Dispatch
- (c) Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect, including:
 - 1. Domestic violence
 - 2. Disturbance of the peace
 - 3. Offenses involving violence or weapons
- (d) Any other contact that becomes adversarial after the initial contact, in a situation that would not otherwise require recording

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- (e) Any other circumstance where the officer believes that a recording of an incident would be appropriate

Activation of the MAV system is not required when exchanging information with other officers, during breaks or lunch periods, or when not in service or not actively on patrol.

420.4.2 CESSATION OF RECORDING

Once activated, the MAV system should remain on until the incident has concluded. For the purpose of this section, conclusion of an incident has occurred when all arrests have been made, arrestees have been transported and all witnesses and victims have been interviewed. Recording may cease if an officer is simply waiting for a tow truck or a family member to arrive, or in other similar situations.

420.4.3 SURREPTITIOUS RECORDING

No member of this department may surreptitiously record a conversation of any other member of this department except with a court order or when lawfully authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.

420.4.4 SUPERVISOR RESPONSIBILITIES

Supervisors should determine if vehicles with non-functioning MAV systems should be placed into service. If these vehicles are placed into service, the appropriate documentation should be made, including notification of Dispatch.

At reasonable intervals, supervisors should validate that:

- (a) Beginning and end-of-shift recording procedures are followed.

When an incident arises that requires the immediate retrieval of the recorded media (e.g., serious crime scenes, officer-involved shootings, department-involved traffic accidents), a supervisor shall respond to the scene and ensure that the appropriate person properly retrieves the recorded media. The media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

420.5 REVIEW OF MAV RECORDINGS

All recording media, recorded images and audio recordings are the property of the Department. Dissemination outside of the Department is strictly prohibited, except to the extent permitted or required by law.

To prevent damage to, or alteration of, the original recorded media, it shall not be copied, viewed or otherwise inserted into any device not approved by the Department, MAV technician or forensic media staff. When reasonably possible, a copy of the original media shall be used for viewing (unless otherwise directed by the courts) to preserve the original media.

Recordings may be reviewed in any of the following situations:

- (a) By officers for use when preparing reports or statements
- (b) By a supervisor investigating a specific act of officer conduct

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- (c) By a supervisor to assess officer performance
- (d) To assess proper functioning of MAV systems
- (e) By department investigators who are participating in an official investigation, such as a personnel complaint, administrative inquiry or a criminal investigation
- (f) By department personnel who request to review recordings
- (g) By an officer who is captured on or referenced in the video or audio data, and reviews and uses such data for any purpose relating to his/her employment
- (h) By court personnel through proper process or with the permission of the Chief of Police or the authorized designee
- (i) To assess possible training value
- (j) For training purposes. If an involved officer objects to showing a recording, his/her objection will be submitted to the command staff to determine if the training value outweighs the officer's objection.
- (k) As may be directed by the Chief of Police or the authorized designee

Members desiring to view any previously uploaded or archived MAV recording should submit a request in writing to the Shift Supervisor. Approved requests should be forwarded to the MAV technician for processing.

In no event shall any recording be used or shown for the purpose of ridiculing or embarrassing any member.

420.6 RECORDING MEDIA STORAGE AND INTEGRITY

Once submitted for storage, all recording media will be labeled and stored in a designated secure area. All recording media that is not booked as evidence will be retained for a minimum of 180 days and disposed of in accordance with the established records retention schedule.

420.6.1 COPIES OF ORIGINAL RECORDING MEDIA

Original recording media shall not be used for any purpose other than for initial review by a supervisor. Upon proper request, a copy of the original recording media will be made for use as authorized in this policy.

Original recording media may only be released in response to a court order or upon approval by the Chief of Police or the authorized designee. In the event that an original recording is released to a court, a copy shall be made and placed in storage until the original is returned.

420.6.2 MAV RECORDINGS AS EVIDENCE

Officers who reasonably believe that a MAV recording is likely to contain evidence relevant to a criminal offense or to a potential claim against the officer or against the Kingston Police Department should indicate this in an appropriate report. Officers should ensure relevant recordings are preserved.

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420.7 SYSTEM OPERATIONAL STANDARDS

- (a) MAV system vehicle installations should be based on officer safety requirements and the vehicle and device manufacturer's recommendations.
- (b) The MAV system should be configured to minimally record for 30 seconds prior to an event.
- (c) The MAV system may not be configured to record audio data occurring prior to activation.
- (d) Unless the transmitters being used are designed for synchronized use, only one transmitter, usually the primary initiating officer's transmitter, should be activated at a scene to minimize interference or noise from other MAV transmitters.
- (e) Officers using digital transmitters that are synchronized to their individual MAVs shall activate both audio and video recordings when responding in a support capacity. This is to obtain additional perspectives of the incident scene.
- (f) With the exception of law enforcement radios or other emergency equipment, other electronic devices should not be used inside MAV-equipped law enforcement vehicles to minimize the possibility of causing electronic or noise interference with the MAV system.
- (g) Officers shall not erase, alter, reuse, modify or tamper with MAV recordings. Only a supervisor, MAV technician or other authorized designee may erase and reissue previous recordings and may only do so pursuant to the provisions of this policy.

420.8 MAV TECHNICIAN RESPONSIBILITIES

The MAV technician is responsible for:

- (a) Ordering, issuing, retrieving, storing, erasing and duplicating of all recorded media.
- (b) Collecting all completed media for oversight and verification of wireless downloaded media. Once collected, the MAV technician:
 - 1. Ensures it is stored in a secure location with authorized controlled access.
 - 2. Makes the appropriate entries in the chain of custody log.
- (c) Erasing of media:
 - 1. Pursuant to a court order.
 - 2. In accordance with the established records retention schedule, including reissuing all other media deemed to be of no evidentiary value.
- (d) Assigning all media an identification number prior to issuance to the field:
 - 1. Maintaining a record of issued media.
- (e) Ensuring that an adequate supply of recording media is available.

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- (f) Managing the long-term storage of media that has been deemed to be of evidentiary value in accordance with the department evidence storage protocols and the established records retention schedule.

420.9 TRAINING

All members who are authorized to use the MAV system shall successfully complete an approved course of instruction prior to its use.

Mobile Data Terminal Use

421.1 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.

421.2 POLICY

Kingston 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.

421.3 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).

421.4 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.

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 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.

421.4.1 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

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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.

421.5 DOCUMENTATION OF ACTIVITY

Except as otherwise directed by the Shift Supervisor or other department-established protocol, all calls for service assigned by a dispatcher should be communicated by voice over the police radio and/or 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.

421.5.1 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.

421.5.2 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 the Shift Supervisor 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.

421.6 EQUIPMENT CONSIDERATIONS

421.6.1 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.

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421.6.2 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

422.1 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 Kingston Police Department facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

422.2 POLICY

The Kingston 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.

422.3 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.

422.4 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder, issued by the Department, and that the recorder is in good working order. If the recorder is not in working order or if the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a recorder, the assigned member shall record his/her name, KPD identification number and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Portable Audio/Video Recorders

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member de-activated the recording. Members should include the reason for de-activation.

422.5 ACTIVATION OF THE AUDIO/VIDEO RECORDER

This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview situations.
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- (c) Self-initiated activity in which an officer would normally notify Dispatch.
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

422.5.1 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

422.5.2 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER

New York law permits an individual to surreptitiously record any conversation in which one party to the conversation has given his/her permission. Members may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation.

Portable Audio/Video Recorders

422.5.3 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

422.6 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.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Shift Supervisor. 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.

422.7 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.

Portable Audio/Video Recorders

422.8 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.

422.8.1 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.

422.9 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.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Records Access 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

423.1 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.

423.2 POLICY

The Kingston 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.

423.3 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.

423.4 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.

Public Recording of Law Enforcement Activity

Whenever practicable, officers or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an 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.

423.5 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.

423.6 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.

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1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

Recording devices and media that are seized will be submitted within the guidelines of the Evidence Control Policy.

Bicycle Patrol

424.1 PURPOSE AND SCOPE

This policy establishes guidelines for the Kingston Police Department to safely and effectively use bicycle patrol for the purpose of enhancing field patrol efforts in the community.

424.2 POLICY

It is the policy of the Kingston Police Department that patrol bicycles may be used for regular patrol duty, traffic enforcement, parking control or special events. The use of the patrol bicycle will emphasize officer mobility and department visibility in the community.

424.3 OPERATIONS

Bicycle patrol has been shown to be an effective way to increase officer visibility in congested areas, and the quiet operation of the patrol bicycle can facilitate a tactical approach to crimes in progress. Patrol bicycles may be deployed to any area, at any hour of the day or night, according to department needs and as staffing levels allow.

The Bicycle Patrol will be used on an as needed basis in areas when and where deemed necessary by the Chief of Police. The Bicycle Patrol will be used during special events when deemed necessary.

424.4 SELECTION

Interested officers who are off probation shall submit a special report requesting to be considered for bicycle patrol via chain of command to the Deputy Chief of Police. Qualified applicants will then be evaluated by Command Staff. A physical agility exam will be conducted by the Administrative Lieutenant.

Interested officers shall be evaluated by the following criteria:

- (a) Recognized competence and ability as evidenced by performance
- (b) Special skills or training as it pertains to the assignment
- (c) Good physical condition and must pass a physical fitness test administered by the training officer.
- (d) Willingness to perform duties using the bicycle as a mode of transportation

424.4.1 OFFICER RESPONSIBILITIES

Officers should operate the bicycle in compliance with Vehicle and Traffic Law § 1231 under normal operation, unless their duties require otherwise (Vehicle and Traffic Law § 1104).

Officers may operate the bicycle without lighting equipment during hours of darkness only when it reasonably appears necessary for officer safety or tactical considerations. Officers must use caution and care when operating bicycles without lighting equipment or when they are operating in violation of the rules of the road.

Bicycle Patrol

Officers are exempt from the rules of the road under the following conditions (Vehicle and Traffic Law § 1104):

- (a) In response to an emergency call
- (b) While engaged in rescue operations
- (c) In the immediate pursuit of an actual or suspected violator of the law

Bicycle patrol officers will maintain good physical condition, fitness, and weight, as prescribed by the training supervisor.

424.5 PATROL BICYCLE

Bicycle patrol officers will be assigned a specially marked and equipped patrol bicycle and attached gear bag.

Patrol bicycles shall be primarily black or white in color with a "Police" decal affixed to each side of the crossbar or the bicycle's gear bag. Every patrol bicycle shall be equipped with:

- (a) Front and rear reflectors.
- (b) At minimum, a steady or flashing red warning light that is visible from the front, sides and rear of the bicycle (Vehicle and Traffic Law § 1104).
- (c) A rear rack and/or gear bag sufficient to carry all necessary equipment to handle routine patrol calls, including report writing, vehicle storage and citations.
- (d) A gear bag that shall include a first-aid kit, tire pump, repair tool, tire tube, and a high-visibility vest. These items are to remain with/on the patrol bicycle at all times.

Patrol bicycles shall be properly secured when not in the officer's immediate presence.

424.5.1 TRANSPORTING THE PATROL BICYCLE

The patrol bicycle should be transported using a vehicle bicycle rack. Due to possible component damage, transportation of the patrol bicycle in a trunk or on a law enforcement vehicle push-bumper is discouraged.

424.5.2 MAINTENANCE

- (a) Bicycle patrol officers shall conduct an inspection of the patrol bicycle and equipment prior to use to ensure proper working order of the equipment.
- (b) Officers are responsible for the routine care and maintenance of their assigned equipment (e.g., tire pressure, chain lubrication, overall cleaning).
 - 1. Each patrol bicycle will have scheduled maintenance yearly to be performed by a repair shop or technician approved by the Department.
- (c) Officers shall not modify the patrol bicycle or remove, modify or add components to the patrol bicycle except with the express approval of the bicycle patrol coordinator, or in the event of an emergency.

Bicycle Patrol

- (d) If a needed repair is beyond the ability of the bicycle patrol officer, a repair work order will be completed and forwarded to the coordinator for repair by a technician approved by the Department.
- (e) Patrol bicycle batteries shall be rotated on the assigned charger at the end of each tour of duty.
 - 1. During prolonged periods of nonuse, each bicycle patrol officer assigned a patrol bicycle shall periodically rotate the batteries on the respective chargers to increase battery life.
- (f) At the end of a patrol bicycle assignment, the bicycle shall be returned clean and ready for the next tour of duty.

424.6 UNIFORMS AND EQUIPMENT

Officers shall wear uniforms and safety equipment in accordance with the Uniforms and Civilian Attire Policy.

The uniform consists of the standard short-sleeve uniform shirt or other department-approved shirt, with Kingston Police Department badge and patches, and department-approved bicycle patrol pants or shorts. Optional attire may include, but is not limited to, a jacket in colder weather and turtleneck shirts or sweaters when worn under the uniform shirt.

Bicycle patrol officers shall carry the same equipment on their duty belts as they would on regular patrol assignments. Assignment-specific safety equipment should include, but is not limited to, department-approved helmet, a radio headset and microphone, riding gloves, protective eyewear and approved footwear.

Officers will be responsible for obtaining the necessary forms and other department equipment needed while on bicycle patrol.

A list of equipment will be kept on hand by the Department's training officer. The equipment list will be periodically reviewed and updated as needed.

424.7 TRAINING

Officers must complete an initial department-approved bicycle-training course prior to assignment to bicycle patrol. The officer must also successfully pass the DCJS Bicycle Patrol Course and demonstrate the ability to ride the department issued patrol bike safely and professionally on different types of terrain. The initial training shall minimally include:

- (a) Bicycle patrol strategies.
- (b) Bicycle safety and accident prevention.
- (c) Operational tactics and techniques using bicycles.

Bicycle patrol officers will be required to train and qualify with their duty firearm while wearing bicycle safety equipment, including the helmet and riding gloves. Periodically, members of this unit shall be required to attend specialized training courses as deemed necessary by the Chief or Deputy Chief of Police.

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 Kingston 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 Kingston 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.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Detective Lieutenant. The Detective Lieutenant 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 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 ALPR operator may access confidential department, state or federal data unless authorized to do so.
- (e) Prior to a tour of duty, members using an ALPR shall ensure that an upload of hot list data from the eJusticeNY Integrated Justice Portal has been performed for that day.

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- (f) If practicable, the officer should verify an ALPR response through the eJusticeNY Integrated Justice Portal before taking enforcement action that is based solely on an ALPR alert.

425.5 DATA COLLECTION AND RETENTION

The Detective Lieutenant is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

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 Kingston 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 Lieutenant or the authorized designee and approved before the request is fulfilled.
- (c) The approved request is retained on file.

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- (d) The sharing of ALPR data is subject to the terms of any existing sharing agreement with the regional Crime Analysis Center.

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 the manner in which members of this department interact with the homeless, and details the need for special protection and services for homeless persons.

426.2 POLICY

It is the policy of the Kingston 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 Kingston 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 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 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.

426.3.1 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.

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- (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.

426.3.2 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)).

426.4 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).

426.5 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. When practicable, requests by the public for clean-up of a homeless encampment should be referred to the Shift Supervisor.

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.

Homeless Persons

426.6 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 Marihuana

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 marihuana under New York's medical marihuana laws (Public Health Law Chapter 45, Article 33, Title V-a).

427.1.1 DEFINITIONS

Definitions related to this policy include (Public Health Law § 3360):

30-day supply - The allowable amount of medical marihuana that a certified patient or designated caregiver may possess in a 30-day period, as determined by an authorized medical practitioner. This may include possession of the certified patient's next 30-day supply during the last seven days of any 30-day period (Public Health Law § 3362).

Certified medical use - The acquisition, possession, use or transportation of medical marihuana by a certified patient or designated caregiver. This does not include smoking marihuana.

Certified patient - A person residing or receiving treatment in New York for a serious condition that qualifies the person to receive a certification from an authorized practitioner to use medical marihuana pursuant to Public Health Law § 3361.

Designated caregiver - A person or facility designated by a certified patient in his/her registry identification card application to assist the certified patient in the acquisition, possession, use or transportation of medical marihuana (10 NYCRR § 1004.3).

Registry identification card (RIC) - The card that is issued in accordance with Public Health Law § 3363 based upon a certification provided by an authorized practitioner that identifies an individual as a certified patient or a person or facility as a designated caregiver.

427.2 POLICY

It is the policy of the Kingston Police Department to prioritize resources to avoid making arrests related to marihuana that the arresting officer reasonably believes would not be prosecuted by state or federal authorities.

New York medical marihuana laws are intended to provide protection from prosecution to those who acquire, possess, use or transport marihuana to mitigate the symptoms of serious medical conditions. However, New York medical marihuana laws do not affect federal laws and there is no medical exception under federal law for the possession or distribution of marihuana. The Kingston Police Department will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under New York law and the resources of the Department.

Medical Marihuana

427.3 INVESTIGATION

Investigations involving the possession, delivery, production or use of marihuana generally falls 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 marihuana or drug paraphernalia where no person claims that the marihuana is used for medicinal purposes, the officer should proceed with a criminal investigation. A medicinal claim may be raised later, so officers should document any statements and observations that may be relevant to whether the marihuana 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 (Public Health Law § 3362):

- (a) The certified patient or designated caregiver possesses an allowable amount of marihuana.
 - 1. A designated caregiver may possess the allowable amount of marihuana for up to five certified patients.
- (b) The form of medical marihuana 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 marihuana.
- (c) The medical marihuana 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 marihuana possession, delivery, production or use:

- (a) Before proceeding with enforcement related to registered organizations or dispensing facilities that supply marihuana for patients, officers should consider conferring with appropriate legal counsel.
- (b) Questions regarding the validity of an RIC should be referred to the New York State Department of Health (Public Health Law § 3363).

427.3.4 EXCEPTIONS

This policy does not apply to the following offenses. Officers may take enforcement action if the person:

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- (a) Is smoking, consuming, vaporizing or growing medical marihuana in a public place, regardless of the form of medical marihuana prescribed in the patient's certification (Public Health Law § 3362).
- (b) Consumes marihuana through vaporization in any location where smoking is prohibited by New York law, including, but not limited to (10 NYCRR § 1004.18):
 - 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).
- (c) Consumes or vaporizes approved medical marihuana (10 NYCRR § 1004.18):
 - 1. Inside a motor vehicle operated upon a public highway, parking area or lot, or on a private road that is open to motor vehicle traffic.
 - 2. Within 100 feet of the entrance, exit or outdoor area of a public or private elementary or secondary school.
- (d) Obtains, possesses, stores or maintains an amount of marihuana in excess of the amount that the certified patient or designated caregiver is authorized to possess under New York's medical marihuana laws (Penal Law § 179.15).
- (e) Sells, trades, delivers or otherwise provides medical marihuana to another person with knowledge or reasonable grounds to believe that the person is not registered under New York's medical marihuana laws (Penal Law § 179.11).
- (f) 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 serious condition (Penal Law § 179.10).

427.4 FEDERAL LAW ENFORCEMENT

Officers should provide information regarding a marihuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the officer believes those authorities would have a particular interest in the information.

427.5 EVIDENCE CONTROL OFFICERS RESPONSIBILITIES

The Evidence Control Officers should ensure that marihuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marihuana is not destroyed. Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the Evidence Control Officers should as soon as practicable return to the person from whom it was seized any useable marihuana, drug paraphernalia or other related property.

The Evidence Control Officers should not destroy marihuana that was alleged to be for medical purposes except upon receipt of a court order or after six months have passed.

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Medical Marihuana

The Evidence Control Officers may release marihuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the Detective Division 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 Kingston Police Department that all officers and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

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.
- (b) The nature of the incident.
- (c) Any known scene hazards.
- (d) Information on the person in need of EMS, such as:
 - 1. Signs and symptoms as observed by the member.
 - 2. Changes in apparent condition.
 - 3. Number of patients, sex, and age, if known.
 - 4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
 - 5. Whether the person is showing signs or symptoms of excited delirium or other agitated chaotic behavior.

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.

Medical Aid and Response

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 custody before releasing that person to EMS for transport.

An officer should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes or when so directed by a supervisor.

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 with emergency admission 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.

If the person who is in custody still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Members shall not sign forms accepting financial responsibility for treatment.

428.6 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, the officer should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the officer should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance. Officers shall not transport an arrestee to a hospital without a supervisor's approval.

Medical Aid and Response

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.

PRISONER ILLNESS OR INJURY

428.7 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Conducted Energy Device policies.

428.8 AIR AMBULANCE

Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

Headlights, spotlights and flashlights should not be aimed upward at the air ambulance. Members should direct vehicle and pedestrian traffic away from the landing zone.

Members shall follow these cautions when near an air ambulance:

- Never approach the aircraft until signaled by the flight crew.
- Always approach the aircraft from the front.
- Avoid the aircraft's tail rotor area.
- Wear eye protection during the landing and take-off.
- Do not carry or hold items, such as IV bags, above the head.
- Ensure that no one smokes near the aircraft.

428.9 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).

428.9.1 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 Officer.

Medical Aid and Response

428.9.2 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 Records Division.

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 Officer 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).

428.9.3 OPIOID OVERDOSE MEDICATION TRAINING

The Training Officer 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).

428.10 FIRST AID TRAINING

Subject to available resources, the Training Officer should ensure officers receive periodic first aid training appropriate for their position.

First Amendment Assemblies

429.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

429.2 POLICY

The Kingston 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.

First Amendment Assemblies

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, 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. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

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.

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First Amendment Assemblies

- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

429.5.2 OPERATIONAL PLANS

An assigned supervisor with responsibility for event planning and management should be established. The supervisor 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.

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- (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 of understanding or other agreements are properly executed, and that any anticipated mutual aid is requested and facilitated (see the Outside Agency Assistance Policy).

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 conducted energy devices should be considered only when the participants' conduct reasonably appears to present the potential to harm officers, themselves or others, or will result in substantial property loss or damage (see the Control Devices and the Conducted Energy Device policies).

First Amendment Assemblies

Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

429.8 ARRESTS

The Kingston 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).

ARRESTS

429.9 MEDIA RELATIONS

The Chief of Police 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.

First Amendment Assemblies

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.
- (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, 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 Kingston 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 Kingston 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.

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.

Civil Disputes

430.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent 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 attached to the report when available. The report should be forwarded to the appropriate prosecutor. 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 property can be complex. Generally, officers should not take any enforcement action unless a

Civil Disputes

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.

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, or to foreign or domestic terrorism. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions). Examples of suspicious activity may include but are not limited to:

- Suspected pre-operational surveillance or intelligence gathering (e.g., photographing security features, asking questions about sensitive security-related subjects).
- Tests of security measures and response to incidents (e.g., "dry run," creating false alarms, attempts to enter secure areas without authorization).
- Suspicious purchases (e.g., purchasing large quantities of otherwise legal items, such as fertilizer, that could be used to create an explosive or other dangerous device).
- An individual in possession of such things as a hoax explosive or dispersal device, sensitive materials (e.g., passwords, access codes, classified government information), or coded or ciphered literature or correspondence.

431.2 POLICY

The Kingston 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 Lieutenant and the authorized designees will manage suspicious activity intelligence. Authorized designees should include supervisors who are responsible for department participation in criminal intelligence systems as outlined in the Criminal Organizations Policy.

The responsibilities of the Detective include, but are not limited to:

- (a) Remaining familiar with those databases available to the department that would facilitate the purpose of this policy.

Suspicious Activity Reporting

- (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 suspicious activity intelligence 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, specifically the Upstate New York Regional Intelligence Center (UNYRIC).
- (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).

TERRORIST ACTIVITY

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 non-sworn 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 supplemental report 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 supplemental report and not included in the original incident report. The report number of the original incident should be included in the supplemental report as a cross reference. A supplemental report should be attached to the appropriate incident report.

431.5 HANDLING INFORMATION

Supplemental reports containing suspicious activity intelligence shall be forwarded to the Detective Lieutenant.

Immigration Violations

432.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the City of Kingston Police Department relating to immigration and interacting with federal immigration officials

432.2 POLICY

It is the policy of the City of Kingston 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.

432.3 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 Constitution.

432.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes.

- (a) Officers shall not stop, question, interrogate, investigate, or arrest an individual based solely on any of the following:
 - 1. Actual or suspected immigration or citizenship status.
 - 2. A 'civil immigration warrant,' administrative warrant, or an immigration detainer in the individual's name, including those identified in the National Crime Information Center (NCIC) database.
- (b) Officers shall not inquire about the immigration status of an individual, including a crime victim, a witness, or a person who calls or approaches the police seeking assistance, unless necessary to investigate criminal activity by that individual.
- (c) Officers shall not perform the functions of a federal immigration officer or otherwise engage in the enforcement of federal immigration law, whether pursuant to Section 1357(g) of Title 8 of the United States Code or under any other law, regulation, or policy.
- (d) Officers may respond affirmatively to a 'civil immigration detainer' from ICE or CBP request for non-public information about an individual, including but not limited to non-public information about an individual's release, home address, or work address, ONLY IF the request is accompanied by a judicial warrant.

Immigration Violations

432.5 NON-PUBLIC INFORMATION

Officers may respond affirmatively to an ICE or CBP request for non-public information about an individual, including but not limited to, non-public information about an individual's release, home address, or work address, ONLY IF the request is accompanied by a judicial warrant.

Officers shall limit the information collected from individuals concerning immigration or citizenship status to that necessary to perform agency duties and shall prohibit the use or disclosure of such information in any manner that violates federal, state, or local law.

432.6 ACCESS

Officers shall not provide ICE or CBP with access to an individual in their custody or the use of agency facilities to question or interview which individual if ICE or CBP's sole purpose is enforcement of federal immigration law.

432.7 DUE PROCESS

Officers should protect the due process rights of persons as to whom federal immigration enforcement requests have been made, including providing those persons with appropriate notice.

- (a) Officers shall not delay bail and/or release from custody upon posting of bail solely because of:
 - 1. An individual's immigration or citizenship status
 - 2. A civil immigration warrant
 - 3. An ICE or CBP request for notification about, transfer of, detention of, or interview or interrogation of that individual
- (b) Upon receipt of an ICE or CBP detainer, transfer, notification, interview or interrogation request, officers shall provide a copy of that request to the individual named therein and inform the individual whether officers will comply with the request before communicating its response to the requesting agency.
- (c) Individuals in the custody of officers shall be subject to the same booking, processing, release, and transfer procedures, policies, and practices of that agency, regardless of actual or suspected citizenship or immigration status.

432.8 AGENCY RESOURCES

Local agency resources should not be used to create a federal registry based on race, gender, sexual orientation, religion, ethnicity, or national origin. Officers may not use agency or department monies, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, ethnicity, or national origin.

Immigration Violations

432.9 COLLECTION OF INFORMATION

Officers should limit collection of immigration-related information and ensure nondiscriminatory access to benefits and services.

Officers shall not inquire about or request proof of immigration status or citizenship when providing services or benefits, except where the receipt of such services or benefits are contingent upon one's immigration or citizenship status or where inquiries are otherwise lawfully required by federal, state, or local laws.

432.10 REPORTING

The Department should collect and report aggregate data containing no personal identifiers regarding their receipt of, and response to, ICE and CBP requests, for the sole purpose of monitoring the Department's compliance with all applicable laws.

- (a) Officers shall record, solely to create the reports described below, the following for each immigration detainer, notification, transfer, interview, or interrogation request received from ICE or CBP:
 - 1. The subject individual's race, gender, and place of birth
 - 2. Date and time that the subject individual was taken into custody, the location where the individual was held, and the arrest charges
 - 3. Date and time of the Department's receipt of the request
 - 4. The requesting agency
 - 5. Immigration or criminal history indicated on the request form, if any
 - 6. Whether the request was accompanied by any documentation regarding immigration status or proceedings (e.g., a judicial warrant)
 - 7. Whether a copy of the request was provided to the individual and, if yes, the date and time of notification
 - 8. Whether the individual consented to the request
 - 9. Whether the individual requested to confer with counsel regarding the request
 - 10. The officer's response to the request, including a decision not to fulfill the request
 - 11. If applicable, the date and time that ICE or CBP took custody of, or was otherwise given access to the individual
 - 12. The date and time of the individual's release from the Department's custody
- (b) Officers shall provide quarterly reports to the City Clerk's Office regarding the information collected above in an aggregated form that is stripped of all personal identifiers in order that officers and the community may monitor the Department's compliance with all applicable law. Such reports shall be posted to the city's website.

Right to Know

433.1 PURPOSE AND SCOPE

The purpose of this policy is to increase the transparency in police practices and to build trust between police officers and members of the public by providing the public with information on the names of officers with whom they interact, notice of the reasons behind their encounters with the police, and a written record of their interactions with the police in situations that do not result in an arrest, summons, or blotter entry.

For additional information on temporary detentions of individuals see the Contacts and Temporary Detentions Policy.

433.1.1 DEFINITIONS

Definitions related to this policy include:

Law enforcement activity - means any of the following activities when conducted by officers:

- Noncustodial questioning of individuals
- Stops where an officer has individualized, reasonable suspicion that the person stopped has committed, is committing, or is about to commit a crime and where a reasonable person would not feel free to end the encounter at will
- Frisks
- Searches of persons, property, or possessions, including but not limited to searches of homes and vehicles (see the Search and Seizure Policy for additional information)
- Traffic stops
- Roadblock or checkpoint stops
- Investigatory questioning of potential victims of and witnesses to crimes

Noncustodial questioning - means the questioning of an individual during an investigation where such individual has not been detained and is free to end the encounter at will.

433.2 PROCEDURE

- (a) Upon initiation of law enforcement activity, an officer shall:
 1. Identify him/herself to the person who is the subject of such law enforcement activity by providing his/her name, rank and police department.
 2. Providing to such person an explanation of the reason for such law enforcement activity.
- (b) At the conclusion of a law enforcement activity that does not result in an arrest, summons, or blotter entry, officers shall offer to such person the officer's department-issued business card.

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- (c) Officers shall not be required to comply with this section where officers are engaged in an approved undercover activity or operations, and law enforcement activity is taken pursuant to such undercover activity or operation.
- (d) Officers shall not be required to comply with this section where officers encounter physical resistance, flight or other factors rendering this procedure impractical.
- (e) Any business cards used by officers to identify him/herself to a person who is subject of law enforcement activity shall be pre-printed, department-issued and include:
 - 1. The name, rank, badge number, and police department of the officer.
 - 2. Information on how the subject of the law enforcement activity may submit comments about the encounter.

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 Kingston 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 crashes, 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. 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 crashes 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 crashes, and also will consider the hours and locations where traffic crashes 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 crashes 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.

RADAR/LIDAR

SOBRIETY CHECKPOINTS

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 crashes.

TRAFFIC STOPS

VEHICLE EQUIPMENT INSPECTION FORM

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) An explanation of the violation or charge.
- (b) The court appearance procedure, including the optional or mandatory appearance by the motorist.
- (c) 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

Physical arrest should generally not be made for a traffic infraction unless the officer cannot verify the driver's identity, has reason to believe that the driver will fail to appear in court or has reason to believe that the driver will continue to violate the law and place others at risk.

Officers should exercise discretion 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.

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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 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.

If the driver is not the owner, the Department is required to notify the owner (Vehicle and Traffic Law § 511-c).

500.6 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).

500.6.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should 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 crash 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.

500.6.2 CARE AND STORAGE

High-visibility vests shall be maintained in a serviceable condition by each member. Before going into service, each member shall ensure that a serviceable high-visibility vest is properly stored.

A supply of high-visibility vests will be maintained and made available for replacement of damaged or unserviceable vests. The Training Officer should be promptly notified whenever the supply of vests needs replenishing.

Traffic Crashes

501.1 PURPOSE AND SCOPE

This policy provides guidelines for responding to and investigating traffic crashes.

501.2 POLICY

It is the policy of the Kingston Police Department to respond to traffic crashes and render or summon aid to injured victims as needed. The Department will investigate and prepare reports according to the established minimum reporting requirements 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 crash 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 notified and may respond 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. A City vehicle involved.
 - 4. A City official or employee involved.
 - 5. Involvement of an on- or off-duty member of this department.
- (b) Is within another jurisdiction and there is:
 - 1. A City of Kingston police 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.

Traffic Crashes

- (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.

501.4 NOTIFICATION

If a traffic crash involves a life-threatening injury or fatality, the responding officer shall notify the Shift Supervisor. The Shift Supervisor may assign a traffic investigator or other appropriate personnel (Accident Reconstruction Team) to investigate the incident. The Shift Supervisor will ensure notification is made to the Patrol Lieutenant and department command staff 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 Medical Examiner 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 crash should not be released until notification is made to the victim's immediate family.

NOTIFICATION OF NEXT OF KIN

501.5 MINIMUM REPORTING REQUIREMENTS

An accident report shall be taken when:

- (a) A fatality, any injury (including complaint of pain), property damage in excess of \$1000 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 Kingston 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 PRIVATE PROPERTY

Generally, reports should not be taken when a traffic crash occurs on private property unless it involves an injury or fatality, a hit-and-run violation or other traffic law violation. Members may provide assistance to motorists as a public service, such as exchanging information and arranging for the removal of the vehicles.

Traffic Crashes

501.5.2 CITY VEHICLE INVOLVED

A traffic crash report shall be taken when a City vehicle is involved in a traffic crash that results in property damage or injury.

A general information report may be taken in lieu of a traffic crash 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 Patrol Lieutenant. The traffic investigator or supervisor at the scene should determine what photographs should be taken of the scene and the vehicle damage.

Members will not investigate an accident in which he/she is involved.

501.5.3 ACCIDENTS INVOLVING DEPARTMENT VEHICLES

When a Department vehicle is involved in an accident, a complete and thorough investigation will be conducted. This will include Special Reports by the members involved, photographs, measurements, witness statements, and if necessary, the response of the Crash Management Team.

This investigation will be conducted by the duty supervisor. The duty supervisor will then make a determination whether the accident was preventable or non-preventable by the involved members. This determination should follow the guidelines set forth by the Accident Review Committee of the Kingston Police Department. Duty supervisors shall then submit a report to the Chief of Police.

ACCIDENT REVIEW BOARD

501.5.4 INJURED AND KILLED ANIMALS

Department members should refer to the Animal Control Policy when a traffic crash 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 person wants to claim the carcass of a deer, moose or bear unintentionally killed in a traffic crash, a member may arrange for the issuance of a permit to the driver permitting him/her to possess the carcass and transfer it to a designated person by contacting the Department of Conservation (Environmental Conservation Law § 11-0915).

501.6 INVESTIGATION

When a traffic crash 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.

Traffic Crashes

- (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.

CRASH INVESTIGATIONS

MOTOR VEHICLE ACCIDENT REPORT (MV-104A)

501.6.1 INVESTIGATION BY OUTSIDE LAW ENFORCEMENT AGENCY

The Patrol Lieutenant or on-duty Shift Supervisor should request that the New York State Police or other outside law enforcement agency investigate and complete a traffic crash investigation when a life-threatening injury or fatal traffic crash occurs within the jurisdiction of the Kingston Police Department and involves:

- (a) An on- or off-duty member of the Department.
 - 1. The involved member shall complete the department traffic crash form. If the member is unable to complete the form, the supervisor shall complete it.
- (b) An on- or off-duty official or employee of the City of Kingston.

Department members shall promptly notify a supervisor when any department vehicle is involved in a traffic crash. The accident investigation and report shall be completed by the agency having jurisdiction.

501.6.2 CRASHES INVOLVING SERIOUS INJURY OR DEATH

An officer investigating an accident involving a serious injury or death should 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.

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.

Traffic Crashes

501.8 REPORTS

Department members shall utilize forms approved by the New York State Department of Motor Vehicles (DMV) as required for the reporting of traffic crashes. All such reports shall be forwarded to the on-duty supervisor for approval and verification.

Members shall advise persons involved in accidents that they must forward a copy of the report to their insurance agent if there has been an injury, death or property damage in excess of \$1000 to any vehicle and that the report must be filed within 10 days of occurrence (Vehicle and Traffic Law § 605).

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.

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 Kingston 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.

502.4 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.
- 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.

Vehicle Towing

- 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.

502.6 RECORDS

Dispatchers shall ensure that pertinent data regarding a towed vehicle is promptly entered into the appropriate database.

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 eJustice (Vehicle and Traffic Law § 511-b).

502.6.1 VEHICLE IMPOUND REPORT

Department members towing a vehicle shall complete a vehicle impound report. The report should be submitted to the Evidence Control Officers as soon as practicable after the vehicle is towed.

502.6.2 NOTICE OF TOW

Upon the towing of any vehicle for any reason, it shall be the responsibility of the officer to ensure a notice of tow is delivered to the person from whom the vehicle is impounded and any registered owners or lienholders. The notice should contain:

- (a) The name, address and telephone number of the Kingston Police Department.
- (b) The location where the vehicle is stored.
- (c) A description of the vehicle, including:
 1. Color.
 2. Manufacturer year.
 3. Make and model.
 4. License plate number and/or Vehicle Identification Number (VIN).
 5. Mileage.
- (d) The authority and purpose for the removal of the vehicle.
- (e) An explanation of the procedure for release of the vehicle and for obtaining a vehicle tow hearing.
- (f) In the case of a stolen vehicle, the location of the theft and location of the recovery.

Vehicle Towing

502.6.3 REPORT OF VEHICLES TO EJUSTICE

If the vehicle has been reported stolen, the officer ordering the tow shall ensure the theft, recovery or impound is reported to eJustice. 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.
- (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.

It is the responsibility of all supervisors to be familiar with the entry requirements of the I. J. Portal.

502.7 TOWING SERVICES

Members shall 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 should be followed.

TOWING SERVICES

502.8 VEHICLE INVENTORY

The contents of all vehicles towed for impound shall 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.
- (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.

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Vehicle Towing

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 Evidence Control Policy. A copy of the Evidence Control 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.

VEHICLE IMPOUND AND INVENTORY

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.

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).

503.2 POLICY

The Kingston 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

All officers are expected to enforce DWI laws with due diligence.

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

DWI ENFORCEMENT

503.4 FIELD TESTS

The New York State Division of Criminal Justice Services (DCJS) has identified SFSTs for officers to use when investigating violations of DWI laws.

STANDARDIZED FIELD SOBRIETY TESTS (SFSTS)

Impaired Driving

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.

503.5.1 STATUTORY NOTIFICATIONS

Officers shall inform a person who is arrested or who submitted to a PBT that resulted in the presence of alcohol that their driving privilege shall be immediately suspended and subsequently revoked for refusal to submit to a chemical test, or any portion thereof, whether or not the person is found guilty. Persons under 21 years of age shall be informed that their driving privilege shall be revoked for refusal to submit to a chemical test, or any portion thereof, whether or not the person is found guilty (Vehicle and Traffic Law § 1194).

503.5.2 BREATH SAMPLES

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

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

BREATH SCREENING

503.5.3 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples. The blood draw should be witnessed by the assigned officer. No officer, even if properly certified, should perform this task.

Impaired Driving

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

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

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

503.5.4 URINE SAMPLES

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

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

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

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).
- (b) Audio- and/or video-record the admonishment and the response when it is practicable.
- (c) Document the refusal in the appropriate report.
- (d) Provide the refusal report to the court upon arraignment (15 NYCRR § 139.3).

CHEMICAL TEST REFUSALS

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).

Impaired Driving

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

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

The responding supervisor should:

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

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

503.7 ARREST AND INVESTIGATION

In order to use evidence of a defendant's statement against him/her at trial, the 710.30 Notice shall be completed and served upon the defendant (CPL § 710.30).

ARRESTS

DWI CASE REPORTS

Impaired Driving

STOP DWI PATROL REPORT

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 (Vehicle and Traffic Law § 1194).

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 (Vehicle and Traffic Law § 1192). Officers shall also make other such reports as required by the Child Abuse Policy.

503.8 ADMINISTRATIVE HEARINGS

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.

An officer called to testify at an administrative hearing should document the hearing date and the DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.

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 Kingston 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

Members of the Kingston Police Department shall only use the Traffic and Criminal Software (TraCS) System for traffic tickets and department-approved parking ticket forms.

504.3.1 WRITTEN OR VERBAL WARNINGS

Written or verbal warnings may be issued when the department member believes it is appropriate. A record of all warnings should be maintained in the records management system (RMS).

504.4 TRAFFIC TICKETS

UNIFORM TRAFFIC TICKETS - TRACS

504.4.1 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.

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

504.4.3 SUPPORTING DEPOSITION

When requested by the Court, a Supporting Deposition for a traffic ticket issued shall be submitted to the court by the date indicated. Failure to do so may result in the dismissal of the traffic ticket.

504.4.4 DATA COLLECTION

The Kingston Police Department shall submit a report to the commissioner of the New York State Department of Motor Vehicles on June 30th and December 31st of every year. This report shall contain a summary as to the status of all traffic tickets issued by the Kingston Police Department for the preceding six months (15 NYCRR § 91.10).

Traffic and Parking Tickets

504.4.5 JUVENILE TICKETS

When a traffic violation is committed by a juvenile (under the age of 16) the officer will escort the juvenile to police headquarters where the officer will turn the juvenile over to his/her parent or guardian.

504.5 PARKING TICKET APPEALS

Parking tickets may be appealed in accordance with local and state law. There is no authority for anyone in this Department to void a parking ticket once it is issued. Refer any citizen who has a complaint relative to a parking ticket to Corporation Counsel.

504.6 VEHICLE IMMOBILIZATION

Immobilization devices (vehicle boots) may be used by members of the City of Kingston Parking Violations Department to enforce parking scofflaws. The use of these devices will be done in accordance with the City of Kingston Ordinances 390.80 and 390.81.

Any member of this department coming in contact with the owner of a vehicle that has been immobilized should direct the owner to contact the City of Kingston Parking Violations Department at (845) 334- 3933. Owners should be directed to follow the necessary steps on the notice to have the vehicle released.

504.7 ELECTRONIC TICKET SYSTEM PROCEDURES

504.7.1 ELECTRONIC TICKET SYSTEMS ADMINISTRATOR

An electronic ticket system administrator should be appointed by the Chief of Police.

504.7.2 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 Kingston 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.

Traffic and Parking Tickets

504.7.3 VOIDING AN ELECTRONIC TICKET

Once an electronic ticket is generated it may not be deleted from the system or device. If a member generates a ticket in error, the member will follow the software procedure for completing a voided ticket and then contact the electronic ticket system administrator, within the designated time period, for voiding the ticket in the system. When the electronic ticket system administrator receives a request for deletion, the administrator will validate the request with the member's supervisor and complete the void process.

504.7.4 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. A replacement ticketing device or alternative should be obtained for any malfunctioning device. Members will not use a malfunctioning ticketing device.

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 Kingston Police Department.

505.2 POLICY

It is the policy of the Kingston 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 MECHANICAL REPAIRS

Department members shall not make mechanical repairs to a disabled vehicle.

505.4.2 RELOCATION OF DISABLED VEHICLES

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

505.4.3 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.

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.

600.2 POLICY

It is the policy of the Kingston 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., detectives or scene processing) are necessary and request assistance as required.
 - 3. If assistance is warranted, or if the incident is not routine, the Shift Supervisor. 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. In order to use evidence of a defendant's statement against him/her at trial, the 710.30 Notice shall be completed and served upon the defendant (CPL § 710.30).
 - 5. Collect any evidence.
 - 6. Take any appropriate law enforcement action.
 - 7. Complete and submit the appropriate reports and documentation.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary and what other resources may be available, and advise the informant or complainant of this information.

Investigation and Prosecution

- (d) If circumstances prohibit an officer from completing a preliminary investigation, this shall be indicated in the appropriate report and the Shift Supervisor shall be notified.

INVESTIGATIONS

FOLLOW-UP INVESTIGATION

PERSONS ON PAROLE

ACCUSATORY INSTRUMENTS

STOLEN CAR STATEMENT

ALCOHOLIC BEVERAGE CONTROL (ABC) BOARD REFERRAL

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.
- 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:

- Evidence log sheet.
- Photograph log sheet.
- Fingerprint evidence log sheet.
- An investigative 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.

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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 NON-SWORN MEMBER RESPONSIBILITIES

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

600.3.4 CASE MANAGEMENT AND TRACKING

The Kingston Police Department shall use a case management and tracking system that, at a minimum, includes:

- (a) The lead detective.
- (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 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 Kingston Police Department facility unless (CPL § 60.45; Family Court Act § 344.2):

- (a) The individual requests that the interrogation not be recorded.
 - 1. The request must be made in writing or at the beginning of the recording.

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- (b) The recording equipment fails.
- (c) Recording equipment is unavailable due to damage or other extraordinary circumstances.
- (d) Recording equipment is not available because it is in use or because of the location at which the interrogation takes place, such as a hospital.
- (e) Recording would jeopardize the safety of any person or reveal the identity of a confidential informant.
- (f) Exigent circumstances prevent the recording of the interrogation.

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.

No recording of a custodial interrogation should be destroyed or altered without written authorization from the prosecuting attorney and the Detective Division 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).

600.5 DISCONTINUATION OF INVESTIGATIONS

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

- (a) All reasonable investigative efforts have been exhausted, there is no reasonable belief that the person who committed the crime can be identified and the incident has been documented appropriately.
- (b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.
 - 1. In these cases, the detective shall document that the person was warned and why prosecution was not sought.
 - 2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.

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- (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.

600.6 COMPUTERS AND DIGITAL EVIDENCE

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

600.6.1 NOTICE TO PROSECUTION OF ELECTRONIC RECORDINGS

The lead investigator should promptly notify the prosecutor's office, in writing, when there is a reasonable belief that an electronic recording of a 9-1-1 call, dispatch recording, Mobile Audio/Video (MAV), body-worn video, 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.

600.7 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 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).

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600.7.1 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.

600.7.2 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.

600.8 IDENTITY THEFT

A report should be taken any time a person living within the jurisdiction of the Kingston 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.

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 Kingston 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

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any databases that have been authorized for department use and are specific to this type of investigation.

600.9 MODIFICATION OF CHARGES FILED

Members are not authorized to recommend to the prosecutor or to any other official of the court that charges on a pending case be amended or dismissed without the authorization of a Lieutenant, the Deputy Chief of Police, 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; 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 Kingston 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.

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.

Sexual Assault Investigations

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.

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.

INTERVIEWING VICTIMS OF SEX CRIMES

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 investigating member (if one has been assigned), to whom the victim could inquire about the status of testing.

601.6 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

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.

Sexual Assault Investigations

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.

An investigating 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 Kingston 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.

601.6.3 REPORTING REQUIREMENTS

A Detective Division 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.

Sexual Assault Investigations

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 Division supervisor.

Classification of a sexual assault case as unfounded requires the Detective Division 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 Division supervisor should ensure cases are reviewed on a periodic basis, at least annually. The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

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 Division supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

601.10 TRAINING

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

- (a) Members who are first responders. This includes, but is not limited to:
 1. Initial response to sexual assaults.
 2. Legal issues.
 3. Victim advocacy.
 4. Victim's response to trauma.
- (b) Qualified investigators, who should receive advanced training on additional topics. This includes, but is not limited to:
 1. Interviewing sexual assault victims.
 2. Medical and legal aspects of sexual assault investigations.
 3. Serial crimes investigations.

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Sexual Assault Investigations

4. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (VICAP).
5. 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:

Fiscal agent - 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 Kingston Police Department seizes property for forfeiture or when the Kingston 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 department member assigned by the Chief of Police who is responsible for reviewing all forfeiture cases and acting as the liaison between the Department and the forfeiture counsel.

Property subject to forfeiture - Property subject to forfeiture may include:

- (a) The proceeds or an instrumentality of a felony offense that has resulted in a conviction or one of the following offenses that has not yet resulted in a conviction (CPLR § 1310; Penal Law § 480.05):
 - 1. A controlled substance felony offense from Article 220 of the Penal Law (Penal Law § 220.00 et seq.)
 - 2. Criminal possession of marihuana in the first degree (Penal Law § 221.30)
 - 3. Criminal sale of marihuana in the first degree (Penal Law § 221.55)

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 Kingston 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 Kingston 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.

Asset Forfeiture

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.

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 24 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 the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should be booked on a separate property form. No other evidence from the case should be booked on this form.

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 forfeiture reviewer.

602.5 MAINTAINING SEIZED PROPERTY

The Evidence Control are 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.

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Asset Forfeiture

- (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.

602.6 FORFEITURE REVIEWER

The Detective Lieutenant will serve as the 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 forfeiture counsel 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. 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.

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- (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 as needed. 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:
 - 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 Kingston Police Department unless the Chief of Police authorizes in writing the retention of the property for official use.

Forfeiture proceeds should be maintained 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).

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and City financial directives.

Asset Forfeiture

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:

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

603.2 POLICY

The Kingston 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

USE OF INFORMANTS

603.3.1 INITIAL APPROVAL

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

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

603.3.2 JUVENILE INFORMANTS

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

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

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

Informants

603.3.3 INFORMANT AGREEMENTS

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

Officers shall not enter into any agreement with informants concerning charges or sentencing. Such considerations can only be authorized after consultation and approval of the District Attorney's Office.

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

603.4 INFORMANT INTEGRITY

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

- (a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief of Police, Deputy Chief of Police, Lieutenant, Special Investigations Unit 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 Kingston 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 Special Investigations Unit 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 Special Investigations Unit supervisor.
 - 1. Officers may meet informants alone in an occupied public place, such as a restaurant.
 - 2. Officers should not meet with informants of the opposite gender unless accompanied by an officer of the same gender as the informant, unless otherwise approved by the Special Investigations Unit supervisor.
- (f) When contacting informants for the purpose of making payments, officers shall arrange for the presence of another officer.

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- (g) In all instances when department funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.
- (h) Since the decision rests with the appropriate prosecutor, officers shall not promise that the informant will receive any form of leniency or immunity from criminal prosecution.

603.4.1 UNSUITABLE INFORMANTS

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

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

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

603.5 INFORMANT FILES

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

Informant files shall be maintained in a secure area within the Special Investigations Unit. The Special Investigations Unit supervisor or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief of Police,

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Deputy Chief of Police, Lieutenant, Special Investigations Unit supervisor or their authorized designees.

The Detective Lieutenant 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 Special Investigations Unit 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.

Completed confidential informant files for informants used on a continuing basis will be maintained by the Special Investigations Unit. In order to show credibility and reliability it will be the responsibility of the officer establishing and using the informant to maintain such information, records of verified information, and to cause such information to be updated whenever an informant is used.

603.5.1 FILE SYSTEM PROCEDURE

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

- (a) Name and aliases
- (b) Date of birth
- (c) Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features
- (d) Photograph
- (e) Current home address and telephone numbers
- (f) Current employers, positions, addresses and telephone numbers
- (g) Vehicles owned and registration information
- (h) Places frequented
- (i) Briefs of information provided by the informant and his/her subsequent reliability
 - 1. If an informant is determined to be unsuitable, the informant's file is to be marked "unsuitable" and notations included detailing the issues that caused this classification.
- (j) Name of the officer initiating use of the informant
- (k) Signed informant agreement
- (l) Update on active or inactive status of informant

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603.6 INFORMANT PAYMENTS

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

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

A detective supervisor shall approval all informant payments.

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 Special Investigations Unit buy/expense fund.
 1. The Special Investigations Unit supervisor shall sign the voucher for cash payouts from the buy/expense fund.
- (b) Payments exceeding \$500 shall be made by issuance of a check, payable to the informant.
 1. The check shall list the case numbers related to and supporting the payment.
 2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
 3. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
 4. Authorization signatures from the Chief of Police is required for disbursement of the funds.
- (c) To complete the payment process for any amount, the officer delivering the payment shall complete a cash transfer form.
 1. The cash transfer form shall include:
 - (a) Date.
 - (b) Payment amount.
 - (c) Kingston Police Department case number.
 - (d) A statement that the informant is receiving funds in payment for information voluntarily rendered.
 2. The cash transfer form shall be signed by the informant.
 3. The cash transfer form will be kept in the informant's file.

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603.6.2 REPORTING OF PAYMENTS

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

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

603.6.3 AUDIT OF PAYMENTS

The Special Investigations Unit 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:

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

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

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

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

604.2 POLICY

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

604.3 INTERPRETIVE SERVICES

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

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

604.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

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

The process should include appropriate forms or reports that provide:

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

Eyewitness Identification

- (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 periodically and modified when necessary.

604.4.1 STATE PROTOCOL

The Detective Lieutenant 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

Eyewitness Identification

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.

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

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

604.7 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup 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:

- (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.

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- (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, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

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 Kingston Police Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

605.2 POLICY

The Kingston 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 Kingston 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.

605.4 BRADY PROCESS

The Deputy Chief of Police shall be responsible for coordinating all requests for *Brady* information.

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Responsibilities 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 (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, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

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Brady Information

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:

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.

606.2 POLICY

A UAS may be utilized to enhance the department's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. If there is a need for a UAS the request may be made, by a supervisor, to the New York State Police or the Ulster County Sheriff's Office.

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 Kingston 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 evaluate and assess the operations plan and submit it, along with the warrant affidavit, to the appropriate supervisor and the ESU Team Commander for review and classification of risk (see the Operations Planning and Deconfliction Policy).

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 and the ESU Team Commander for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the ESU Team Commander. 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:

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- (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).
- (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).

SEARCH WARRANTS

607.6 HIGH-RISK WARRANT SERVICE

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

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

- (a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.
- (b) The warrant service is audio- and video-recorded when practicable and reasonable to do so.
- (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

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designated members to the presence of potential evidence and not touch or disturb the items.

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

607.7 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.

607.8 ACTIONS AFTER WARRANT SERVICE

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

607.9 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The shift 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

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Warrant Service

- 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 shift supervisor. The director should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The director should ensure that members of the Kingston Police Department are utilized appropriately. Any concerns regarding the requested use of Kingston 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 Kingston Police Department jurisdiction, the ESU Team Commander or the assigned 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 Kingston Police Department when assisting outside agencies or serving a warrant outside Kingston Police Department jurisdiction.

607.10 MEDIA ACCESS

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

607.11 TRAINING

The Training Officer 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 Kingston Police Department to properly plan and carry out high-risk operations 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 RISK ASSESSMENT

608.3.1 RISK ASSESSMENT FORM PREPARATION

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

When preparing the form, 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, 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:

- (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.
- (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).

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- (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.

608.3.2 RISK ASSESSMENT REVIEW

Officers will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the ESU Team Commander.

The supervisor and ESU Team 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.

608.3.3 HIGH-RISK OPERATIONS

If the ESU Team Commander, after consultation with the involved supervisor, determines that the operation is high risk, the ESU Team Commander should:

- (a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:
 - 1. Emergency Services Unit (ESU)
 - 2. Additional personnel
 - 3. Outside agency assistance
 - 4. Special equipment
 - 5. Medical personnel
 - 6. Persons trained in negotiation
 - 7. Additional surveillance
 - 8. Canines
 - 9. Evidence Control or analytical personnel to assist with cataloguing seizures
 - 10. Forensic specialists
 - 11. Specialized mapping for larger or complex locations

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

608.4 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 supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

608.5 OPERATIONS PLAN

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

The plan should address such issues as:

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

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

608.5.1 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.

608.6 OPERATIONS BRIEFING

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

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

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

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

608.7 ESU PARTICIPATION

If the ESU Team Commander determines that ESU participation is appropriate, the director and the ESU Team Commander shall develop a written plan. The ESU 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 ESU supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the officers present.

608.8 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.

608.9 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 ESU debriefing.

608.10 TRAINING

The Training Officer should ensure officers and ESU 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 Kingston 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 Lieutenant.

All property and equipment issued by the Department shall be documented in the appropriate property sheet or equipment log. 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.

Upon termination of employment, or any separation from department service exceeding 12 weeks including sick leave, suspension or active military service, all department-issued property will be promptly returned.

EQUIPMENT

INVENTORY

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 Lieutenant, which shall include the result of the investigation and whether misconduct or negligence caused the loss, damage or unserviceable condition.

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2. A review by command staff should determine whether additional action is appropriate.
 3. Losing, damaging, or wasting Department property or equipment through negligence, carelessness, or improper use will be grounds for disciplinary action. The officer responsible for such loss, damage, or waste may be charged for the property in question.
 4. Officers shall not alter department equipment in any way except as authorized by the Chief of Police or Deputy Chief of Police.
 5. The Administrative Lieutenant shall be responsible for making arrangements to have any required replacement or repair.
- (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.
 - (e) A supervisor's approval is required before any attempt to repair damaged or unserviceable property is made by a member.

700.4 PERSONAL PROPERTY

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

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

700.4.1 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage to, or loss of, personal property must be made on a special report. This report is submitted to the member's immediate supervisor. The supervisor may require a separate written report.

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.

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The supervisor receiving such a report shall conduct an investigation and direct a memo to the appropriate Lieutenant, which shall include the result of the investigation and whether reasonable care was taken to prevent the loss, damage or unserviceable condition.

A review of the incident by command staff to determine whether misconduct or negligence was involved should be completed.

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

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

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

701.3 PRIVACY EXPECTATION

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

701.4 DEPARTMENT-ISSUED PCD

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue 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, 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.

Personal Communication Devices

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) Members will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication.
- (e) The device shall not be utilized to record or disclose any department business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment or appointment with the Department, without the express authorization of the Chief of Police or the authorized designee.
- (f) Use of a personally owned PCD while at work or for work-related business constitutes consent for the Department to access the PCD to inspect and copy data to meet the needs of the Department, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Department with the telephone number of the device.
- (g) All work-related documents, emails, photographs, recordings or other public records created or received on a member's personally owned PCD should be transferred to the Kingston Police Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

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

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:

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- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.
- (b) All PCDs in the workplace shall be set to silent or vibrate mode.
- (c) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.
- (d) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.
- (e) Members are prohibited from taking pictures, audio or video recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief of Police or the authorized designee, may result in discipline.
- (f) 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. As soon as reasonably possible, members shall conduct sensitive or private communications on a land-based or other department communications network.

Personal Communication Devices

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).

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

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 Kingston 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 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 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:

- A supply of 20 emergency road flares
- Pry bar
- 1 roll crime scene barricade tape
- 1 first-aid kit and CPR mask
- 1 blanket
- 1 fire extinguisher

Vehicle Maintenance

- 1 bloodborne pathogen kit, including protective gloves and a National Institute for Occupational Safety and Health (NIOSH) particulate respirator mask
- 1 sharps container
- 1 hazardous waste disposal bag
- Coil of rope
- 1 hazardous materials emergency response handbook
- 1 evidence collection kit
- Clip board
- Spare tire, jack and lug wrench

702.5.2 UNMARKED VEHICLES

Members driving unmarked department vehicles shall ensure that the following equipment, at a minimum, is in the vehicle:

- A supply of 20 emergency road flares
- 1 roll crime scene barricade tape
- 1 first-aid kit and CPR mask
- 1 blanket
- 1 bloodborne pathogen kit, including protective gloves and NIOSH particulate respirator mask
- 1 sharps container
- 1 hazardous waste disposal bag
- 1 hazardous materials emergency response handbook
- 1 evidence collection kit
- Spare tire, jack and lug wrench

702.6 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, patrol vehicles shall not be placed into service with less than three-quarters tank of fuel. Patrol vehicles should not be retired at the end of shift with less than three-quarters tank of fuel. Vehicles shall only be refueled at the authorized location.

FLEET FUEL CARD

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.

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Vehicle Maintenance

Patrol officers shall obtain clearance from the dispatcher before going to the car wash. Only one patrol vehicle should be at the car wash at a time unless otherwise approved by a supervisor.

Members using a vehicle shall remove any trash or debris at the end of their shifts.

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 Kingston to provide assigned take-home vehicles.

703.2 POLICY

The Kingston 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 be conspicuously marked with the department name.

703.3 USE OF VEHICLES

Officers are prohibited from leaving the City jurisdiction in police vehicles unless on official business, in a pursuit situation, responding in an authorized manner to emergency situations, or otherwise approved by a supervisor.

DAILY CAR SHEET

703.3.1 SHIFT ASSIGNED VEHICLES

The Shift Supervisor 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 daily activity report.

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 Supervisor. A notation will be made on the daily activity report 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 yard 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, missing equipment, or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

Vehicle Use

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.

INSPECTIONS

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, equipment charging). Officers who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

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

703.3.5 MDT

Members assigned to vehicles equipped with a Mobile Data 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.

System data may be accessed by supervisors at any time.

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

703.3.7 KEYS

Members approved to operate marked patrol vehicles should be issued a copy of the key as part of their initial equipment distribution. Members who are assigned a specific vehicle should be issued keys for that vehicle.

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Vehicle Use

Members shall not duplicate keys. The loss of a key shall be promptly reported in writing through the member's chain of command.

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.

TRANSPORTING PRISONERS

703.3.9 ALCOHOL

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

703.3.10 PARKING

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

Department vehicles should be parked in assigned stalls except when transporting prisoners or during inclement weather. Members shall not park privately owned vehicles in areas designed for department vehicles or in other areas of the parking lot that are not so designated unless authorized by a supervisor.

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 NON-SWORN MEMBER USE

Non-sworn members using marked emergency vehicles shall ensure that all weapons have been removed before going into service. Non-sworn members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

703.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES

Department vehicles may be assigned to individual members at the discretion of the Mayor. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

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

Vehicle Use

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 Kingston 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. Members who reside outside the City of Kingston 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 may be used to transport the member to and from the member's residence for work-related purposes.
- (b) 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, Deputy Chief of Police, or Lieutenants 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, Deputy Chief of Police, or Lieutenants.
 - 4. When the vehicle is being used by the Chief of Police, Deputy Chief of Police, Lieutenants or members who are in on-call administrative positions.
 - 5. When the vehicle is being used by on-call detectives.

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- (c) 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.
- (d) Unattended vehicles are to be locked and secured at all times.
 - 1. 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, equipment charging).
 - 2. All weapons shall be secured while the vehicle is unattended.
 - 3. All department identification, portable radios and equipment should be secured.
- (e) 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).
- (f) Vehicles are to be secured at the member's residence or the appropriate department facility, at the discretion of the Department, when a member will be away (e.g., on vacation) for periods exceeding one week.
 - 1. If the vehicle remains at the residence of the member, the Department shall have access to the vehicle.
 - 2. If the member is unable to provide access to the vehicle, it shall be parked at the Department.
- (g) The member is responsible for the care and maintenance of the vehicle.

703.4.4 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Kingston 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.

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Vehicle Use

- (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) All personnel are required to participate in a preventive maintenance program, that is, to report any damage or extraordinary wear which has not occurred but appears to be imminent. Such report will be made in writing on a vehicle repair form and submitted to the proper authority.
- (f) All weapons shall be removed from any vehicle left for maintenance.
- (g) Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

703.5 UNMARKED VEHICLES

Unmarked vehicles are assigned to various divisions and their use is restricted to the respective division and the assigned member, unless otherwise approved by a supervisor. Any use of unmarked vehicles by those who are not assigned to the division to which the vehicle is assigned shall also be recorded with the Shift Supervisor on the daily activity report.

703.6 SPECIAL PURPOSE VEHICLES

The Patrol Lieutenant 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 Services Unit
- Mobile Command
- All terrain or off-road access

The procedures document should minimally include, for each vehicle:

- 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

Vehicle Use

- An inventory of equipment required
- Operational readiness inspection intervals

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).

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 Supervisor. 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. 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 Lieutenant 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 Evidence Control and Informants policies.

704.2 POLICY

It is the policy of the Kingston 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 the position or person responsible for 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.

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 fiscal manager will ensure that the following reports are prepared on a quarterly 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 ROUTINE CASH HANDLING

Members who handle cash as part of their regular duties (e.g., Evidence Control, the Special Investigations Unit supervisor, those who accept payment for department services) will discharge those duties in accordance with the procedures established for those tasks (see the Evidence Control and Informants policies).

RECORDS AND LICENSES

Cash Handling, Security and Fiscal Management

704.5 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 Evidence Control Policy.

Members in possession of cash shall immediately notify a supervisor, special handling, verification, and accounting by the supervisor. Each member involved in this process shall complete an appropriate report or record entry.

704.6 AUDITS

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.

Audits shall include a review of procedures in place to manage the funds.

CASH AUDITS

704.7 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.
- (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.

704.8 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.

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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.

PURCHASING

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 Kingston 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

Personal Protective Equipment

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.

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 RESPIRATORY PROTECTION

The ESU Team Commander 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.

705.6.1 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 facepiece to prevent eye or skin irritation associated with respirator use.

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

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

705.6.3 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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705.6.4 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 facepiece used.
- (c) Whenever there are significant physical changes in the user (e.g., obvious change in body weight, scarring of the face seal area, dental changes, cosmetic surgery or any other condition that may affect the fit of the facepiece seal).

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

705.6.5 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.

705.7 RECORDS

The Training Officer is responsible for maintaining records of all:

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

705.8 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).

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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 Kingston 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 Kingston 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 (FI) reports.
- 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

Crime Analysis

800.5 CRIME ANALYSIS DISSEMINATION

Information developed through crime analysis should be disseminated to the appropriate divisions 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 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.

When information pertains to tactical and strategic plans, it should be provided to all affected members.

Dispatch

801.1 PURPOSE AND SCOPE

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

801.2 POLICY

It is the policy of the Kingston Police Department to provide 24-hour telephone service to the public for information and for routine or emergency assistance. The Department provides two-way radio capability for continuous communication between Dispatch and department members in the field.

801.3 DISPATCH SECURITY

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

Access to Dispatch shall be limited to Dispatch members, the Shift Supervisor, command staff and department members with a specific business-related purpose.

801.4 RESPONSIBILITIES

801.4.1 DUTY SUPERVISOR

The Chief of Police shall appoint and delegate certain responsibilities to a Duty Supervisor. The Duty Supervisor is directly responsible to the Patrol Lieutenant or the authorized designee.

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

- (a) Overseeing the efficient and effective operation of Dispatch in coordination with other supervisors.
- (b) Scheduling and maintaining dispatcher time records.
- (c) Supervising, training and evaluating dispatchers.
- (d) Ensuring the radio and telephone recording system is operational.
 - 1. Recordings shall be maintained in accordance with the established records retention schedule and as required by law.
- (e) Ensuring dispatcher compliance with established policies and procedures.
- (f) Handling internal and external inquiries regarding services provided and accepting personnel complaints in accordance with the Personnel Complaints Policy.
- (g) Maintaining a current contact list of City personnel to be notified in the event of a utility service emergency.

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Dispatch

801.4.2 DISPATCHERS

Dispatchers report to the Duty Supervisor. The responsibilities of the dispatcher include, but are not limited to:

- (a) Receipt and handling of all incoming and transmitted communications, including:
 1. Emergency 9-1-1 lines.
 2. Business telephone lines. [TELEPHONES](#)
 3. Telecommunications Device for the Deaf (TDD)/Text Telephone (TTY) equipment.
 4. Radio communications with department members in the field and support resources (e.g., fire department, emergency medical services (EMS), allied agency law enforcement units).
 5. Other electronic sources of information (e.g., text messages, digital photographs, video, Mobile Data Terminal).
- (b) Documenting the field activities of department members and support resources (e.g., fire department, EMS, allied agency law enforcement units).
- (c) Inquiry and entry of information through Dispatch, department and other law enforcement database systems (e.g., eJusticeNY Integrated Justice Portal, National Crime Information Center (NCIC)).
- (d) Monitoring department video surveillance and alarm systems.
- (e) Maintaining the current status of members in the field, their locations and the nature of calls for service. As determined by the nature of call for service, status checks of members will be made at appropriate intervals.
- (f) Notifying the Shift Supervisor or field supervisor of emergency activity, including, but not limited to:
 1. Vehicle pursuits.
 2. Foot pursuits.
 3. Assignment of emergency response.

[MEDICAL EMERGENCIES](#)

801.5 CALL HANDLING

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

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

- Where?
- What?

Dispatch

- When?
- Who?

If the dispatcher determines that the caller has a hearing and/or speech impairment or disability, he/she shall immediately initiate a connection with Ulster County 9-1-1 to facilitate communication with the individual via available TDD/TTY equipment or Telephone Relay Service (TRS), as mandated by the Americans with Disabilities Act (ADA).

If the dispatcher determines that the caller is a limited English proficiency (LEP) individual, the dispatcher should quickly determine whether sufficient information can be obtained to initiate an appropriate response. If language assistance is needed, the dispatcher shall immediately connect the LEP call to Ulster County 9-1-1.

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

801.5.1 EMERGENCY CALLS

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

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

In the event an emergency call is received for which service is outside of the geographic area of responsibility of Dispatch or the Department, or is otherwise misdirected, the dispatcher will take all reasonable and diligent measures to ensure the call is routed to the proper authority.

801.5.2 NON-EMERGENCY CALLS

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

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

801.6 RADIO COMMUNICATIONS

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

- (a) Members acknowledging the dispatcher with their radio identification call signs and current location.
- (b) Dispatchers acknowledging and responding promptly to all radio transmissions.

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- (c) Members keeping the dispatcher advised of their status and location.
- (d) Member and dispatcher acknowledgements shall be concise and without further comment unless additional information is needed.

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

801.6.1 FEDERAL COMMUNICATIONS COMMISSION COMPLIANCE

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

801.6.2 RADIO IDENTIFICATION

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

801.7 DOCUMENTATION

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

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

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801.8 CONFIDENTIALITY

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

Automated data, such as New York State Department of Motor Vehicle records, warrants, criminal history information, records of internal police files or medical information, shall only be made available to authorized law enforcement personnel.

Evidence Control

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 Evidence Control, 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.

802.2 POLICY

It is the policy of the Kingston 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 EVIDENCE CONTROL SECURITY

The Evidence Control shall maintain secure storage and control of all property in the custody of this department. Evidence Control shall be appointed by the Chief of Police and will be directly responsible to the Administrative Lieutenant or the authorized designee. Evidence Control are responsible for the security of the Evidence Control Room.

802.3.1 REFUSAL OF PROPERTY

Evidence Control has the obligation to refuse any piece of property that is hazardous or that has not been properly documented or packaged. Should Evidence Control 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 by Evidence Control.

802.3.2 KEY CONTROL

Evidence Control Room keys should be maintained by Evidence Control Evidence Control keys shall not be loaned to anyone and shall be maintained in a secure manner. If an Evidence Control key is lost, all access points shall be re-keyed and new keys issued as necessary.

Evidence Control

802.3.3 ACCESS

Only authorized members assigned to the Evidence Control 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 Evidence Control.

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 Evidence Control 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.

Members of this department will not, under any circumstances, convert to their own use, loan or give away any item of property or evidence coming into their possession in the course of their official duties.

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 form shall be completed describing each item. List all known information, including:
 - 1. The serial number.
 - (a) The owner's name or victim's name.
 - (b) The finder's name.
 - (c) Other identifying information or markings.
- (b) Each package shall be marked with the member's initials and the date processed.
- (c) Property shall be packaged in a container suitable for its size.
- (d)
- (e) The case number shall be indicated on the property tag and the container.
- (f) The evidence form shall be submitted with the case report and the goldenrod copy submitted to the Deputy Chief of Police.
- (g) The evidence form, appropriate evidence, or property report shall be submitted with the property directly to the Evidence Control or placed in a temporary property locker. 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, and the evidence form placed in a temporary property locker.

Any evidence that may require laboratory analysis must be submitted on an Evidence Form separate from other items of evidence in the case. Any item of evidence or found property consisting of money, firearms or controlled substances must be submitted on an Evidence Form separate from all other items of evidence or found property.

Evidence Control

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 on the property form.

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 on the property form.

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.

Explosives and fireworks - Explosives will not be retained in the police facility. 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. Firearms shall be further secured within the evidence room by means of a locked room.

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.

Sharps - Syringe tubes should be used to package syringes and needles.

802.4.3 CONTROLLED SUBSTANCES

- (a) Controlled substances shall not be packaged with other property, but shall be processed separately using a separate evidence form.
- (b) The member processing controlled substances shall retain such property in his/her possession until it is packaged, tagged, and placed in the designated controlled substances locker, accompanied by the evidence form.

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- (c) Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected controlled substances. If conducted, the result of the test shall be included in the supplemental 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 and initial over the tape.
- (d) When the quantity of controlled substances exceeds the available safe storage capacity as determined by the Evidence Control, 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).
- (e) Marihuana with any perceptible moisture content shall be loosely packaged in a container that allows for drying. The Evidence Control shall monitor stored marihuana for growth of mold.

802.5 RECORDING OF PROPERTY

Evidence Control receiving custody of property shall ensure an evidence form for each item or group of items is created. The evidence form will be the permanent record of the property in the Evidence Control Room. Evidence Control will record on the evidence form his/her signature, the date and time the property was received, and where the property will be stored.

A locker control number shall be obtained for each item or group of items from the property log. This number shall be recorded on the property form or evidence form. The property log shall document the following:

- (a) Property number
- (b) Case number
- (c)
- (d) Item description
- (e) Item storage location
- (f) Receipt, release and disposal dates

Any change in the location of property held by the Kingston Police Department shall be noted in the evidence form.

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802.6 PROPERTY CONTROL

Evidence Control temporarily relinquishing custody of property to another person shall record on the evidence form 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.

Any member receiving property shall be responsible for such property until it is returned to the Evidence Control or released to another authorized person or entity.

The return of the property to the Evidence Control should be recorded on the evidence form, indicating the date, 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 or Evidence Control.

802.6.1 EVIDENCE

Every time evidence is released or received, an appropriate entry on the evidence form shall be completed to maintain the chain of custody. No evidence is to be released without first receiving written authorization from the Detective Division supervisor or case detective and District Attorney's Office.

The temporary release of evidence to members for investigative purposes or for court proceedings shall be noted on the evidence form, stating the date, time and to whom it was released. Requests for items of evidence needed for court proceedings shall be submitted to the Evidence Control at least one day prior to the court date, if possible.

Requests for laboratory analysis shall be completed on the appropriate lab form and submitted to the Evidence Control. This request may be submitted any time after the property has been processed.

802.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

Evidence Control releasing items of evidence for laboratory analysis must complete the required information on the evidence form. The transporting member will acknowledge receipt of the evidence by indicating the date and time on the evidence form. The lab form will be transported with the evidence to the examining laboratory. The original copy of the lab form will remain with the evidence and a copy of the form will be returned to Evidence Control for filing with the case.

802.6.3 CONTROLLED SUBSTANCES

Evidence Control will be responsible for the storage, control and destruction of all controlled substances coming into the custody of this department.

802.7 RELEASE OF PROPERTY

The Detective Division shall authorize the release of all property coming into the care and custody of the Department.

When a request by a crime victim is made to return stolen property owned by the victim, Evidence Control members shall notify the defendant or his/her counsel as soon as practicable. Evidence

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Control members will make the property available to the defense counsel and/or the prosecutor for examination (Penal Law § 450.10).

Release of property shall be made upon receipt of a property return form, listing the name and address of the person to whom the property is to be released. Release of all property shall be documented on the appropriate evidence sheet or property return form.

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. During such period, Evidence Control 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 on the property control card.

Evidence Control shall release such property when the owner presents proper identification. The signature of the person receiving the property shall be recorded on the evidence form.

If any item listed on an evidence form has not been released, the evidence form will remain with the item. When all property listed on the form has been released, the form shall be filed with the case, and the release of all items shall be documented in the appropriate evidence or property form.

802.7.1 DISCREPANCIES

The Shift Supervisor shall be notified whenever a person alleges that there is a shortage or discrepancy regarding his/her property. The Shift Supervisor will interview the person claiming the shortage. The Shift Supervisor 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)).

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).

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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 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 on the evidence form.

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).

802.8.1 BIOLOGICAL EVIDENCE

The Evidence Control shall ensure that no biological evidence held by this department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor

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- (d) Any sexual assault victim
- (e) The Detective Lieutenant

Biological evidence shall be retained for a minimum period established by the 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 Lieutenant.

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 Lieutenant should be consulted and the sexual assault victim should be notified.

802.8.2 MARIHUANA

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

802.8.3 MEDICAL MARIHUANA

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

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

Marihuana that is infected with mold shall not be returned. This includes marihuana seized from a person who holds a valid medical permit to possess marihuana or who claims that possession of the marihuana 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 Kingston Police Department has possession of the sexual assault evidence, then the Evidence Control, 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 EVIDENCE CONTROL ROOM

The Deputy Chief of Police shall ensure that periodic, unannounced inspections of the Evidence Control Room operations and storage facilities are conducted to ensure adherence to appropriate policies and procedures. The Deputy Chief of Police 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 Evidence Control operations, in accordance with New York State Law Enforcement Accreditation Program Standards.

Whenever there is a change of assignment for any member with authorized access to the Evidence Control, an inventory of all property shall be conducted by a person who is not associated with the Evidence Control 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 Evidence Control inventory or 50 items, whichever is less.

An inventory shall minimally include ten percent of the total Evidence Control inventory or 100 items, whichever is less.

All audits and inventories in the Evidence Control 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.

802.10 TRAINING

All members assigned the duties of Evidence Control shall successfully complete a course in Evidence Control management within one year of being assigned such duties.

The Training Officer is responsible for scheduling the training and maintaining records of the training.

Records Division

803.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the Kingston Police Department Records Division. The policy addresses department file access and internal requests for case reports.

803.2 POLICY

It is the policy of the Kingston Police Department to maintain department records securely, professionally and efficiently.

803.3 RESPONSIBILITIES

All Departmental Supervisors shall be responsible for the proper maintenance of all Departmental Records that are required to be kept by Department regulations. The Chief or Deputy Chief of Police only, shall have the right to inspect all Departmental Records upon request.

803.3.1 POLICE CLERK

The Administrative Lieutenant is responsible for the function of the Records Division.

The responsibilities of the Administrative Lieutenant include but are not limited to:

- (a) Overseeing the efficient and effective operation of the Records Division.
- (b) Scheduling and maintaining personnel time records.
- (c) Supervising, training and evaluating Records Division staff.
- (d) Ensuring compliance with established policies and procedures.
- (e) Supervising the access, use and release of protected information (see the Protected Information Policy).
- (f) Establishing security and access protocols for case reports designated as sensitive, where additional restrictions to access have been implemented.
- (g) 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.
 3. Reporting the results of any court-ordered background investigations to the court and, with appropriate redactions, to each party.

803.3.2 RECORDS DIVISION

The responsibilities of the Records Division include but are not limited to:

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- (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) 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.
- (i) Ensuring that use of force reports are submitted to the Division of Criminal Justice Services (DCJS) (Executive Law § 837-t; 9 NYCRR 6058.3).
- (j) Ensuring that arrest-related death reports are submitted to the DCJS (Executive Law § 837-v).

803.4 FILE ACCESS AND SECURITY

The security of files in the Records Division 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) reports, criminal history records and publicly accessible logs, shall be maintained in a secure area within the Records Division, accessible only by authorized members of the Records Division. Access to case reports or files when Records Division staff is not available may be obtained through the Shift Supervisor.

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The Kingston Police Department maintains and has access to an up-to-date record system for warrants that is available at all times.

The Police Clerk is responsible for maintaining a record of all legal process handled by the Department. 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
- Name of officer assigned for service
- Date of assignment
- Court docket number
- Date service due

The Records Division 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 Division 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 Department is responsible for the collection, dissemination and retention of juvenile records.

803.4.1 ORIGINAL CASE REPORTS

Generally, original case reports shall not be removed from the Records Division. Should an original case report be needed for any reason, the requesting department member shall first obtain authorization from a Lieutenant.

All original case reports to be removed from the Records Division shall be scanned into the Records Management System and attached to the case.

803.5 CONFIDENTIALITY

Records Division staff has access to information that may be confidential or sensitive in nature. Records Division 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.

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 Kingston 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.).

804.3 RECORDS ACCESS OFFICER

The Chief of Police shall designate a Records Access Officer. 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 division 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):
 - 1. The times and places records are available.
 - 2. The person/locations where records may be obtained.
 - 3. 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) Preparing and maintaining 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 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)).

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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.
 - 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 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.

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(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 Chief of Police 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.
 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).

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- (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.

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

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released. Each audio/video recording released should include the department name and to whom the record was released.

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804.8 SECURITY BREACHES

Members who become aware that any Kingston Police Department system containing private information may have been breached should notify a member of the Command Staff as soon as practicable.

The Police Clerk 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 Police Clerk 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. The Records Access Officer shall seal such records as ordered by the court. Records may include, but are not limited to, a record of arrest, investigation, detention or conviction. Once sealed, members shall respond to any inquiry as though the record did not exist.

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

805.3 RESPONSIBILITIES

The Administrative Lieutenant shall 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) Ensuring training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.
- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

Protected Information

805.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Kingston 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.

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 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.

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

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

805.6 SECURITY OF PROTECTED INFORMATION

The Office of Information Technology is responsible to oversee the security of protected information.

Their responsibilities 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.

Protected Information

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 Kingston 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 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 (e.g., if the SPCA is needed or not).

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

806.4 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.

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- (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)

806.5 ANIMAL BITE REPORTS

Members investigating an animal bite should obtain as much information as possible for follow-up with the appropriate health or animal authorities. Efforts should be made to capture or otherwise have the animal placed under control. Members should attempt to identify and notify the owner of the final disposition of the animal.

806.6 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).

806.7 DANGEROUS ANIMALS

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, the Shift Supervisor will be contacted to determine available resources, including requesting the assistance of animal control services from an allied agency.

806.8 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.

806.9 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.

The Department of Public Works is responsible for the removal of deceased animals on public property.

Members should not climb onto or under any privately owned structure for the purpose of removing a deceased animal.

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806.10 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.

806.11 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 shall only be euthanized with the approval of a supervisor. A report explaining the circumstances should 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).

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 Kingston 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 and in a holding cell at the Kingston Police Department prior to being released or transported to a housing or other type of facility.

900.2 POLICY

The Kingston 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

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 Kingston 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.
- (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).

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1. If the officer taking custody of an individual believes that he/she may be a suicide risk, the officer shall ensure continuous direct supervision until evaluation, release or 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 claimed, is known to be afflicted with or displays symptoms of any communicable disease that poses an unreasonable exposure risk.
- (h) 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 (a female dispatcher may be used if necessary) should be present when a female adult is in temporary custody. In the event that none is readily available, the female in custody should be transported to another facility or released pursuant to another lawful process (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.

900.3.3 SUPERVISION OF FEMALES

Supervision of females in custody shall be accomplished by an assigned female department member. Females in custody shall not be placed in or removed from a detention area unless an assigned female member is present. An assigned female member shall retain the key for the detention area for females and no male person shall be permitted to enter an area where female prisoners are detained unless accompanied by the female member (9 NYCRR § 7504.1).

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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 Supervisor.

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 county jail or the appropriate mental health facility.

The officer should promptly notify the Shift Supervisor of any conditions that may warrant immediate medical attention or other appropriate action. The Shift Supervisor 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 shall:

- (a) Advise the Shift Supervisor of any significant risks presented by the individual (e.g., suicide risk, health risk, violence).
 - 1. Every time a prisoner is detained in a department holding cell, the New York State suicide screening form (Form 330) shall be completed and submitted to the shift supervisor.
- (b) Evaluate the following issues against the stated risks in (a) to determine the need for placing the individual in a single cell:
 - 1. Consider whether the individual may be at a high risk of being sexually abused based on all available known information (28 CFR 115.141), or whether the person is facing any other identified risk.
 - 2. Provide an individual identified as being at a high risk for sexual or other victimization with heightened protection. This may include (28 CFR 115.113; 28 CFR 115.141):
 - (a) Continuous, direct sight and sound supervision.

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- (b) Single-cell placement in a cell that is actively monitored on video by a member who is available to immediately intervene.
- 3. Ensure individuals are separated according to severity of the crime (e.g., felony or misdemeanor).
- 4. Ensure males and females are separated by sight and sound when in cells.
- 5. Ensure restrained individuals are not placed in cells with unrestrained individuals.
- (c) Ensure that those confined under civil process or for civil causes are kept separate from those who are in temporary custody pending criminal charges.
- (d) Ensure separation, as appropriate, based on other factors, such as age, criminal sophistication, assaultive/non-assaultive behavior, mental state, disabilities and sexual orientation.

900.4.2 CONSULAR NOTIFICATION

Consular notification may be mandatory when certain foreign nationals are arrested. The Patrol Lieutenant 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. [Department of State Website](#)
 - 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:

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- (a) Notify the country's nearest embassy or consulate of the arrest or detention by fax or telephone.
- (b) Forward any communication from the individual to his/her consular officers without delay.

900.5 SAFETY, HEALTH AND OTHER PROVISIONS

900.5.1 TEMPORARY CUSTODY LOGS

Any time an individual is in temporary custody at the Kingston Police Department, the custody shall be promptly and properly documented in a custody log, including (9 NYCRR § 7504.1):

- (a) Identifying information about the individual, including his/her name.
- (b) Date and time of arrival at the Department.
- (c) Any charges for which the individual is in temporary custody and any case number.
- (d) Time of all safety checks.
- (e) Any medical and other screening requested and completed.
- (f) Any emergency situations or unusual incidents.
- (g) Any other information that may be required by other authorities, such as compliance inspectors.
 - 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.
- (h) Date and time of release from the Kingston Police Department.

The Shift Supervisor 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 Supervisor 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.

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- (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.

900.5.3 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to department members. At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

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.

900.5.4 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the appliance presents a risk of bodily harm to any person or is a risk to the security of the facility, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

Whenever a prosthetic or orthopedic appliance is removed, the Shift Supervisor shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists.

900.5.5 TELEPHONE CALLS

Every individual in temporary custody 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.

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1. The Department should pay the cost of any long-distance calls related to arranging for the care of a child or dependent adult (see the Child and Dependent Adult Safety Policy).
- (b) The individual should be given sufficient time to contact whomever he/she desires and to make any necessary arrangements, including child or dependent adult care, or transportation upon release.
 1. Telephone calls are not intended to be lengthy conversations. The member assigned to monitor or process the individual may use his/her judgment in determining the duration of the calls.
- (c) Calls between an individual in temporary custody and his/her attorney shall be deemed confidential and shall not be monitored, eavesdropped upon or recorded.

900.5.6 RELIGIOUS ACCOMMODATION

Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated. Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The responsible supervisor should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings shall be searched before being worn.

Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual's head and face may be temporarily removed during the taking of any photographs.

900.5.7 FIREARMS AND OTHER SECURITY MEASURES

Firearms and other weapons and control devices shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor (9 NYCRR § 7504.1).

All detention area 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.

900.5.8 FOOD

Individuals in custody during any of the usual three daily meal hours shall be allowed to eat a meal. It shall be documented in the record of detention log book when an individual was either provided a meal or refused a meal (9 NYCRR § 7505.1).

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900.5.9 SANITATION AND MAINTENANCE

The Shift Supervisor 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.
- (g) Feminine hygiene products are supplied to individuals in custody at no cost, and are stored, dispensed, and disposed of in a sanitary manner (Correction Law § 625).

900.5.10 RECORD OF DETENTIONS

The Patrol Lieutenant 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 Kingston 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

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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 Supervisor shall be notified whenever an individual alleges that there is a shortage or discrepancy regarding his/her property. The Shift Supervisor shall attempt to prove or disprove the claim.

900.8 HOLDING CELLS

A thorough inspection of a cell shall be conducted before placing an individual into the cell to ensure there are no weapons or contraband and that the cell is clean and sanitary. An inspection also should be conducted when he/she is released. Any damage noted to the cell should be photographed and documented.

The following requirements shall apply:

- (a) The individual shall be searched (see the Custodial Searches Policy) and anything that could create a security or suicide risk, such as contraband, hazardous items, belts, shoes or shoelaces, and jackets, shall be removed (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 30 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. Requests or concerns of the individual should be logged.

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900.9 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY

The Patrol Lieutenant will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the Kingston Police Department. The procedures should include:

- (a) Immediate request for emergency medical assistance if appropriate.
- (b) Immediate notification of the Shift Supervisor, the Chief of Police and the Detective Lieutenant.
- (c) Notification of the spouse, next of kin or other appropriate person.
- (d) Notification of the appropriate prosecutor.
- (e) Notification of the Corporation Counsel.
- (f) Notification of the Medical Examiner.
- (g) Evidence preservation.
- (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, medical records, an itemized list of his/her property, warrant copies).
- (f) The individual is not permitted in any nonpublic areas of the Kingston Police Department unless escorted by a member of the Department.
- (g) Any known threat or danger the individual may pose (e.g., escape risk, suicide potential, medical condition) is documented, and the documentation transported with the individual if he/she is being sent to another facility.

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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 unless they are physically separated by a solid barrier. If segregating individuals is not practicable, officers should be alert to inappropriate physical or verbal contact and take appropriate action as necessary.
- (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, if practicable, being transferred to assist with his/her personal needs as reasonable.

900.10.1 ESCAPE FROM CUSTODY

In the event a prisoner escapes from custody, the officer will immediately notify Dispatch and the Shift Supervisor. The officer should relay all pertinent information concerning the escape from custody in order to facilitate recapture of the subject while simultaneously relaying all safety concerns.

900.11 ASSIGNED ADMINISTRATOR

The Patrol Lieutenant 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)

900.12 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 for juveniles taken into temporary custody by members of the Kingston Police Department.

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 alien juvenile who may be legally held for his/her own safety or welfare. This also includes any juvenile who may have initially been contacted for an offense that would not subject an adult to arrest (e.g., fine-only offense) but was taken into custody for his/her protection or for purposes of reuniting the juvenile with a parent, guardian, or other responsible person.

Juvenile delinquent - A juvenile 7 to 17 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense). It also includes an offense under Penal Law § 265.05 for unlawful possession of a handgun 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.

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 or adolescent offender is held in a locked room, a set of rooms, or a cell. Secure custody also includes being physically secured to a stationary object.

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 being processed in a secure booking area when a non-secure booking area is available.
- (d) A juvenile left alone in a secure booking area after being photographed and fingerprinted.

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- (e) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (f) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

Sight and sound separation - Located or arranged to prevent physical, visual, or auditory contact (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.

901.2 POLICY

The Kingston 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.

Except as authorized by New York State Office of Child and Family Services and/or provided by law, a person under the age of 18 shall not be placed in a Kingston Police Department detention facility.

901.3 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit certain behaviors or conditions should not be held at the Kingston 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.
- (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) 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.

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901.4 CUSTODY OF JUVENILES

Officers should take custody of a juvenile and temporarily hold the juvenile at the Kingston 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 Supervisor. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy. Except as authorized by New York State Office of Child and Family Services and/or provided by law, a person under the age of 16 WILL NOT be placed in our detention facility.

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).

JUVENILE PROCEDURES

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 Kingston 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 (42 USC § 5633).

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.

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 (42 USC § 5633).

901.4.3 CUSTODY OF JUVENILE DELINQUENTS

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

Officer may take a juvenile delinquent into custody without a warrant under the same circumstances for which an adult may be arrested for a crime. Every reasonable effort should then be made to give notice of the custody to a parent or other person legally responsible for the child as soon as practicable (Family Court Act § 305.2; CPL § 120.90; CPL § 140.20; CPL § 140.27).

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Juvenile delinquents and juvenile offenders 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).

Upon being taken into custody, adolescent offenders, juvenile offenders, and other juvenile delinquents with special circumstances should be taken to the youth part of the superior court or family court, as appropriate. 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; CPL § 140.20; CPL § 140.27; CPL § 722.21).

In cases where the member determines that it is necessary to question the juvenile delinquent, the child 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 child, the juvenile may be taken to his/her 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).

901.5 ADVISEMENTS

Any member taking a juvenile delinquent or juvenile or adolescent offender into custody shall immediately attempt to notify the parent or other person legally responsible for the juvenile's care, or if such legally responsible person is unavailable, the person with whom the child resides, that the juvenile has been taken into custody and provide the juvenile's location (Family Court Act § 305.2; CPL § 140.20; CPL § 140.27).

901.6 DOCUMENTATION OF JUVENILE CUSTODY

Any time a juvenile is in temporary custody at the Kingston Police Department, the custody shall be promptly and properly documented in the records management system, including:

- (a) Identifying information about the juvenile.
- (b) Date and time of arrival and release from the Department.
- (c) Shift Supervisor notification and approval to temporarily hold the juvenile.
- (d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, adolescent offender, status offender, or non-offender.
- (e) Any changes in status (e.g., emergency situations, unusual incidents).
- (f) Time of all safety checks.
- (g) Any medical and other screening requested and completed.

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- (h) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

901.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Kingston 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 Supervisor and a record made for reporting to the New York State Commission of Correction (reportable incident and annual reporting as required by Commission guidelines).

901.8 TEMPORARY CUSTODY REQUIREMENTS

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

- (a) The Shift Supervisor 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 Supervisor to facilitate the juvenile's release or transfer from the Department within six hours.
- (b) Safety checks and significant incidents/activities are noted.
- (c) Juveniles 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 juvenile is not aware.
 - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (d) 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.
- (e) There is reasonable access to toilets and wash basins.
- (f) There is reasonable access to a drinking fountain or water.
- (g) 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.
- (h) There are reasonable opportunities to stand and stretch, particularly if handcuffed or otherwise restrained.
- (i) There is privacy during family, guardian and/or attorney visits.

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- (j) 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.
- (k) 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.
- (l) Adequate shelter, heat, light and ventilation are provided without compromising security or enabling escape.
- (m) Adequate furnishings are available, including suitable chairs or benches.
- (n) Juveniles have the right to the same number of telephone calls as adults in temporary custody (see the Temporary Custody of Adults Policy).
- (o) Discipline is not administered to any juvenile, nor will juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse.

901.8.1 COURT APPROVAL

The Shift Supervisor will ensure that only areas that have been approved by the chief administrator of courts 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 § 305.2).

901.9 RELIGIOUS ACCOMMODATION

Juveniles have the right to the same religious accommodation as adults in temporary custody (see the Temporary Custody of Adults Policy).

901.10 USE OF RESTRAINT DEVICES

Juvenile delinquents, juvenile offenders, and adolescent offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile delinquent or juvenile or adolescent offender may be handcuffed at the Kingston 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 Supervisor. 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.

901.10.1 PREGNANT JUVENILES

Juveniles who are known to be pregnant should be restrained in accordance with the Handcuffing and Restraints Policy.

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901.11 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).

901.12 SECURE CUSTODY

Shift Supervisor approval is required before placing a juvenile or adolescent offender in secure custody.

Secure custody should only be used for juvenile or adolescent offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others.

Members of this department should not use secure custody for convenience when non-secure custody is, or later becomes, a reasonable option.

When practicable, handcuffing one hand of a juvenile or adolescent offender 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.

901.12.1 LOCKED ENCLOSURES

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) Males and females shall not be placed in the same locked room.
- (e) Juvenile and adolescent offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- (f) Restrained juveniles shall not be placed in a cell or room with unrestrained juveniles.

901.13 SUICIDE ATTEMPT, DEATH OR SERIOUS INJURY

The Patrol Lieutenant will ensure procedures are in place to address any suicide attempt, death or serious injury of any juvenile held at the Kingston Police Department. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate
- (b) Immediate notification of the Shift Supervisor, Chief of Police and Detective Lieutenant

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- (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 Corporation Counsel
- (f) Notification of the Medical Examiner
- (g) Notification of the juvenile court
- (h) Evidence preservation
- (i) Reporting to the New York State Division of Criminal Justice Services for the Death in Custody Reporting Act.

901.14 INTERVIEWING OR INTERROGATING

A juvenile shall not be questioned unless in the presence of a parent, guardian or other legally responsible adult and then only after informing them (juvenile and adult) of their Miranda rights. Both parties should sign the Miranda Form which will be made part of the case.

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 child's care, or if such legally responsible person is unavailable, the person with whom the child resides, are advised of the juvenile's department-approved *Miranda* rights for juveniles (Family Court Act § 305.2).

Any custodial interrogation of a juvenile should be recorded consistent with the requirements of the Investigations and Prosecution Policy.

901.15 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 11 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 delinquent or juvenile or adolescent offender 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).

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901.16 JUVENILE RECORDS RETENTION

All police records relating to the arrest and disposition of juveniles shall be kept in the Detective Division files, separate and apart from the arrests of adults, and shall be withheld from public inspection except when ordered by the Court.

The Detective Division Supervisor is responsible for the maintenance and accountability of juvenile records. Any information released from these records must be with the authority of that supervisor.

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 Kingston 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 cavity search - A search that includes a visual inspection and may include a physical intrusion into a body cavity. Body cavity means the stomach or rectal cavity of an individual, and the vagina of a female person.

Strip search - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

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 who is not of the same sex, the officer shall report the beginning and ending mileage to the dispatcher.

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.

Custodial Searches

902.4 SEARCHES AT KINGSTON POLICE DEPARTMENT FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the Kingston Police Department facilities. 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

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).

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 Evidence Control Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member. The inventory should include the arrest number, date, and member's Kingston Police Department identification number.

902.4.2 VERIFICATION OF MONEY

All money shall be counted in front of the individual from whom it was received. When possible, a second officer shall initial the dollar amount on the inventory. 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.

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 Kingston 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:

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- (a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.
- (b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
 - 1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
- (c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).
- (d) The individual's actions or demeanor.
- (e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex 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 Kingston Police Department facilities shall be conducted as follows (28 CFR 115.115):

- (a) Authorization from the Shift Supervisor 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) A second member of the same sex shall be present during the search, for security and as a witness to the finding of evidence.
- (e) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.
- (f) The primary member conducting the search shall prepare a supplemental 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 Supervisor.
 - 4. The name of the individual who was searched.
 - 5. The name and sex of the members who conducted the search.

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6. The time and date of the search.
 7. The place at which the search was conducted.
 8. A list of the items, if any, that were recovered.
- (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 Supervisor authorization and only in exceptional circumstances, such as when:

- (a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.
- (b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Shift Supervisor authorization does not need to be in writing.

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 the approval of the Shift Supervisor 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 a physician may conduct a physical body cavity search.
- (c) Except for the physician 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, including:

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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 Supervisor'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 Officer 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.

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 Kingston Police Department and that are promulgated and maintained by the Civil Service Department.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Kingston Police Department provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

1000.3 RECRUITMENT

The Administration Lieutenant 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.

The Administration Lieutenant shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

All job announcements must include a description of the duties of the position.

The Department should strive to facilitate and expedite the screening and testing process.

Recruitment and Selection

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 should employ a comprehensive screening, background investigation and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
- (b) Driving record
- (c) Reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state and federal criminal history record checks
- (h) Polygraph examination (when legally permissible)
- (i) An impartial medical exam by a licensed physician or practitioner that meets the Municipal Police Training Council standards (may only be given after a conditional offer of employment)
- (j) A psychological examination administered by qualified professionals to ensure psychological fitness (may only be given after a conditional offer of employment)
- (k) Oral Review board or selection committee assessment based upon standardized questions
- (l) Location of residence must be within Ulster County or an adjoining county

1000.4.1 VETERAN PREFERENCE

The Department will provide veteran preference credits as required (Civil Service Law § 85).

1000.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Kingston 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

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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.

BACKGROUND PROCEDURES

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 Kingston 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 background investigator should not require candidates to provide passwords, account information or access to password-protected social media accounts.

The background investigator should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches and/or review information from social media sites to ensure that:

- (a) The legal rights of candidates are protected.
- (b) Material and information to be considered are verified, accurate and validated.
- (c) The Department fully complies with applicable privacy protections and local, state and federal law.

Regardless of whether a third party is used, the background investigator 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.

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

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prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file.

1000.6 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.

1000.7 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 Civil Service Department should maintain validated standards for all positions.

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 alien eligible for and has applied for citizenship
- (c) At least 20 years of age and no more than 35 years of age with certain exceptions (Civil Service Law § 58)

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- (d) Fingerprinted for local, state and national fingerprint check
- (e) Good moral character as determined by a thorough background investigation
- (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
- (h) Candidates must also satisfy the Municipal Police Training Council (MPTC) selection requirements

In addition to the above minimum MPTC required standards, candidates should be subjected to additional evaluations including physical ability testing, drug screening, polygraph and/or pre-offer personality test.

1000.8 PROBATIONARY PERIODS

The Administration Lieutenant should coordinate with the Kingston Civil Service Department to identify positions subject to probationary periods and procedures for:

- (a) Appraising performance during probation.
- (b) Assessing the level of performance required to complete probation.
- (c) Extending probation.
- (d) Documenting successful or unsuccessful completion of probation.

Probationary periods will be in accordance with Civil Service Standards.

Performance Evaluations

1001.1 PURPOSE AND SCOPE

This policy provides guidelines for the Kingston Police Department performance evaluation system.

1001.2 POLICY

The Kingston Police Department shall use a performance evaluation system to measure, document, and recognize work performance. The performance evaluation will serve as an objective guide for the recognition of good work and the development of a process for improvement.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

1001.3 TYPES OF EVALUATIONS

The Department shall use the following types of evaluations:

Regular - An evaluation completed at regular intervals by the employee's immediate supervisor. Employees who have been promoted should be evaluated as established by the Civil Service Department or, minimally, on the anniversary of the date of the last promotion.

When an employee transfers to a different assignment in the middle of an evaluation period and less than six months has transpired since the transfer, the evaluation should be completed by the current supervisor with input from the previous supervisor.

Special - An evaluation that may be completed at any time the supervisor or Lieutenant determine an evaluation is necessary to address less than standard performance. The evaluation may include a plan for follow-up action (e.g., performance improvement plan (PIP), remedial training, retraining).

1001.3.1 RATINGS

When completing an evaluation, the supervisor will identify the rating category that best describes the employee's performance. The definition of each rating category is as follows:

Outstanding - Performance is well beyond that required for the position. It is exceptional performance, definitely superior or extraordinary.

Above-average - Performance is better than demonstrated by a competent employee. It is performance superior to what is required, but is not of such nature to warrant a rating of outstanding.

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Performance Evaluations

Acceptable - Performance of a competent employee. It is satisfactory performance that meets the standards required of the position.

Needs improvement - Performance is less than the standards required of the position. A needs improvement rating shall be thoroughly discussed with the employee.

Unacceptable - Performance is inferior to the standards required of the position. It is inadequate or undesirable performance that cannot be allowed to continue.

Supervisor comments may be included in the evaluation to document the employee's strengths, weaknesses and requirements for improvement. Any job dimension rating marked as unacceptable or outstanding shall be substantiated with supervisor comments.

1001.3.2 PERFORMANCE IMPROVEMENT PLAN

Employees who receive an unsatisfactory rating may be subject to a PIP. The PIP shall delineate areas that need improvement, any improvement measures and a timetable in which to demonstrate improvement. The issuing supervisor shall meet with the employee to review his/her performance and the status of the PIP at least monthly.

1001.4 EVALUATION PROCESS

The evaluation instrument will be completed by the supervisor and submitted to his/her immediate supervisor for review, comments, and signature before being presented to the employee being evaluated.

Performance evaluations cover a specific period and should be based upon documented performance dimensions that are applicable to the duties and authorities granted to the employee during that period. The criteria upon which employees are evaluated are listed in the appendix to this policy. Evaluations should be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the evaluating supervisor for input.

Assessment of an employee's job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise and to acknowledge good work. Periodic discussions with the employee during the course of the evaluation period are encouraged. Supervisors should document all discussions in the prescribed manner.

Non-probationary employees demonstrating substandard performance shall be notified in writing as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

All supervisors shall receive training on performance evaluations within one year of a supervisory appointment and will not conduct evaluations until such training has been received.

Performance Evaluations

1001.5 EVALUATION FREQUENCY

Supervisors shall ensure that all employees they supervise are evaluated at least once every year.

Those employees, including entry-level officers who are required to successfully complete a probationary period shall be evaluated at least three times during the probationary period.

1001.6 EVALUATION INTERVIEW

When the supervisor has completed his/her evaluation, a private discussion of the evaluation should be scheduled with the employee. The supervisor should discuss the evaluation ratings and respond to any questions the employee may have. The supervisor should provide relevant counseling regarding advancement, specialty positions and training opportunities. Any performance areas in need of improvement and goals for reaching the expected level of performance should be identified and discussed. If the employee has reasonable objections to any of the ratings, the supervisor may make appropriate adjustments to the evaluation. The reason for such adjustments shall be documented.

Employees may write comments in an identified section of the evaluation. The supervisor and employee will sign and date the evaluation.

1001.7 APPEAL

An employee who disagrees with his/her evaluation may provide a formal written response that will be attached to the evaluation, or may request an appeal.

To request an appeal, the employee shall forward a Special Report within three days to the evaluating supervisor's Lieutenant or the authorized designee. The report shall identify the specific basis for the appeal and include any relevant information for the reviewer to consider.

1001.8 CHAIN OF REVIEW

The signed performance evaluation and any employee attachment should be forwarded to the evaluating supervisor's Lieutenant or the authorized designee. The Lieutenant or the authorized designee shall review the evaluation for fairness, impartiality, uniformity and consistency, and shall consider any written response or appeal made by the employee.

The Lieutenant or the authorized designee should evaluate the supervisor on the quality of ratings given.

1001.9 RETENTION AND DISTRIBUTION

The original performance evaluation and any original correspondence related to an appeal shall be maintained by the Department in accordance with the Personnel Records Policy.

A copy of the evaluation and any documentation of a related appeal shall be provided to the employee.

Special Assignments and Promotions

1002.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Kingston Police Department.

1002.2 POLICY

The Kingston Police Department determines assignments and promotions in a nondiscriminatory manner based upon job-related factors and candidate skills and qualifications. Assignments are made by the Chief of Police. Promotions are made by the Board of Police Commissioners

1002.3 SPECIAL ASSIGNMENT POSITIONS

The following positions are considered special assignments and not promotions:

- (a) Emergency Services Unit
- (b) Crisis Negotiation Team member
- (c) Bicycle Patrol officer
- (d) Special Investigations Unit member
- (e) Field Training Officer
- (f) Training Officer
- (g) School Resource officer
- (h) Warrant Squad member

1002.3.1 GENERAL REQUIREMENTS

The following requirements should be considered when selecting a candidate for a special assignment:

- (a) Off probation
- (b) Possession of or ability to obtain any certification required by the Municipal Police Training Council (MPTC) or law
- (c) Exceptional skills, experience or abilities related to the special assignment

1002.3.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignment:

- (a) Presents a professional, neat appearance.
- (b) Maintains a physical condition that aids in his/her performance.
- (c) Expressed an interest in the assignment.
- (d) Demonstrates the following traits:
 - 1. Emotional stability and maturity

Special Assignments and Promotions

2. Stress tolerance
3. Sound judgment and decision-making
4. Personal integrity and ethical conduct
5. Leadership skills
6. Initiative
7. Adaptability and flexibility
8. Ability to conform to department goals and objectives in a positive manner

1002.4 PROMOTIONAL REQUIREMENTS

Requirements and information regarding promotional processes for the positions of Sergeant, Lieutenant, Chief of Police, and Deputy Chief of Police will adhere to Civil Service guidelines and are available at the Kingston Civil Service Department.

- (a) Notices shall be posted for upcoming competitive examinations for promotion via bulletin board or department email.
- (b) Discriminatory hiring practices are prohibited. The Kingston Police Department is an equal opportunity employer.
- (c) The Civil Service Department manages and distributes detailed information pertaining to promotional examinations, including eligibility, rankings, weight of criteria, veteran's credits, seniority credit, duration of validity period of eligibility lists, certification of eligibility, and probation periods.

1002.4.1 DETECTIVE PROMOTIONS

Promotion to the position of Detective will occur under the following guidelines. Announcements will be made by the Chief of Police. Any patrolman seeking promotion to the rank of Detective will submit a resume and letter of intent to the Chief of Police via chain of command.

Consideration should be given to members' productivity, annual performance evaluation, ability to develop and prepare cases, ability to develop informants, accuracy and completeness of paperwork, initiative, cooperation, and ability to carry out orders with minimal supervision.

The Chief will prepare a list of candidates from the submitted recommendations. Subsequently, candidates may supply the Board of Police Commissioners with any resumes or letters of recommendation they wish the Board to consider. The Board of Police Commissioners will then review the candidates' personnel file, resume, recommendations, performance evaluation and recommendation of the Chief of Police. Based on this information, they will make the required appointments to fill existing vacancies.

Grievances

1003.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the Kingston Police Department grievance system. The grievance system is intended to facilitate communication and to promptly and equitably address employee grievances in the workplace.

1003.1.1 GRIEVANCE DEFINED

A grievance is a difference of opinion or dispute regarding the meaning, interpretation, or application of any of the following:

- The collective bargaining agreement
- This Policy Manual
- Rules and regulations governing personnel practices or working conditions
- Workplace issues that do not amount to misconduct under the Personnel Complaints Policy, 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

Specifically outside the category of grievances are complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy or federal, state, or local law, as set forth in the Personnel Complaints Policy.

1003.2 POLICY

It is the policy of the Kingston Police Department to provide a just and equitable system for the prompt handling of employee grievances without discrimination, coercion, restraint or retaliation against any employee who submits or is otherwise involved in a grievance.

All grievances shall be handled in accordance with the applicable collective bargaining agreement.

1003.3 GRIEVANCE RECORDS

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to the Administration Division for inclusion into a secure file for all written grievances. Copies of the documents should also be sent to the Civil Service Department.

1003.4 POLICY OR TRAINING IMPLICATIONS

If an employee who participates in the grievance review process identifies any issue that may warrant an immediate revision to this Policy Manual, a procedural change or an immediate training need, the employee should promptly notify the Chief of Police in the memorandum.

Anti-Retaliation

1004.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, state and local law, ordinance or collective bargaining agreement.

1004.2 POLICY

The Kingston Police Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

1004.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

Anti-Retaliation

1004.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, the Deputy Chief of Police 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.

1004.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

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

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief of Police via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

Anti-Retaliation

1004.6 COMMAND STAFF RESPONSIBILITIES

The Chief of Police should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

1004.7 WHISTLE-BLOWING

State law protects employees who disclose a violation of law which creates a danger to public safety, who testifies before a public body investigating such a violation, or who objects to participating in such an activity. Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Deputy Chief for investigation pursuant to the Personnel Complaints Policy (Labor Law § 740; Civil Service Law § 75-b).

1004.8 RECORDS RETENTION AND RELEASE

The Deputy Chief of Police shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1004.9 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

1005.1 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 Kingston 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.

1005.2 POLICY

The Kingston 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.

1005.3 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.

1005.4 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.

1005.5 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 Supervisor or the Chief of Police) in writing of any past or current criminal investigation or detention, arrest,

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charge or conviction in any state or foreign country, regardless of whether the matter was dropped or rejected, is currently pending or is on appeal, and regardless of the penalty or sentence, if any.

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 Supervisor 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).

1005.5.1 NOTIFICATION REQUIREMENTS

The Chief of Police shall submit the proper notice of any appointment of an officer, or other required employee by this department to the Department of Criminal Justice Services (DCJS) in a timely manner (9 NYCRR § 6056.4).

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 regarding any officer, auxiliary officer or other required employee that is employed by this department to DCJS (9 NYCRR § 6056.4).

Drug- and Alcohol-Free Workplace

1006.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace.

1006.2 POLICY

It is the policy of the Kingston Police Department to provide a drug- and alcohol-free workplace for all members.

1006.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public. Such use shall not be tolerated (41 USC § 8103).

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 Supervisor or appropriate supervisor as soon as the member is aware that he/she 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, he/she shall be immediately removed and released from work (see the Work Restrictions section in this policy).

1006.3.1 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.

1006.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow on-duty member is impaired due to drug or alcohol use.

Drug- and Alcohol-Free Workplace

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

1006.5 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Civil Service Department, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

1006.6 WORK RESTRICTIONS

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

1006.7 SCREENING TESTS

A supervisor may require an employee to submit to a screening under any the following circumstances:

- (a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his/her ability to perform duties safely and efficiently.
- (b) The employee discharges a firearm in the performance of his/her duties (excluding training or authorized euthanizing of an animal).
- (c) The employee discharges a firearm issued by the Department while off-duty, resulting in injury, death or substantial property damage.
- (d) The employee drives a motor vehicle in the performance of his/her duties and becomes involved in an incident that results in bodily injury, death or substantial damage to property.

1006.7.1 SUPERVISOR RESPONSIBILITIES

The supervisor shall prepare a written record documenting the specific facts that led to the decision to require the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.

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- (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.

1006.7.2 DISCIPLINE

An employee may be subject to disciplinary action if he/she:

- (a) Fails or refuses to submit to a screening test.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.

1006.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

1006.9 CONFIDENTIALITY

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained in the member's confidential medical file in accordance with the Personnel Records Policy.

Leave and Bidding

1007.1 PURPOSE AND SCOPE

This policy provides general guidance for bidding and leave usage.

1007.2 POLICY

It is the policy of the Kingston Police Department to provide fair bidding practices for leave and providing eligible employees with a sick leave and other leave benefits.

1007.3 USE OF SICK LEAVE

The accrual and terms of use of sick leave for eligible employees are detailed in the 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 § 380-1 et seq.).

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.

SICK REPORT FORMS

1007.3.1 NOTIFICATION

All members should notify the Shift Supervisor or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than two hours before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor.

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the Department with no less than 30 days' notice of the impending absence.

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required [Sick Report](#) describing the type of time off used and the specific amount of time taken.

NOTIFICATIONS

Leave and Bidding

1007.4 EXTENDED ABSENCE

Members absent from duty for more than five consecutive days shall 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.

1007.5 SUPERVISOR RESPONSIBILITIES

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

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Civil Service Department as appropriate.
- (c) 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.
- (d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

SUPERVISOR RESPONSIBILITY

1007.6 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 Civil Service Department as soon as practicable once they have reason to believe a precautionary order is in effect.

The Civil Service Department shall advise employees of their rights and responsibilities as applicable (FFCRA; L. 2020, ch. 25, 2020 McKinney's Session Law News of N.Y.).

Leave and Bidding

1007.7 BIDDING FOR DAYS OFF

In an attempt to maintain clarity, for the purposes of bidding for days off, whether they are vacation days, supplementary days, personal leave days, or time owned, the following guidelines shall be adhered to:

- (a) The earliest an officer can bid for a day off is 90 days in advance.
- (b) Time off will be granted on a first-come, first-in basis (90 days in advance) time off requests will be reviewed and authorized or denied by the shift supervisor at the beginning of the officer's respective shift (7 a.m., 3 p.m., 11 p.m.). For the practical application of this policy, it should be noted that 11 p.m. is recognized as the beginning of the midnight shift for the next day.
- (c) Officers need not be physically present at headquarters to bid for a day off. Time off request shall be submitted through Kronos TeleStaff.
- (d) All Time Off Slips will be maintained in their respective squad book for future reference.

1007.8 VACATION

Vacation time shall be granted in accordance with the current collective bargaining agreement. Vacation scheduling shall be as follows:

- (a) Lieutenants and sergeants shall choose their vacation separately from officers and dispatchers in their respective squads, according to rank and length of service in rank.
- (b) Officers and dispatchers will choose their vacation in their respective squads according to seniority (first day of employment).

1007.9 PERSONAL LEAVE

Personal leave days shall be accrued and utilized in accordance with the current collective bargaining agreement.

1007.10 TIME SWAPPING

The swapping or trading of compensatory time, vacation days, and supplementary days will only be permitted as payment for a shift actually worked. The rate of compensation shall not exceed two for one. In other words, if an officer works a shift for another officer, he/she may only receive the maximum of two days compensation in trade (less is certainly permitted). The date and shift that was actually worked by the officer receiving the time will be indicated on the transfer request.

Transfers will only be permitted between members of the same rank. No transfers out of rank, either higher or lower will be permitted.

Personal leave days are for the exclusive use of the member receiving them, therefore there will be no trading of personal leave days.

1007.11 SUPPLEMENTARY DAYS

Supplementary days shall be granted in accordance with the current collective bargaining agreement.

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Leave and Bidding

1007.12 BEREAVEMENT DAYS

Bereavement days shall be granted in accordance with the current collective bargaining agreement.

Communicable Diseases

1008.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

1008.1.1 DEFINITIONS

Definitions related to this policy include:

Communicable disease - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing, or coughing. These diseases commonly include but are not limited to hepatitis B virus (HBV), HIV, and tuberculosis.

Exposure - When an eye, mouth, mucous membrane, or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing, or coughing (e.g., 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 Kingston Police Department (see the exposure control plan for further details to assist in identifying whether an exposure has occurred).

1008.2 POLICY

The Kingston Police Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

1008.3 EXPOSURE CONTROL OFFICER

The Chief of Police will assign a person as the Exposure Control Officer (ECO). 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) 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).

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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).

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.

1008.4 EXPOSURE PREVENTION AND MITIGATION

1008.4.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes but is not limited to (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.
- (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.

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- (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.

1008.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (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.

[Form C-1 Blank](#)

1008.5 POST-EXPOSURE

1008.5.1 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.

1008.5.2 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (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.

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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).

[Form D Blank](#)

1008.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (29 CFR 1910.1030; Labor Law § 27-a; 12 NYCRR § 800.3).

[Form F Blank](#)

1008.5.4 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (29 CFR 1910.1030; Labor Law § 27-a; 12 NYCRR § 800.3).

1008.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate. Source testing is the responsibility of the 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.

[Form E Blank](#)

1008.6 CONFIDENTIALITY OF REPORTS

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

Communicable Diseases

1008.7 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.
- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure, and what steps should be taken if a suspected exposure occurs.

Smoking and Tobacco Use

1009.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Kingston 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.

1009.2 POLICY

The Kingston Police Department recognizes that tobacco use is a health risk and can be offensive to others. Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy.

1009.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited any time members are in public view representing the Kingston 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.

Personnel Complaints

1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Kingston Police Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1010.2 POLICY

The Kingston 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.

1010.3 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.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

1010.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Shift Supervisor 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 Deputy Chief, 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 Deputy Chief, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

Personnel Complaints

1010.3.2 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 or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1010.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the police facility and be accessible through the department website. Forms may also be available at other City facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1010.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

1010.5 DOCUMENTATION

Supervisors shall ensure that all formal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

1010.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

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1010.6.1 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 Supervisor 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 at issue, a supervisor shall orally report the matter to the Deputy Chief of Police 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 at the completion of the investigation.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Deputy Chief of Police and Chief of Police are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Deputy Chief of Police 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 Deputy Chief of Police, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed.

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- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1010.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES UNDER CIVIL SERVICE LAW
Whether conducted by a supervisor or the Deputy Chief, 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.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the Kingston 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.
 - 1. An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Garrity* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
 - 2. No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview should 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.
 - (a) The employee shall be informed in advance of the right to representation.
 - (b) If the employee is unable to find representation within a reasonable time, the interview will proceed.

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- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) 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).

1010.6.3 NOTICE OF CHARGES

Any charges brought against an employee shall be in writing and within the time frame prescribed by law (Civil Service Law § 75; Second Class Cities Law § 137; Town Law § 155; Village Law § 8-804).

1010.6.4 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.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1010.6.5 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.

1010.6.6 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 in a timely manner from the date of discovery by an individual authorized to initiate an investigation.

1010.6.7 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.

1010.7 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.

1010.8 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).

1010.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, an outside agency shall 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 shall 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 Kingston Police Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1010.10 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.

1010.10.1 CHIEF OF POLICE RESPONSIBILITIES

Once the Chief of Police is satisfied that no further investigation or action is required by staff, the Chief of Police shall forward the results of the investigation to the Board of Police Commissioners who will determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief of Police shall provide the employee with a written notice that includes the reasons for the proposed disciplinary action and a copy of the charges (Civil Service Law § 75).

The employee shall be given an opportunity to respond in writing to the Chief of Police within 10 days of receiving the notice. Upon a showing of good cause by the employee, the Chief of Police may grant a reasonable extension of time for the employee to respond.

1010.10.2 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.

1010.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The 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.

1010.11 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.

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- (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.

1010.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline.

1010.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by Civil Service Law § 76, any collective bargaining agreement and/or personnel rules.

1010.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

Probationary employees and members other than non-probationary employees may be disciplined and/or released from employment without adherence to any of the procedures set out in this policy, and without notice or cause at any time. These individuals are not entitled to any rights under this policy.

1010.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

1010.16 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).

1010.16.1 ADDITIONAL CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police shall advise the governor and appropriate members of the legislature within the required period of any remedial action taken against a member in response to the LEMIO's

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recommendation. The Chief of Police shall also refer complaints that meet the requirements of Executive Law § 75 to the LEMIO (Executive Law § 75).

Safety Belts

1011.1 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.

1011.1.1 DEFINITIONS

Definitions related to this policy include:

Child restraint system - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and regulations set forth in 49 CFR 571.213.

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).

1011.2 POLICY

It is the policy of the Kingston Police Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle accident.

1011.3 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including those who are not members of the Department, are properly restrained.

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.

1011.4 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.

Safety Belts

1011.5 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.

1011.6 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.

1011.7 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.

1011.8 VEHICLE AIRBAGS

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

Body Armor

1012.1 PURPOSE AND SCOPE

The purpose of this policy is to provide officers with guidelines for the proper use of body armor.

1012.2 POLICY

It is the policy of the Kingston Police Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1012.3 ISSUANCE

The Administration Lieutenant 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 Kingston 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, non-sworn members whose jobs may make wearing of body armor advisable.

1012.3.1 USE

Generally, the required use of body armor is subject to the following:

- (a) Members shall only wear department-approved body armor.
- (b) Members shall wear body armor any time they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Members shall 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.

1012.3.2 INSPECTION

Supervisors should ensure through routine observation and inspections that body armor is worn and maintained in accordance with this policy.

Body Armor

1012.3.3 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.

1012.4 TRAINING OFFICER RESPONSIBILITIES

The responsibilities of the Training Officer 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) Assessing the level of weapons and ammunition currently utilized by the public and the suitability of approved body armor to protect against those threats.
- (c) Educating officers about the safety benefits of wearing body armor.

Personnel Records

1013.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1013.2 POLICY

It is the policy of this department 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)).

1013.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational and employment history or similar information. A photograph of the member should be permanently retained.
- (b) Election of employee benefits.
- (c) Personnel action reports reflecting assignments, promotions and other changes in employment/appointment status. These should be permanently retained.
- (d) Original performance evaluations. These should be permanently maintained.
- (e) Discipline records, including copies of sustained personnel complaints.
- (f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment.
 - 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment.
 - 2. Any member response shall be attached to and retained with the original adverse comment.
 - 3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file.
- (g) Commendations and awards.
- (h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

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1013.4 SUPERVISORY FILE

Supervisory files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Supervisory file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

1013.5 TRAINING FILE

An individual training file shall be maintained by the Training Officer 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 Officer or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training Officer or supervisor shall ensure that copies of such training records are placed in the member's training file.

1013.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Deputy Chief in conjunction with the office of the Chief of Police. Access to these files may only be approved by the Chief of Police or the Deputy Chief of Police.

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
- (d) Sustained

1013.7 MEDICAL FILE

A medical file shall be maintained within their personnel file 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.

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- (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.

1013.8 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 Board of Police Commissioners, Corporation Counsel or other attorneys or representatives of the City in connection with official business.

1013.8.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Records Division 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.

1013.8.2 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.

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)).

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1013.9 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 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Department shall be retained with the contested item in the member's corresponding personnel record.

Members may be restricted from accessing files containing any of the following information:

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Criminal investigations involving the member.
- (d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (e) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for Department planning purposes.
- (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.

1013.10 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.
- (b) If the Deputy Chief of Police determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief of Police.
- (c) If, in the opinion of the Chief of Police, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of

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such matter may be destroyed in accordance with the established records retention schedule.

Commendations and Awards

1014.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Kingston Police Department and individuals from the community.

1014.2 POLICY

It is the policy of the Kingston 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.

1014.3 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.

1014.4 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.

1014.4.1 DEPARTMENT MEMBER DOCUMENTATION

Members of the Department should document meritorious or commendable acts. The documentation should contain:

- (a) Identifying information:
 1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act
 2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the member submitting the documentation.

1014.4.2 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:

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1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act
 2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the person submitting the documentation.

1014.4.3 PROCESSING DOCUMENTATION

The supervisor in charge at the time of the meritorious act or event shall document the circumstances surrounding the event and forward his/her recommendation via chain of command to the Chief of Police. This shall apply to any member of this department or any civilian or organization giving valuable and responsible assistance to the Kingston Police Department.

The Chief of Police, or the authorized designee will present the commendation to the department member for his/her signature. The documentation will then be returned to the Administration secretary for entry into the member's personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Administration Lieutenant. The documentation will be signed by the Lieutenant and forwarded to the Chief of Police for his/her review. An appropriate venue or ceremony to acknowledge the individual's actions should be arranged. Documentation of the commendation shall be maintained in a file designated for such records.

1014.5 AWARDS

Awards may be bestowed upon members of the Department and individuals from the community. These awards include:

- Gold Valor.
- Silver Valor.
- Gold Merit.
- Silver Merit.
- Citation Bar.
- Citation Certificate.

Criteria for each award and the selection, presentation and display of any award are determined by the Chief of Police.

Fitness for Duty

1015.1 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.

1015.2 POLICY

The Kingston 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.

1015.3 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.

Members are responsible for notifying supervision if he/she may exceed the limitation on hours worked as outlined in this policy.

PHYSICAL FITNESS

1015.3.1 SURRENDER OF WEAPONS AND DEPARTMENT IDENTIFICATION

The Chief of Police shall direct a member of the force to surrender all department-owned firearms, firearms being possessed on only a C-form and department Identification possessed by him/her upon notification to the Chief of Police by a qualified physician that the member of the force is no longer able to perform regular duties as a Police Officer, or if a Police Officer has been off duty due to sickness or injury for 12 weeks or more.

This directive shall be given to a supervisor who shall be responsible for the prompt execution of the order and the delivery of the firearms and Department Identification to the Chief of Police.

1015.4 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.

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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.

1015.4.1 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 Supervisor or the member's Lieutenant.

1015.4.2 DUTY STATUS

In conjunction with the Shift Supervisor or the member's Lieutenant, 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 Supervisor or the member's Lieutenant 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.

Fitness for Duty

1015.5 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.

1015.5.1 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).

1015.5.2 PROCESS FOR ALL OTHERS

The Chief of Police, in cooperation with the Civil Service Department, 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.

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 Civil Service Department.

1015.6 LIMITATION ON HOURS WORKED

Absent emergency operations, members should not work more than:

- 16 hours in a one-day (24 hours) period
- 32 hours in any two-day (48 hours) period

Except in unusual circumstances, members should have a minimum of eight hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve any member who has exceeded the above guidelines to off-duty status.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

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Fitness for Duty

1015.7 APPEALS

Employees disputing the application or interpretation of this policy may submit a grievance as provided in the Grievances Policy.

Meal Periods and Breaks

1016.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the availability of meal periods and breaks.

1016.2 POLICY

It is the policy of the Kingston Police Department to provide meal periods and breaks to members of this department in accordance with the applicable collective bargaining agreement and the City personnel manual (Labor Law § 162).

1016.3 MEAL PERIODS

Officers and dispatchers shall remain on-duty subject to call during meal periods. All other members are not on-call during meal periods unless directed otherwise by a supervisor.

Uniformed patrol shall request clearance from the dispatcher prior to taking a meal period. Uniformed officers shall take their meal periods within the City limits and shall monitor the police radio, unless on assignment outside of the City.

The time spent for the meal period shall not exceed the authorized time allowed.

1016.4 BREAKS

Each member is entitled to a 15-minute break, near the midpoint, for each four-hour work period. Only one break shall be taken during each four hours of duty. No breaks shall be taken during the first or last hour of a member's shift unless approved by a supervisor.

Members normally assigned to the police facility shall remain at the police facility for their breaks. This does not prohibit them from taking a break away from the facility if they are on official business.

Members assigned to field duties will take their breaks in their assigned areas, subject to call, and shall monitor the police radio. When such members take their breaks away from their vehicles, they shall do so only with the knowledge and clearance of the dispatcher.

Lactation Breaks

1017.1 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.

1017.2 POLICY

It is the policy of the Kingston 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 her infant nursing child for up to three years after the child's birth (29 USC § 207; Labor Law § 206-c).

1017.3 LACTATION BREAK TIME

A rest period should be permitted each time the member has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any 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.

1017.4 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 § 207).

Members occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other members should avoid interrupting a member during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

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Lactation Breaks

1017.5 STORAGE OF EXPRESSED MILK

Any member storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the member's shift ends.

Overtime Compensation

1018.1 PURPOSE AND SCOPE

This policy establishes guidelines and procedures regarding overtime for employees, in conformance with the Fair Labor Standards Act (FLSA) (29 USC § 201 et seq.).

1018.2 POLICY

The Kingston 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).

1018.3 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)).

1018.4 REQUESTS FOR OVERTIME COMPENSATION

1018.4.1 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) Not work in excess of 16 hours, including regularly scheduled work time, overtime and extra-duty time, in any consecutive 24-hour period without supervisory approval.
- (c) Personnel working overtime will complete, sign, and submit overtime worked slips. Informal notations on reports, logs or other forms not approved for overtime recording are not acceptable.
- (d) Submit the request for overtime compensation to their supervisors by the end of shift or no later than the next calendar day.
- (e) If requesting overtime pay, only the original slip shall be submitted. If requesting compensatory time, an additional copy of the slip must be submitted.

1018.4.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall:

- (a) Prior to authorizing an employee to work overtime, evaluate the need for the overtime.
 - 1. All overtime must be approved by an authorizing supervisor. The authorizing supervisor must be a supervisor directly responsible for the function being performed on overtime.

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Overtime Compensation

2. Supervisors should not authorize any request to work overtime if the overtime would not be an appropriate use of department resources.
- (b) Upon receipt of a request for overtime compensation, confirm that the overtime was authorized and then verify the actual time worked.
 1. On-duty supervisors will verify and sign overtime slips.
 2. 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 forward (within five days) the request for compensation to the Deputy Chief of Police for final approval.
 1. Upon approval, the Deputy Chief of Police will submit the slips to the Records Division for entry into the computer.

Supervisors may not authorize or approve their own overtime.

1018.5 VARIATION IN TIME REPORTED

When two or more employees are assigned to the same activity, case or court trial, and the amount of time for which overtime compensation is requested varies among the officers, the Shift Supervisor may require each employee to include the reason for the variation on the overtime compensation request.

1018.6 REQUESTING USE OF COMPENSATORY TIME

Employees who have accrued compensatory time shall be allowed to use that time for time off in accordance with the current collective bargaining agreement.

Compensatory time may not be used for time off for a date and time when the employee is required to appear in court on department-related matters. Supervisors shall not unreasonably deny employee requests to use compensatory time (29 CFR 553.25).

Outside Employment and Outside Overtime

1019.1 PURPOSE AND SCOPE

This policy provides guidelines for department members who seek to engage in authorized outside employment or outside overtime.

1019.1.1 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.

1019.2 POLICY

Members of the Kingston 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.

1019.3 OUTSIDE EMPLOYMENT

Outside employment shall not interfere or conflict 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 (General Municipal Law § 208-d).

1019.4 REQUIREMENTS

1019.4.1 PROHIBITED OUTSIDE EMPLOYMENT

The Department reserves the right to prohibit outside employment that involves:

- (a) The use of department time, facilities, equipment or supplies.
- (b) The use of the Kingston 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

Outside Employment and Outside Overtime

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.
- (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).
- (h) The member is out on sick leave, on restricted duty, or on suspension.

1019.4.2 SECURITY AND LAW ENFORCEMENT OFFICER OUTSIDE EMPLOYMENT

No member of this department may engage in any outside employment as a sworn law enforcement officer.

1019.4.3 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 using his/her position with this department to gain access to official records or databases of this department or other agencies.

1019.5 OUTSIDE OVERTIME

1019.5.1 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 Mayor 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.

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Outside Employment and Outside Overtime

2. The member shall be subject to the rules and regulations of this department.
 3. Compensation for such approved outside overtime shall be pursuant to normal overtime procedures (see the Overtime Compensation Policy).
- (e) Outside overtime shall be assigned at the discretion of the Chief of Police or the authorized designee.

1019.5.2 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.

1019.5.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Lieutenant, undercover officers or officers assigned to covert operations shall not be eligible to work outside overtime in a uniformed or other capacity that could reasonably disclose the officer's law enforcement status.

Work-Related Illness and Injury Reporting

1020.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding timely reporting of work-related injuries and occupational illnesses.

1020.1.1 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 (Workers' Compensation Law § 2).

1020.2 POLICY

The Kingston Police Department will address work-related injuries and occupational illnesses appropriately, and will comply with applicable state workers' compensation requirements (Workers' Compensation Law § 110).

1020.3 RESPONSIBILITIES

ACCIDENT OR IMPAIRMENT DISABILITY RETIREMENT

1020.3.1 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.

1020.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any work-related injury or occupational illness should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related City-wide 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.

1020.3.3 LIEUTENANT RESPONSIBILITIES

The Lieutenant 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 Chief of Police, the City's risk management entity and the Administration Lieutenant to ensure any required New York State Department of Labor's Division of Safety and Health (DOSHS) reporting is made as required in the illness and injury prevention plan identified in the Illness and Injury Prevention Policy.

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Work-Related Illness and Injury Reporting

1020.3.4 CHIEF OF POLICE RESPONSIBILITIES

The Chief of Police shall review and forward copies of the report to the Civil Service Department. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

1020.4 OTHER ILLNESS OR INJURY

Illnesses and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the appropriate Lieutenant through the chain of command and a copy sent to the Administration Lieutenant.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

1020.5 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.

1020.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational illness or work-related injury, the member shall provide the Chief of Police with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief of Police. The purpose of such notice is to permit the City to determine whether the offered settlement will affect any claim the City may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the illness or injury, and to protect the City's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

Personal Appearance Standards

1021.1 PURPOSE AND SCOPE

This policy provides guidelines for the personal appearance of members of the Kingston Police Department.

Requirements for department uniforms and civilian attire are addressed in the Uniforms and Civilian Attire Policy.

1021.2 POLICY

Kingston 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.

1021.3 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.

1021.3.1 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.

1021.3.2 HAIR

Hair shall be clean, neatly trimmed or arranged, and of a natural hair color. Hairstyles with shaved designs in the scalp are prohibited. Hair adornments shall be primarily for the purpose of securing the hair and must present a professional image.

Hairstyles for male department members must not extend below the top edge of a uniform or dress shirt collar while assuming a normal stance.

When working a field assignment, hairstyles for female department members must not extend below the bottom edge of a uniform or dress shirt collar while assuming a normal stance. Longer hair shall be worn up or in a tightly wrapped braid or ponytail that is secured to the head above the bottom edge of the shirt collar.

Personal Appearance Standards

1021.3.3 MUSTACHES

Mustaches shall not extend below the corners of the mouth or beyond the natural hairline of the upper lip and shall be short and neatly trimmed.

1021.3.4 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

1021.3.5 FACIAL HAIR

Facial hair, other than sideburns, mustaches and eyebrows, is prohibited, unless authorized by the Chief of Police or the authorized designee.

1021.3.6 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.

1021.4 APPEARANCE

1021.4.1 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.

- (a) Necklaces shall not be visible above the shirt collar.
- (b) Earrings shall be small and worn only in or on the earlobe.
- (c) One ring or ring set may be worn on each hand of the department member. No rings should be of the type that would cut or pose an unreasonable safety risk to the member or others during a physical altercation, if the member is assigned to a position where that may occur.
- (d) One small bracelet, including a bracelet identifying a medical condition, may be worn on one arm.
- (e) Wristwatches shall be conservative and present a professional image.
- (f) Tie tacks or tie bars worn with civilian attire shall be conservative and present a professional image.

1021.4.2 TATTOOS

While on-duty or representing the Kingston Police Department in any official capacity, members should make every reasonable effort to conceal tattoos or other body art. At no time while the member is on-duty or representing the Department in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos include but are not limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, or other obscene material.

Personal Appearance Standards

1021.4.3 BODY PIERCING OR ALTERATION

Body piercing (other than earlobes) or alteration to any area of the body that is visible while on-duty or while representing the Kingston Police Department in any official capacity, that is a deviation from normal anatomical features and that is not medically required, is prohibited. Such body alteration includes, but is not limited to:

- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement (i.e., foreign objects inserted under the skin to create a design or pattern).
- (c) Abnormal shaping of the ears, eyes, nose or teeth (i.e., enlarged or stretched out holes in the earlobes).
- (d) Branding, scarification or burning to create a design or pattern.

1021.4.4 DENTAL ORNAMENTATION

Dental ornamentation that is for decorative purposes and that is not medically required is prohibited while on-duty or while representing the Kingston 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.

1021.4.5 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 Kingston Police Department in any official capacity.

1021.4.6 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.

1021.4.7 UNDERGARMENTS

Proper undergarments shall be worn as necessary for reasons of hygiene and general appearance standards.

1021.5 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.

Personal Appearance Standards

Those who request to wear headscarves, simple head coverings, certain hairstyles or facial hair for religious reasons should generally be accommodated absent unusual circumstances.

1021.6 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.

Uniforms and Civilian Attire

1022.1 PURPOSE AND SCOPE

This policy provides guidelines for Kingston Police Department-authorized uniforms and civilian attire regulations. 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.

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 Standards policies.

1022.2 POLICY

The Kingston Police Department will provide a uniform allowance to all employees who are required to wear them in the manner, quantity, and frequency agreed upon in the respective employee group's collective bargaining agreement. Employees receiving a uniform allowance are required to purchase the appropriate uniform items. The Department may provide other department members with specialized uniforms at the direction of the Chief of Police.

All uniforms and equipment issued to department members shall be returned to the Department upon termination or resignation.

1022.3 UNIFORMS

The Chief of Police or the authorized designee shall maintain and update uniform and equipment specifications, which should be consulted by all members as needed. Uniforms shall be worn as described therein and as specified in this policy.

The following shall apply to those assigned to wear department-issued uniforms:

- (a) Uniforms and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean and appear professionally pressed.
- (b) Officers in a non-uniformed assignment shall possess and maintain at all times a serviceable uniform and the necessary equipment to perform uniformed field duty.
- (c) Uniforms shall be worn in compliance with any applicable department specifications.
- (d) Members shall wear only the uniforms specified for their ranks and assignments.
- (e) Civilian attire shall not be worn in combination with any distinguishable part of a uniform.
- (f) Uniforms are only to be worn while on-duty, for court, at official department functions or events, while in transit to or from work, or when authorized by the Chief of Police or the authorized designee.

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Uniforms and Civilian Attire

1. When the uniform is worn while in transit, a non-uniform outer garment shall be worn over the uniform shirt to avoid bringing attention to the member while he/she is off-duty.
- (g) Members are not to purchase or drink alcoholic beverages while wearing any part of department-issued uniforms, including the uniform pants.
- (h) All supervisors will perform periodic inspections of members under their commands to ensure conformance to this policy. [INSPECTIONS](#)

1022.3.1 ACCESSORIES

Members shall adhere to the following when wearing department uniforms:

- (a) Jewelry shall be in accordance with the specifications in the Personal Appearance Standards Policy.

1022.3.2 INSIGNIA, PATCHES AND BADGE

Only the following elements may be affixed to department uniforms unless an exception is authorized by the Chief of Police:

- (a) Shoulder patch - The authorized shoulder patch supplied by the Department shall be machine stitched to the left sleeve of all uniform shirts and on both sleeves of uniform jackets. Specialized unit patches shall be stitched on the right sleeve of all uniform shirts. Field Training Officer rockers shall be stitched above the Department shoulder patch on uniform shirts.
- (b) Badge - The department-issued badge, or an authorized sewn-on cloth replica, must be worn and visible at all times while in uniform.
- (c) Nameplate - The regulation nameplate, or an authorized sewn-on cloth nameplate, shall be worn at all times while in uniform.
 1. When a jacket is worn, the nameplate, or an authorized sewn-on cloth nameplate, shall be affixed to the jacket in the same manner as the uniform.
 2. Nameplate colors shall be rank appropriate.
- (d) Rank insignia - The designated insignia indicating the member's rank must be worn at all times while in uniform. [INSIGNIA](#)
- (e) Service insignia - The designated insignia indicating the member's length of service may be worn on long-sleeve shirts and jackets. The insignia shall be machine stitched to the left sleeve of the uniform.
- (f) Assignment insignias - Assignment insignias (e.g., Emergency Services Unit ESU, Field Training Officer (FTO)) may be worn as designated by the Chief of Police.
- (g) Award/commendation insignia - Insignia representing an award or commendation received under the Commendations and Awards Policy, or other recognition authorized by the Chief of Police, may be worn, centered above the nameplate. If more than one award is worn, or an American flag pin is worn, the insignia shall be equally spaced in one or two horizontal rows centered above the nameplate in a manner that provides a balanced appearance.

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Uniforms and Civilian Attire

1022.3.3 MOURNING BAND

Uniformed members shall wear a black mourning band across the department badge whenever a law enforcement officer is killed in the line of duty or as directed by the Chief of Police. The following mourning periods will be observed:

- (a) Kingston Police Department officer - From the time of death until midnight on the 14th day after the death.
- (b) An officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of an out-of-region fallen officer.
- (d) As directed by the Chief of Police.

1022.4 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.

Uniforms are classified as follows:

- (a) Class A - Uniform with collar brass and metal badge. All sworn members shall have this uniform ready for wear.
- (b) Class B - Utility style uniform which may be worn daily by uniformed members containing embroidered badge, name tag, and collar insignia.
- (c) Specialized assignment - Specific uniforms to be worn by members in special assignments or divisions.

UNIFORM OF THE DAY

1022.4.1 CLASS A UNIFORM

The Class A uniform consists of the following:

- (a) 8-point police hat
- (b) Long- or short-sleeve shirt (depending upon season)
- (c) Tie with tie bar (when wearing the long-sleeve shirt). In place of a tie, members may wear a dark blue or black mock turtleneck under the long-sleeve uniform shirt. KPD shall be embroidered on the neck of the mock turtleneck. There shall be no other visible logos (e.g., brand names).
- (d) Trousers with piping
- (e) External ballistic vest carrier with badge and nameplate affixed
- (f) Black belt
 - 1. Belts shall be equipped as needed for the member's assignment.
- (g) Dark blue or black socks
- (h) Black boots or shoes
- (i) White gloves (only worn with full dress uniform)

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- (j) Appropriate metal badge and collar insignia
- (k) Dress blouse (only worn with full dress uniform)
- (l) Weather appropriate items:
 - 1. Scarf, gloves, and ear protection shall be black or navy blue
 - 2. Rain gear
 - 3. Boots worn for inclement weather shall be plain black and shall not display any type of logo or insignia

CLASS A UNIFORM SPECIFICATIONS

1022.4.2 CLASS B UNIFORM

The Class B uniform consists of the following:

- (a) Long- or short-sleeve utility shirt with the collar open and no tie
 - 1. A crew neck t-shirt must be worn under the uniform shirt.
 - 2. All shirt buttons must remain buttoned except for the top button at the neck.
 - 3. Long sleeves must be buttoned at the cuff.
- (b) Utility Trousers
- (c) External ballistic vest carrier with badge and nameplate affixed
- (d) Black belt
 - 1. Belts shall be equipped as needed for the member's assignment.
- (e) Dark blue or black socks
 - 1.
- (f) Black boots or shoes
 - 1. Approved black unpolished shoes may be worn.
 - 2. Boots with pointed toes are not permitted.
 - 3. Decorative stitching or adornment is not permitted.
- (g) Baseball style cap
- (h) Dark blue or black mock turtleneck may be worn under the long-sleeve uniform shirt. KPD shall be embroidered on the neck of the mock turtle neck. There shall be no other visible logos (e.g., brand names)
- (i) Weather-appropriate items
 - 1. Hat
 - 2. Jacket
 - 3. Scarf, gloves, and ear protection shall be black or navy blue
 - 4. Rain gear

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5. Boots worn for inclement weather shall be plain black and shall not display any type of logo or insignia

UNIFORM SPECIFICATIONS

1022.4.3 SPECIALIZED ASSIGNMENT UNIFORM

The Chief of Police or the authorized designee may authorize certain uniforms to be worn by members in specialized assignments,, the ESU, bicycle patrol, and other specific assignments.

1022.5 CIVILIAN ATTIRE

There are assignments within the Department that do not require a uniform because recognition and authority are not essential to their functions. 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, investigative and support positions shall wear business-appropriate clothing that is conservative in style.
- (c) 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.
- (d) No item of civilian attire may be worn while on-duty that would adversely affect the reputation of the Kingston Police Department or the morale of the members.
- (e) 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
 8. Open-toed shoes
 9. Clothing, buttons or pins displaying racial, sexual, discriminatory, gang-related or obscene language

1022.6 OPTIONAL EQUIPMENT

Any items that are allowed by the Kingston Police Department but that have been identified as optional shall be purchased entirely at the expense of the member. No part of the purchase cost shall be offset by the department.

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Maintenance of optional items shall be the financial responsibility of the purchasing member (e.g., repairs due to normal wear and tear).

Replacement of items listed in this policy as optional shall be managed as follows:

- (a) When the item is no longer functional because of normal wear and tear, the member bears the full cost of replacement.
- (b) When the item is no longer functional because of damage in the course of the member's duties, it shall be replaced in accordance with the Department-Owned and Personal Property Policy.

1022.7 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Kingston Police Department members may not wear any uniform item, accessory or attachment unless specifically authorized by the Chief of Police or the authorized designee.

Department members may not use or carry any safety item, tool or other piece of equipment unless specifically authorized by the Chief of Police or the authorized designee.

Conflict of Interest

1023.1 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 Kingston Police Department.

1023.1.1 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.

1023.2 POLICY

Members of the Kingston 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.

1023.3 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 promptly notify the dispatcher to have another uninvolved member either relieve the involved member or, minimally, remain present to witness the action.

Officers will make no recommendations to any citizen of a bondsman, lawyer, undertaker, physician, hospital, towing, or repair service of any other commercial service.

1023.4 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

1024.1 PURPOSE AND SCOPE

The Kingston Police Department (KPD) 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.

1024.2 POLICY

Members of the Department will use the KPD badge, patch and identification card, as well as the likeness of these items, appropriately and professionally.

1024.3 UNAUTHORIZED USE

The KPD 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 KPD badge, patch or identification card for personal gain or benefit.
- (b) Loan the KPD badge, patch or identification card to others or permit these items to be reproduced or duplicated.
- (c) Use images of the KPD badge, patch or identification card, or the likeness thereof, or the Kingston 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.

1024.3.1 LOST BADGE, PATCH OR IDENTIFICATION CARD

Department members shall promptly notify their supervisors whenever their KPD badges, patches or identification cards are lost, damaged or are otherwise removed from their control.

1024.4 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.

1024.4.1 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.

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1024.4.2 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the KPD badge shall not be used for any purpose without the express authorization of the Chief of Police and shall be subject to the following:

- (a) An authorized employee group may use the likeness of the KPD badge for merchandise and official employee group business provided it is used in a clear representation of the employee group and not the Kingston Police Department. The following modification shall be included:
 - 1. Any text identifying the Kingston 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.

1024.5 IDENTIFICATION CARDS

All members will be issued an official KPD 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 Lieutenants.

1024.6 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, division, badge or other identification number and contact information (e.g., telephone number, email address).

Members should provide a business card upon request.

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 Kingston 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

Members of public entities occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of the Kingston 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.

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 Kingston 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.

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- 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 Kingston 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.
- (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 Kingston Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.

Speech, Expression and Social Networking

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).

PUBLIC STATEMENTS

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 Kingston 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 Kingston 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 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:

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- (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 Kingston 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 Citywide safety efforts.

1026.2 POLICY

The Kingston 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 Administration Lieutenant 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) 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 § 801.39).

1026.4 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.

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Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

All significant actions taken and dates they are completed shall be appropriately documented. This documentation should be forwarded to the Administration Lieutenant via the chain of command.

The Administration Lieutenant will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

LIST OF HAZARDOUS CHEMICALS

1026.5 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.

1026.6 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.

1026.7 TRAINING

The Administration Lieutenant should work with the Training Officer 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.

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- (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.

1026.7.1 TRAINING TOPICS

The Training Officer shall ensure that training includes:

- (a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.
- (b) Use of appropriate clothing, including gloves and footwear.
- (c) Use of respiratory equipment.
- (d) Availability of toilet, hand-washing and drinking-water facilities.
- (e) Provisions for medical services and first aid.
- (f) Handling of bloodborne pathogens and other biological hazards.
- (g) Prevention of heat and cold stress.
- (h) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).
- (i) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.
- (j) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.
- (k) Back exercises/stretchers and proper lifting techniques.
- (l) Avoidance of slips and falls.
- (m) Good housekeeping and fire prevention.
- (n) Other job-specific safety concerns.

1026.8 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

1027.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Kingston Police Department in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's survivors.

The Chief of Police may also apply some or all of this policy in situations where members are injured in the line of duty and the injuries are life-threatening.

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 non-sworn member during the course of performing their assigned duties.

Survivors - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

1027.2 POLICY

It is the policy of the Kingston Police Department to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this department to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

1027.3 INITIAL ACTIONS BY COMMAND STAFF

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Shift Supervisor and Dispatch.
 - 1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Chief of Police section of this policy).
- (b) The Shift Supervisor 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 Supervisor or the 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

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the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

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 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 Supervisor or the authorized designee should select at least two members to conduct notification of survivors.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.
- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in department vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital and should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.
- (g) Offer to call other survivors, friends or clergy to support the survivors and to avoid leaving survivors alone after notification.
- (h) Assist the survivors with meeting childcare or other immediate needs.

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- (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 Kingston Police Department members may be apprised that survivor notifications are complete.
- (n) The name of the deceased employee will NEVER be released to the media before immediate survivors living in the area are notified. The name of the involved employee shall never be transmitted over the radio system.

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 as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shift. Members reporting for duty from their residence should be instructed to contact their supervisor as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support group, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

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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, including, but not limited to:

- (a) Department Liaison.
- (b) Police Liaison
- (c) Hospital Liaison.
- (d) Survivor Support Liaison.
- (e) Critical Incident Stress Management (CISM) coordinator.
- (f) Funeral Liaison.
- (g) Mutual aid coordinator.
- (h) Benefits Liaison.
- (i) 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.

Each individual assuming a functional responsibility will be responsible for maintaining resources and information for his/her function and have those resources readily available.

1027.6.1 DEPARTMENT LIAISON

The Department Liaison should be a supervisor to effectively coordinate department resources, and should serve as a facilitator between the deceased member's survivors and the Department. The Department Liaison reports directly to the Chief of Police. The Department Liaison's responsibilities include, but are not limited to:

- (a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System (NIMS).
- (b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.
- (c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.
- (d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.

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- (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 POLICE LIAISON

This individual must be a command level officer with the authority to allow the family liaison representative to make financial obligations and purchases. The Police liaison will keep all personnel up to date on the plans and arrangements as he receives that information from the family liaison. The Police liaison is the contact for any media representatives who may contact the Department for information regarding the injury or death. Media releases, reports, etc., which are to be released regarding the death of any personnel shall be provided to the family of the employee prior to when they are released to the public. Additionally, absolutely no information regarding the death of an employee shall be released prior to the deceased personnel's family being notified

1027.6.3 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

- (a) Arrange for appropriate and separate waiting areas for:
 - 1. The survivors and others whose presence is requested by the survivors.
 - 2. Department members and friends of the deceased member.
 - 3. Media personnel.
- (b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member's survivors or Kingston Police Department members (except for members who may be guarding the suspect).
- (c) Ensure that survivors receive timely updates regarding the member before information is released to others.
- (d) Arrange for survivors to have private time with the member, if requested.
 - 1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
 - 2. The Hospital Liaison should accompany the survivors into the room, if requested.
- (e) Stay with survivors and ensure that they are provided with other assistance as needed at the hospital.
- (f) If applicable, explain to the survivors why an autopsy may be needed.

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- (g) Ensure hospital bills are directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment and that the member's residence address, insurance information and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include, but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting his/her actions at the conclusion of his/her duties.

1027.6.4 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Department Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term department contact for survivors.

The Survivor Support Liaison should be selected by the deceased member's Lieutenant. The following should be considered when selecting the Survivor Support Liaison:

- The liaison should be an individual the survivors know and with whom they are comfortable working.
- If the survivors have no preference, the selection may be made from names recommended by the deceased member's supervisor and/or coworkers. The deceased member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.
- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include, but are not limited to:

- (a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes and other locations, as appropriate.
- (b) Communicating with the Department Liaison regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (d) Providing assistance with travel and lodging arrangements for out-of-town survivors.
- (e) Returning the deceased member's personal effects from the Department and the hospital to the survivors. The following should be considered when returning the personal effects:
 - 1. Items should not be delivered to the survivors until they are ready to receive the items.
 - 2. Items not retained as evidence should be delivered in a clean, unmarked box.

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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 Chief of Police (Chief of Police) 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 Chief of Police 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.

1027.6.5 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. The responsibilities of the CISM coordinator include, but are not limited to:

- (a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for CISM and counseling services, including:
 - 1. Members involved in the incident.
 - 2. Members who witnessed the incident.
 - 3. Members who worked closely with the deceased member but were not involved in the incident.
- (b) Ensuring that members who were involved in or witnessed the incident are relieved of department responsibilities until they can receive CISM support as appropriate and possible.
- (c) Ensuring that CISM and counseling resources (e.g., peer support, debriefing, grief counselors) are available to members as soon as reasonably practicable following the line-of-duty death.
- (d) Coordinating with the Survivor Support Liaison to ensure survivors are aware of available CISM and counseling services and assisting with arrangements as needed.
- (e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional CISM or counseling services are needed.

1027.6.6 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.

1027.6.7 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 Kingston Police Department members can attend funeral services as possible.

The mutual aid coordinator should perform his/her duties in accordance with the Outside Agency Assistance Policy.

1027.6.8 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:
 - 1. Public Safety Officers' Educational Assistance (PSOEA) Program.
 - 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.
 - 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.

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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.

1027.6.9 FINANCE COORDINATOR

The finance coordinator should work with the Chief of Police and the Department Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

- (a) Establishing methods for purchasing and monitoring costs related to the incident.
- (b) Providing information on finance-related issues, such as:
 1. Paying survivors' travel costs if authorized.
 2. Transportation costs for the deceased.
 3. Funeral and memorial costs.
 4. Related funding or accounting questions and issues.
- (c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.
- (d) Providing accounting and cost information as needed.

1027.7 CHIEF OF POLICE

In the event of a line-of-duty death, the department's Chief of Police should be the department's contact point for the media. As such, the Chief of Police 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 Chief of Police.
- (c) Prepare necessary press releases.
 1. Ensure coordination with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
 2. Ensure that important public information is disseminated, such as information on how the public can show support for the department and deceased member's survivors.
- (d) Arrange for community and media briefings by the Chief of Police or the authorized designee as appropriate.

Line-of-Duty Deaths

- (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 Chief of Police should request that the media withhold the information from release until proper notification can be made to survivors. The Chief of Police should ensure that media are notified when survivor notifications have been made.

1027.8 INVESTIGATION OF THE INCIDENT

The Chief of Police shall ensure that line-of-duty deaths are investigated thoroughly and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

1027.9 NON-LINE-OF-DUTY DEATH

The Chief of Police may authorize certain support services for members whose death is unrelated to their duties .

Discipline

1028.1 PURPOSE AND SCOPE

Discipline within an organization requires compliance to a code of ethics and standards of performance supported by a system of authoritative guidelines such as rules, regulations, general orders and other policies and procedures. Discipline is a necessary element in the maintenance and growth of any person or organization.

The purpose of this policy is to define the authority and responsibility delegated to Departmental supervisors for the maintenance of discipline.

- To enable the Chief of Police and Deputy Chief of Police to deal effectively with minor violations.
- To provide additional tools for superior officers in carrying out the supervisory function.
- To create a concise disciplinary structure between members of the Department and their immediate supervisor.
- To encourage compliance with all aspects of the policies and procedures of the Department.

1028.1.1 DEFINITIONS

Command discipline - A procedure to maintain discipline within the Department, allowing the correction of minor deficiencies with non-judicial punitive action.

1028.2 POLICY

It is the policy of the Department to provide for the authoritative utilization of supervisory discipline of minor violations of the Police Department General Operations Manual at an appropriate management level and to dispose of specified rule violations without resorting to formal charges and Departmental hearings..

Supervisors are responsible to ensure that Departmental members and employees perform their duties in accordance with the policies, procedures, rules and regulations and authoritative instructions of the Department. They will oversee the performance of personnel under their supervision (for however brief a period) or who are assigned to their command.

Supervisors will initiate actions in response to the acts of commission or omission, which they observe, or which comes to their attention.

1028.3 MAINTENANCE OF DISCIPLINE - AUTHORITY

Supervisors are required to initiate the following corrective measures to fulfill their responsibility of ensuring compliance with Department rules, regulations, policies, and procedures. In all cases, the supervisor is required to instruct the subordinate on how to correct noted inadequacies and document same.

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Nothing established herein should preclude the supervisor from regularly instructing officers on their performance.

Give remedial instruction in all instances that are or may be construed to be violations of Departmental directives. Such oral instruction to an employee shall be documented as a record of counseling and filed on a Departmental Special Report, a copy of which is to be forwarded to the Lieutenant in charge of the respective Division and maintained in a file.

Initiate an oral or written reprimand.

- (a) In the case of an oral reprimand, the Supervisor shall maintain documentation of each incident.
- (b) In the case of a written reprimand, a copy of the reprimand shall be forwarded to the Chief of Police through the chain of command and placed in the employee's personnel file.

Initiate command discipline proceedings as allowed by current directives.

If a supervisor feels that an officer is unfit for duty (for either medical or psychological reasons), he/she may excuse that officer for the remainder of his/her tour.

A supervisor may also relieve an officer from duty for any serious violation of the Department's regulations or for insubordination. When an officer is so relieved he will have to appear before the Chief of Police at the earliest possible time, this will usually be the morning of the next business day. A notification on a Departmental Special Report documenting all details of the incident shall be immediately forwarded to the Chief of Police through the chain of command.

Recommend, through the chain of command, to the Chief of Police, the preferring of Departmental charges. If formal charges are preferred against an officer, all procedures will be consistent with Article 75 of the Civil Service Law and the contract between the City of Kingston and the Police Union.

1028.4 COMMAND DISCIPLINE

Command Discipline shall be discretionary on the part of the supervisors and will be voluntary on the part of the member concerned.

Superior officers at all levels should continue to utilize all means available to improve attitudes and performances. Command Discipline procedures will provide additional strength to the supervisory function in situations requiring emphatic discipline rather than verbal admonition, yet not serious enough to require formal charges.

1028.4.1 PROCEDURE

All of the following conditions must exist before Command Discipline may be instituted:

- (a) The minor violation is not aggravated by additional circumstances that make Command Discipline an inappropriate means of disposition.

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- (b) The Department member is not on probation as a result of a previous disciplinary proceeding.
- (c) The Department member has not been the subject of two Command Disciplines and/or incidents of formal charges within the past 12 months.
- (d) The Department member does not contest the accuracy of the facts reported and does not desire a trial of the issue (he/she voluntarily submits to Command Discipline accepting the facts as presented).
- (e) The supervisor believes that the future performance of the member will be improved through the application of the Command Discipline.
- (f) The Chief of Police and Deputy Chief of Police concur with the supervisor's recommendation.
- (g) The individual has concluded his/her probationary period as a probationary police officer.

Squad supervisor:

- (a) Investigate to determine if the allegation is substantiated.
- (b) Indicate findings on the report if the allegation is unsubstantiated.
- (c) If substantiated and it is the intent to dispose of the incident under Command Discipline, interview member concerned. Advise member of the alleged violation.
- (d) Give opportunity for the member to make a statement in rebuttal and/or obtain additional information from others. Conduct further investigation, if necessary.
- (e) Inform the member of the results of the investigation and if the allegation is substantiated.
- (f) If substantiated, advise the member that he/she may:
 - 1. Accept findings and proposed penalty.
 - 2. Decline to accept Command Discipline and choose formal charges.
- (g) Give member copy of Command Discipline Request/Waiver.

Authorized penalties under Command Discipline:

- (a) When proposing penalties under Command Discipline, a squad supervisor may recommend any of the following:
 - 1. Forfeiture of up to five vacation or supplementary days.
 - 2. Forfeiture of up to five regular days off but not to exceed one day per block of regular days off. (This shall commence no less than 24 hours following a completed tour of duty)
 - 3. Change of member's tour of duty not to exceed three tours.
- (b) The above actions do not preclude a supervisor from:
 - 1. Warning and admonishing the member orally or in writing. A report describing this course of action would be filed with the papers.

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2. Changing the member's assignment, either temporarily or permanently. (this course of action must be submitted to the Chief of Police for endorsement).

1028.5 RECORDS OF DISCIPLINARY ACTION

Records for command discipline shall be maintained in a locked file kept by the Deputy Chief of Police. They shall be purged from the file after one year from the date of occurrence. Article 75 proceedings records will be maintained permanently in the employees personnel file, which is located in the Chief of Police's office.

Attachments

Form E Blank.pdf

APPENDIX E LETTER

REQUEST FOR SOURCE INDIVIDUAL EVALUATION

Dear (Emergency Room Medical Director, Infection Control Practitioner):

During a recent transport of a patient to your facility, one of our prehospital care providers was involved in an event which may have resulted in exposure to a Blood-borne Pathogen.

I am asking you to perform an evaluation of the source individual who was transported to your facility. Given the circumstances surrounding this event please determine whether our prehospital care worker is at risk for infection and/or requires medical follow-up.

Attached is a "Documentation and Identification of source individual" form which was initiated by the exposed worker. Please complete the source individual section and communicate the findings to the designated medical provider.

The evaluation form has been developed to provide confidentiality assurances for the patient and the exposed worker concerning the nature of the exposure. Any communication regarding the findings is to be handled at the medical provider level.

We understand that information relative to human immunodeficiency virus (HIV) and AIDS has specific protections under the law and cannot be disclosed or released without the written consent of the patient. It is further understood that disclosure obligates persons who receive such information to hold it confidential.

Thank you for your assistance in this very important matter.

Sincerely,

APPENDIX E FORM

CONFIDENTIAL

DOCUMENTATION AND IDENTIFICATION OF SOURCE INDIVIDUAL

Name of Exposed Employee _____

Name and Phone Number of Medical Provider Who Should be Contacted: _____

INCIDENT INFORMATION

Date: _____

Name or Medical Record Number of the Individual Who Is the Source of the Exposure

NATURE OF THE INCIDENT

_____ Contaminated Needlestick Injury

_____ Blood or Bodyfluid Splash Onto Mucous Membrane or Non-Intact Skin

Other: _____

REPORT OF SOURCE INDIVIDUAL EVALUATION

Chart Review By _____ Date _____

Source Individual Unknown — Researched By _____ Date _____

Testing of Source Individual's Blood **Consent** Obtained _____ Refused _____

CHECK ONE:

- _____ Identification of source individual infeasible or prohibited by state or local law. State why if infeasible
- _____ Evaluation of the source individual reflected no known exposure to Bloodborne Pathogen
- _____ Evaluation of the source individual reflected possible exposure to Bloodborne Pathogen and medical follow-up is recommended.

Person completing report: _____ Date: _____

NOTE: Report the results of the source individual's blood tests to the medical provider named above who will inform the exposed employee. Do not report blood test findings to the employer.

HIV-related information cannot be released without the written consent of the source individual.

Form D Blank.pdf

EXPOSURE INCIDENT REPORT

(ROUTES AND CIRCUMSTANCES OF EXPOSURE INCIDENT)

Please Print

Date Completed _____

Employee's Name _____ S. S.# _____

Home Phone _____ Business Phone _____

DOB _____ Job Title _____

Employee Vaccination Status _____

Date of Exposure _____ Time of Exposure _____ A.M. _____ P.M.

Location of Incident (Home, Street, Clinic, Etc). Be Specific: _____

Nature of Incident (Auto Accident, Trauma, Medical Emergency). Be Specific:

Describe what task(s) you were performing when the exposure occurred. Be Specific: _____

Were you wearing Personal Protective Equipment (PPE)? YES _____ NO _____

Did the PPE fail? YES _____ NO _____

If YES, Explain how: _____

Were you using Engineering Controls? Yes _____ No _____

Did the Engineering Controls fail? Yes _____ No _____

If YES, explain how: _____

What body fluid(s) were you exposed to (blood or other potentially infectious material)? Be Specific: _____

Continued from other side

Side 2 of 2-sided form

What parts of your body became exposed? Be Specific: _____

Estimate the size of the area of your body that was exposed: _____

For how long? _____

Did a foreign body (needle, nail, auto part, dental wires, etc.) penetrate your body? Yes _____ No _____

If Yes, what was the object? _____

Where did it penetrate your body? _____

Was any fluid injected into your body? Yes _____ No _____

If Yes, what fluid? _____

How much? _____

Did you receive medical attention? Yes _____ No _____

If Yes, where? _____

When? _____

By Whom? _____

Identification of Source Individual(s) _____

Name(s) _____

Did you treat the patient directly? Yes _____ No _____

If Yes, what treatment did you provide? Be Specific: _____

Other pertinent information _____

Form F Blank.pdf

CONFIDENTIAL**EMPLOYEE EXPOSURE FOLLOW-UP RECORD**

Employee's Name _____ Job Title _____

Occurrence Date _____ Reported Date _____

Occurrence Time _____

SOURCE INDIVIDUAL FOLLOW-UP:

Request made to _____

Date _____ Time _____

Sampling completed or refused. Date _____

EMPLOYEE FOLLOW-UP

Employee's Health File Reviewed By _____ Date _____

Information given on source individual's blood test results.

Yes _____ Not Obtained _____

Referred to healthcare professional with required information:

Name of healthcare professional: _____

By Whom _____ Date _____

Blood Sampling/Testing Offered:

By Whom _____ Date _____

Vaccination Offered/Recommended:

By Whom _____ Date _____

Counseling Offered:

By Whom _____ Date _____

Employee Advised of need for further evaluation of medical condition:

By Whom _____ Date _____

Form C-1 Blank.pdf

DECLINATION STATEMENT

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring Hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with Hepatitis B vaccine, at no charge to myself. However, I decline Hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring Hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with Hepatitis B vaccine, I can receive the vaccination series at no charge to me.

Employee Signature

Date

Sick Report form 1-28-14 fillable.pdf

KINGSTON POLICE DEPARTMENT

ACCIDENT/SICK REPORT

NAME: _____

DATE _____

To: Police Chief Egidio Tinti

I was unable to report for duty on the following date(s) _____ and was confined to
(my residence) for a total of _____ day(s). I was treated by Doctor _____ (if none,
indicate none).

Additional information (if none, indicate none):

I swear that the information contained herein is accurate and true to the best of my knowledge, understanding
and belief.

Signed: _____

Sworn to me before this _____ day of _____, 20__

(Commissioner of Deeds)

****NOTICE****

All members of this department must file an **Accident/Sick Report** for any illness or accident that prevents him/her from reporting for duty. This form must be completely filled out, sworn to and submitted to the Chief of Police on the day immediately following said absence.

Injuries received in the line of duty are to be submitted on a regular **Special Report** form and must contain a complete statement of facts regarding said injury or illness. The **Special Report** regarding said injury or illness will be submitted at the officer's earliest possible convenience. The **Special Report** will be kept in said officer's personnel file by the Chief of Police and will be used to satisfy any claims on the officer's behalf for injuries sustained.

☐ Work Related / Incident # _____

Patrol Map.pdf

City of Kingston Social Media Policy.pdf

Social Media Policy

The City of Kingston encourages all designated departments to use Social Media as guided by this policy.

Social Media is any tool or service that facilitates communications over the Internet. Social Media applies to traditional big names like Facebook and Twitter, but also applies to other platforms you may use that include user conversations like YouTube, Flickr, blogs and wikis.

It is important to understand that departments must follow the principles laid out below when engaging in Social Media.

Using Social Media Sites

The intended purpose behind establishing City of Kingston social media sites is to disseminate information from the City, about the City, to its citizens. The City will approach the use of social media tools as consistently as possible, enterprise wide. Departments shall monitor their social media sites for comments requesting responses from the City and for comments in violation of this policy. Social Media is another tool you can use, just be sure you do it the right way.

Examples of use;

- Public Meetings / Agendas (City Clerk, Planning)
- Upcoming events and programs (Tourism, Parks & Rec, KFD)
- Emergency Notifications (DPW, Citibus, City Clerk, KPD)
- Road Closures (DPW)
- Delays in Service / Cancellations (DPW, Parks & Rec)
- Missing Persons (KPD)
- Tax rates & Budget postings (Comptroller's office)
- Exams and Job Opportunities (Civil Service)
- Block by Block announcements (KFD)

Protect Information

Social Media encourages departments to communicate information. When you use Social Media you should also be aware that through your relationship with the City you have access to confidential information. If you mistakenly post confidential information on a Social Media platform it will be hard to take down that information completely.

Be Transparent and Disclose

Employees representing the City government via City social media sites must conduct themselves at all times as a representative of the City and in accordance with all City policies.

Be Responsible

Social Media lets you communicate incredibly fast and have your message go viral in seconds. This makes it difficult to fix an inaccurate message once you've shared it. The best thing to do is double check all content before you share it.

Make sure you're engaging in Social Media conversations the right way. If you aren't an authority on a subject, send someone to the expert rather than respond yourself. Don't speak on behalf of the City if you aren't giving an official City response and be sure your audience knows the difference. If you see something being shared related to the City on a Social Media platform that shouldn't be happening, immediately inform your department head, or some other appropriate contact.

Social Media Account Ownership

This section isn't a Social Media Principle, but it's still important enough to be in this policy. If you participate in Social Media activities as part of your job at the City, that account is considered City property. You will not try to change the password or the account name or create a similar sounding account or have any ownership of the contacts and connections you have gained through the account. This doesn't apply to personal accounts which you may access at work but would certainly apply to all City branded accounts created as part of your job. If you have any questions about an account you operate, please reach out to the network administrator to discuss the account.

The Mayor shall designate the departments to use social media. The Department Head of those departments shall designate the computers and employees to have access with direction from the IT Director.

Computer Use Policy.pdf

CITY OF KINGSTON
TECHNOLOGY SERVICES AND EQUIPMENT USE POLICY
&
EQUIPMENT USE POLICY AND REGULATIONS FOR E-MAIL, INTERNET
AND NETWORK USE

The purpose of this policy is to provide the following requirements for the use of City-owned communication systems and equipment. Communication systems and equipment include but are not limited to computer systems, internet services, hardware, software, laptops, smart phones, cell phones, land-line phones, printers, facsimile machines, copiers, and scanning devices.

Property – All communication systems, equipment and files are the property of the City. This includes the messages created, transmitted, and stored on such systems and equipment.

Usage – All communication systems and equipment are provided to an employee for the purpose of aiding that employee in the performance of the employee's job functions. All hardware and software used is to be supplied by the City. No unauthorized or unlicensed hardware or software may be used or installed on any City-owned computer. Any hardware or software necessary to perform job duties should be requested of the employee's Department Head.

City's Right to Monitor Communication Systems and Equipment – There is no guarantee of privacy when using City-owned communication systems and equipment. The City reserves the right to enter, search, and monitor employee communication systems, equipment, and files, with or without advance notice, at any time in the normal course of business. Department Heads have the authority to inspect the contents of any City communication systems, equipment, data/ files, or electronic messages of their subordinates in the normal course of their supervisory responsibilities. In addition, the data/ files of Department Heads and supervisors may be inspected by the Mayor in the normal course of duty. This applies to all information, messages, and files that are created, transmitted, downloaded, received, stored, or deleted on such systems, including items that are password protected. Additionally, the City has the authority to monitor and record each web site, chat room, and newsgroup visited on the Internet, and every electronic message and file transfer into and out of the City's network or communication service. The City may also monitor each employee's Internet activity and usage patterns to ensure that the City's resources are being utilized for appropriate business purposes.

Personal Use – Employees are responsible for exercising good judgment regarding the reasonableness of personal use. Any non-business use should be

CITY OF KINGSTON
TECHNOLOGY SERVICES AND EQUIPMENT USE POLICY
&
EQUIPMENT USE POLICY AND REGULATIONS FOR E-MAIL, INTERNET
AND NETWORK USE

incidental and occasional. Any personal use that interferes with the performance of an employee's work or burdens or compromises the effectiveness of the City's network and equipment is strictly prohibited.

Prohibited Uses – In addition to the requirements set forth above, the following uses of City-owned communication systems and equipment are prohibited. This list is meant to be illustrative, and not exhaustive.

- Any illegal activity;
- Threats or harassment;
- Slander or defamation;
- Transferring, viewing, or storage of obscene or suggestive messages or graphic images;
- Any unauthorized commercial activity;
- Accessing or attempting to access the data/files of another person, unless otherwise authorized as necessary in the course of performing City business;
- Using or aiding in the unauthorized use of another person's password;
- Harming or destroying data/files (other than editing or deleting information in the normal course of one's job duties);
- Use of non-business software;
- Gambling;
- Use of entertainment software, such as games and puzzles;
- Installation or use of any hardware or software, not authorized by the City;
- Installation or use of City-owned hardware or software for any use that is not City related business;
- Installation or use of any unauthorized or unlicensed hardware or software; and Installation of any software containing viruses.

CITY OF KINGSTON
TECHNOLOGY SERVICES AND EQUIPMENT USE POLICY
&
EQUIPMENT USE POLICY AND REGULATIONS FOR E-MAIL, INTERNET
AND NETWORK USE

Internet / Electronic Messaging Requirements

Eligibility – Internet / electronic messaging service may be provided to employees who can demonstrate a work-related reason to have access. Electronic messages (e-messages) include but are not limited to e-mails, text messages, blogs, instant messages and posting to social networking or other sites. Approval must be given by the employee's Department Head or supervisor.

Proper Usage – In addition to the prohibitions set forth in the above paragraphs, any activities prohibited for any other general computer user are also prohibited with respect to Internet / e-messaging service usage. Employees are expected to communicate in a manner that will reflect positively on both themselves and the City. Additionally, it is the responsibility of the employee to adhere to the following requirements:

- E-messaging must be used in a professional manner;
- Messages must not be threatening, insulting, obscene, abusive, or derogatory;
- Messages must not include content that constitutes workplace harassment including sexual harassment;
- E-messaging may not be used to transmit chain letters;
- Employees are responsible for saving any e-messages that they want to keep permanently;
- E-messages must not involve personal sales or solicitation or be associated with any for-profit outside business activity;
- E-messages must not involve personal not-for-profit solicitations;
- E-messages must not potentially embarrass the City of Kingston;
- Passwords should not be given to anyone other than the employee's Department Head or supervisor;
- Internet must not be used for the propagation of computer viruses;
- Internet must not be used for personal recreational activities (e.g. online games);
- Participation in non-business Internet chat groups, blogging or instant messaging is prohibited;
- As a security precaution, a workstation must not be left signed onto E-mail or the Internet while unattended for a long period of time (or overnight). Each employee must log off the network when not in use and power down at the end of the day;
- Employee Internet usage and e-messaging may be subject to filtering and may be monitored;

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- Employees should be aware that deletion of any E-message or file does not truly eliminate that message or file from the system. All E-mail messages are stored on a central back-up system in the normal course of data management;
- Employees should ensure that no personal correspondence appears to be an official communication of the City; and
- Employees may not use the City's address for transmitting or receiving personal mail or use the City's e-mail address for transmitting or receiving personal e-messages.

Disclosure of Information - Employees must bear in mind that e-messages are not private and its source is clearly identifiable. E-messages may remain part of the City's business records long after they are deleted. Electronic records, including e-messages, are public records subject to state Freedom of Information Law and will be disclosed upon request unless an exemption to disclose is found to apply. In general, e-messages are subject to discovery in civil lawsuits.

Reliability – Users should be aware that because the internet is a collection of computer networks with no single central authority over information consistency, data is subject to inaccuracies. The City is not responsible for loss or damage to a user's data or for the reliability of information that is obtained via the Internet service. Also, this information must be used in accordance with applicable copyright laws.

Reporting of Violations – Anyone with information as to a violation of this policy is to report said information to the employee's Department Head. Once the employee's Department Head is informed of the violation, a formal process will begin.

Disciplinary Action – Any employee who violates this policy will be subject to disciplinary action up to and including termination of employment.

Workplace_Violence_Prevention_Policy_(1).pdf

City of Kingston NY Workplace Violence Prevention

Policy

The City of Kingston NY (City) is the provider of municipal and related community services. The City strives to provide a safe work environment to all of its employees and to those that it serves.

The City is committed to providing a safe work environment for all employees. The City will respond promptly to threats, acts of violence, and acts of aggression by employees or against employees by coworkers, members of the public or others.

The term “workplace violence” is defined as any physical assault, threatening behavior or verbal abuse occurring in the work setting. The City of Kingston prohibits workplace violence and will not tolerate violence, threats of violence, or intimidating conduct in the workplace. Complaints of workplace violence will be given serious attention. Security and safety in the workplace requires the cooperation of every employee.

This policy sets forth standards for employee conduct and guidelines for reasonable precautions. The accompanying procedures outline response to threats or violence should they occur in the workplace whether in a City facility or while performing duties in the City.

The term “workplace” is defined as any location away from an employee’s domicile, permanent or temporary, where an employee performs any work-related duty in the course of his or her employment.

The term “employee” is defined as a public employee working for an employer.

The City response may also include removal of third party vendors/contractors from buildings or termination of contracts with such vendors/contractors.

Prohibited Conduct

- A. The City will not tolerate any act or threat of violence made in the workplace, on City property, or while in work status for the City.
- B. No person may engage in violent conduct or make threats of violence, implied or direct, on City property or in connection with City business. This includes but is not limited to:
 - 1. The use of force with the intent to cause harm, e.g. physical attacks, any unwanted contact such as hitting, fighting, pushing, or throwing objects;
 - 2. Acts or threats which are intended to intimidate, threaten, coerce, or cause fear of harm whether directly or indirectly;
 - 3. Acts or threats made directly or indirectly by oral or written words, gestures or symbols that communicate a direct or indirect threat of physical or mental harm.
 - 4. No person, without legal authority, may carry, possess or use any dangerous weapon on City property or in City buildings or facilities.

Mayor

The Mayor shall be responsible for the implementation of this policy. The responsibility includes distribution of this policy to members of the city workforce, ensuring appropriate investigation and follow-up of reported incidents of workplace violence, appointing a Workplace Violence Advisory Team, and ensuring that administrators, managers and supervisors are aware of their responsibilities under this policy through internal communications and training.

Workplace Violence Advisory Team

- A. The Mayor will establish a Workplace Violence Advisory Team. This team, working with the Mayor will assist/advise the Mayor to:
 1. Perform a risk evaluation of the workplace to determine the presence of factors or situations that might place employees at risk of workplace violence;
 2. Assess the readiness for dealing with workplace violence;
 3. Facilitate appropriate responses to reported incidents of workplace violence;
 4. Assess the potential problem of workplace violence and recommend policy, training issues, or security procedures that should be implemented to maintain a safe working environment;
 5. Evaluate incidents to prevent future occurrences;
 6. Utilize prevention, intervention, and interviewing techniques in responding to workplace violence;
 7. Develop workplace violence prevention tools (such as pamphlets, guidelines and handbooks) to assist in recognizing and preventing workplace violence.
 8. Arrange regularly scheduled workplace violence prevention training sessions for employees.
- B. It is recommended that this team include the Police Chief, Fire Chief, City Safety Officer and others, as deemed appropriate by the Mayor.

Workplace Violence Prevention Program

- A. The City of Kingston shall develop and implement a written Workplace Violence Prevention Program for its workplaces that includes the following:
 1. A definition of workplace violence;
 2. Commitment to zero tolerance of workplace violence;
 3. Techniques on how to recognize and avoid workplace violence situations;
 4. Identification of the high risk occupations;
 5. The importance of reporting all workplace violence incidents and the procedure to do so;
 6. Investigations of incidents by the employer; and
 7. Employee assistance.

Information and Training for Employees

- A. The City shall make the written workplace violence prevention program available, upon request, to its employees and their designated representatives.
- B. At the time of employees' initial assignment and annually thereafter, the City shall provide its employees with the following information and training on the risks of violence in their workplace(s):
 - 1. be informed of the requirements of NYS Labor Law 27-b;
 - 2. the risk factors in their workplace(s);
 - 3. the location and availability of the written workplace violence prevention program; and
 - 4. training sessions that outline:
 - a. the measure employees can take to protect themselves from such risks, including specific procedures the City has implemented to protect employees and
 - b. the details of the written workplace violence prevention program developed by the City.

Retaliation

Retaliatory action against anyone acting in good faith who has made a complaint of workplace violence, who has reported witnessing workplace violence, or who has been involved in reporting, investigating, or responding to workplace violence is a violation of this policy. Those found responsible for retaliatory action will be subject to discipline up to and including termination.

- 1. For what constitutes Workplace Violence see the National Institute for Occupational Safety and Health's (NIOSH) definition in NYS Department of Labor Division of Safety and Health's, Workplace Violence Prevention Requirements for NYS Public Employers at <http://www.labor.ny.gov/home>
- 2. For a description of a risk evaluation see the NYS Department of Labor Division of Safety and Health's, Workplace Violence Prevention Requirements for NYS Public Employers at <http://www.labor.ny.gov/home>
- 3. From the New York State Department of Labor Division of Safety and Health's, Workplace Violence Prevention Requirements for New York State Public Employers at <http://www.labor.ny.gov/home>

City of Kingston NY

Workplace Violence Prevention Procedures

Process

Incidents of workplace violence, threats of workplace violence, or observations of workplace violence are not to be ignored by any employee of the City of Kingston NY (City). Workplace violence should promptly be reported to the appropriate City official (see below). Additionally, all members of the community are encouraged to report behavior they reasonably believe poses a potential for workplace violence in order to maintain a safe working and learning environment.

Definitions

For the purposes of this section:

- A. “Employer” means: (1) The City of Kingston NY; (2) a political subdivision of the City of Kingston NY; and (3) a public authority, a public benefit corporation, or any other governmental agency or instrumentality thereof.
- B. “Employee” means a public employee working of an employer.
- C. “Workplace” means any location away from an employee’s domicile, permanent or temporary, where an employee performs any work-related duty in the course of his or her employment by an employer.
- D. “Supervisor” means any person within an employer’s organization who has the authority to direct and control the work performance of an employee, or who has the authority to take corrective action regarding the violation of a law, rule or regulation to which an employee submits written notice.
- E. “Retaliatory action” means the discharge, suspension, demotion, penalization, or discrimination against any employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

Reporting Procedures

- A. Any person experiencing or witnessing imminent danger or personal injury or violence involving weapons or actual violence should call the Kingston Police Dept. or 911 immediately.
- B. Any person who is the subject of a suspected violation of the Workplace Violence Prevention Policy involving violence without weapons or personal injury, or is a witness to such suspected violation, should report the incident to his or her supervisor, or in lieu thereof, to the Kingston Police Dept.
- C. Employees are expected to report any threat or act of violence that they have witnessed, received, or been informed of, to Kingston Police or a supervisor.
- D. Employees who commit a violent act or threaten to commit a violent act may be subject to disciplinary action, criminal prosecution and/or civil prosecution as appropriate.
- E. Any individual who makes a substantial threat, exhibits threatening behavior or engages in violent acts on City property shall be subject to removal from the premises as quickly as safety permits, pending the outcome of an investigation.

Employees

- A. All employees are responsible for helping to maintain a safe work and educational environment and are urged to take reasonable precautions to prevent violence and other unsafe conditions in the workplace and report indicators of increased risk of violent behavior including but not limited to the following examples:

Precautions

- In response to telephone inquiries, do not release information about coworkers' schedules, home telephone numbers, or other personal information.
- In the event of suspicious conduct, request the credentials of any stranger who enters your office to do repair or other service work. If necessary, verify the work request with the supervisor.
- Never leave money, credit card, travel documents or any thing else of value in an unlocked desk or cabinet.
- If something is stolen, report it immediately to the Kingston Police Dept.

Indicators

- Direct or veiled threats of harm;
 - Intimidating, belligerent, harassing, bullying, or other inappropriate and aggressive behavior;
 - Numerous conflicts with supervisors and other employees;
 - Bringing a weapon to the workplace, brandishing a weapon in the workplace making inappropriate references to guns, or fascination with weapons;
 - Statements showing fascination with incidents of workplace violence, statements indicating approval of the use of violence to resolve a problem, or statements indicating identification with perpetrators of workplace homicides;
 - Statements indicating desperation (over family, financial, and other personal problems) to the point of contemplating suicide;
 - Drug/alcohol abuse; and
 - Extreme changes in behavior.
- B. Orders of Protection: Employees are expected to notify the Kingston Police Dept. whenever a protective restraining order is granted which mentions City property, or involves a City employee, or a person working at or attending the City, and provide a copy of the order. Appropriate efforts will be made to protect the privacy and sensitivity of the information provided. Employees should also notify their supervisor.
- C. Domestic Violence: Victims of domestic violence who believe the violence may extend into the workplace, or employees who believe that domestic or other personal matters may result in their being subject to violence extending into the workplace, are encouraged to notify their supervisor, or the Kingston Police Dept. Confidentiality will be maintained to the extent possible.
- D. All employees have an obligation to report any incidents of violence and/or inappropriate conduct or behavior to their supervisor or the Kingston Police Dept. immediately.
- E. Any employee or representative of employees who believes that a serious violation of a workplace violence prevention program exists or has an imminent

- danger exists shall bring such matter to the attention of a supervisor in the form of a written notice. If following written notice, the matter has not been resolved and the employee or representative believes that the violation still exists or that an imminent danger still exists, the employee or representative should contact the Kingston Police Dept.
- F. Individuals found to be in violation of this policy may be removed from the City property. Employees may be subject to disciplinary action up to and including dismissal, pursuant to applicable Personnel Policies or Collective Bargaining Agreements. Further, all individuals who violate criminal law may be subject to criminal prosecution.
 - G. No employee shall be subjected to criticism, reprisal, retaliation or disciplinary action from the college for good faith reporting pursuant to this policy. Employees who engage in violent conduct should be reported to the Kingston Police Dept. or 911.
 - H. Individuals who make false and malicious complaints of workplace violence, as opposed to complaints which, even if erroneous, are made in good faith, may be subject to disciplinary action and/or referral to appropriate authorities for criminal and/or civil action as appropriate.

Supervisors

- A. Each department head, executive officer, administrator, or other person with supervisory responsibility (hereinafter “supervisor”) is responsible within his/her area of jurisdiction for the implementation of this policy.
- B. Supervisors are required to contact the Kingston Police immediately in the event of imminent or actual violence involving weapons or potential physical injuries.
- C. Supervisors must report to the Kingston Police any complaint of workplace violence made to him/her and any other incidents of workplace violence of which he/she becomes aware or reasonably believes to exist. Supervisors are expected to inform their immediate supervisor promptly about any complaints, acts or threats of violence even if the situation has been addressed and resolved. After having reported such complaint or incident to the Kingston Police and immediate supervisor, the supervisor should keep it confidential and disclose it only as necessary during the investigation process and /or subsequent proceedings.
- D. Every supervisor is obligated to report any knowledge of such conduct to the Office of Mayor immediately. Failure of a supervisor to investigate and initiate appropriate action may result in administrative action including possible discipline.

Kingston Police Department

- A. The Kingston Police Dept. is responsible for:
 - Responding to;
 - Intervening; and
 - Documenting all incidents of workplace violence in the workplace reported to it.
- B. Kingston Police will immediately log all incidents of workplace violence reported to it and will notify the respective department head and the Mayors Office of an incident with the employee.

- C. Kingston Police Officers are trained in workplace violence awareness and prevention, non-violent crises intervention, conflict management, and dispute resolution.
- D. When informed, Kingston Police will maintain a record of any Orders of Protection.

Civil Service Office

- A. The Civil Service Office (CSO) is responsible for:
 - Assisting the Kingston Police Dept. and supervisors in responding to workplace violence;
 - Facilitating appropriate responses to reported incidents of workplace violence;
 - Notifying the Kingston Police of workplace violence incidents reported to CSO as appropriate; and,
 - Consulting with the Employee Assistance Program to offer professional intervention.
- B. The Civil Service Office will maintain an internal tracking system of all threats and incidents of violence reported. Annual reports will be submitted to the Mayor and the Workplace Violence Advisory Team detailing the number and description of workplace violence incidents and the disposition of the incidents.
- C. The Civil Service Office is responsible for providing new employees with a copy of the Workplace Violence Policy and Procedure and insuring that employees receive appropriate training pursuant to NYS Labor Law 27b.
- D. The Civil Service Office will also be responsible for annually disseminating this policy to all employees, as well as posting the policy throughout all City departments and on the City's Website, as appropriate.

Employee Assistance Program

The facilitator of the Employee Assistance Program in each department is responsible for ensuring that subjects of workplace violence have access to counseling services, should they request it. They are also responsible for assisting and speaking with employee victims.

1. For what constitutes Workplace Violence see the National Institute for Occupational Safety and Health's (NIOSH) definition I NYS Department of Labor Division of Safety and Health's, Workplace Violence Prevention Requirements for NYS Public Employers at <http://www.labor.ny.gov/home>
2. Identified by the FBI's National Center for the Analysis of Violent Crime, Profiling and Behavioral Assessment Unit in Dealing with Workplace Violence; A Guide for Agency Planners by the United States Office of Personnel Management, Workforce Relations, February 1998
3. For recordkeeping requirements see NYS Labor Law 27-a. Safety and health standards for public employees.

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