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NAVIGATE TO THE POLICY BY CLICKING THE NUMBER OR TITLE

Use of Force

300.1 PURPOSE AND SCOPE

Best Practice

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.

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 Techniques and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Federal MODIFIED

Definitions related to this policy include:

Deadly force - The intentional use of a firearm or other instrument that creates a high probability of death or great bodily harm. Behavior which justifies deadly force is defined as: Any behavior which has caused or imminently threatens to cause death or great bodily harm to you or another person or persons.

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 by a law enforcement officer to another person to accomplish a legitimate law enforcement goal and the level of force used is reasonable considering all of the facts and circumstances of the incident. 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

Best Practice MODIFIED

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.

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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.

Consistent with our Mission and Core Values, the Fitchburg Police Department is committed to valuing and preserving human life. The protection and preservation of all human life – including the lives of individuals being taken into custody – is the department's fundamental objective and the primary duty of all police officers.. 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.

GUIDING PRINCIPLES:

Our use-of-force philosophy is defined by the following guiding principles:

1. We value the protection of people and human life.
2. Communication is the preferred method in any level of conflict resolution.
3. De-escalation techniques (i.e. communication, creating distance, utilizing time) are paramount to our philosophy by reducing the potential to using force and reducing the risk of injury to officers and individuals.
4. In the event force must be used, only the minimal level of force and that which is necessary will be used to gain control.
5. Officers must intervene in situations where unnecessary and excessive force is being used. Those situations will be reported to a supervisor.
6. Officers must provide necessary medical attention to people.
7. Deadly force must only be used as a last resort, after all other methods of control are exhausted or inappropriate, and are used to protect the life of an officer or another person.

300.2.1 DUTY TO INTERCEDE AND REPORT

Federal

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 (Wis. Stat. § 175.44).

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 shall report these observations to a supervisor as soon as feasible (Wis. Stat. § 175.44).

300.2.2 PERSPECTIVE

Best Practice

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.

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300.3 USE OF FORCE

Federal

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.

300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

Best Practice **MODIFIED**

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

300.3.2 USE OF FORCE TO EFFECT AN ARREST

State **MODIFIED**

A law enforcement officer may use reasonable force to detain a person, arrest a person or execute a warrant. (Wis. Stat. 968.14).

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

Federal

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.

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- (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.
- (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

Best Practice

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.

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300.3.5 USE OF FORCE TO SEIZE EVIDENCE

Best Practice **MODIFIED**

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 will not 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 control individuals safely to limit the potential destruction of evidence.

300.3.6 CHOKE HOLD

State **MODIFIED**

The use of a choke hold, which is the intentional and prolonged application of force to the throat or windpipe, is limited to circumstances where deadly force is authorized. (Wis. Stat. § 66.0511).

300.4 DEADLY FORCE APPLICATIONS

Federal **MODIFIED**

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify him/herself as a peace 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. In all situations, officers must make reasonable efforts to use other methods or lesser degrees of force to control the situation or deem all other options unreasonable or ineffective. The use of Deadly Force is considered a last resort.

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.

300.4.1 MOVING VEHICLES

Best Practice

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

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

Best Practice **MODIFIED**

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 requires the completion of Use-of-Tactics forms, as specified in department policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATIONS TO SUPERVISORS

Best Practice **MODIFIED**

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 a "Compliance Hold" or greater.
- (f) Any application of a restraint device other than handcuffs 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 alleges that any of the above has occurred.

300.5.2 REPORTING TO WISCONSIN DEPARTMENT OF JUSTICE

State

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Statistical data regarding all qualifying use of force incidents is to be reported to the Wisconsin Department of Justice as required by Wis. Stat. § 165.845. For the purposes of this section, a qualifying use of force incident means any incident (Wis. Stat. § 165.845):

- (a) Involving the discharge of a firearm by an officer at or in the direction of a civilian.
- (b) Involving the discharge of a firearm by a civilian at or in the direction of an officer.
- (c) Involving any action taken by an officer in response to an act of resistance that results in great bodily harm or death (Wis. Stat. § 939.22).
- (d) Involving an act of resistance taken by a civilian against an officer that results in great bodily harm or death.

300.6 MEDICAL CONSIDERATIONS

Best Practice **MODIFIED**

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, requests medical assistance, 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.

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.

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300.7 SUPERVISOR RESPONSIBILITIES

Best Practice MODIFIED

A supervisor should respond to a reported application of a compliance hold or higher, 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:

- (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) 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.
- (d) Identify and interview any witnesses to the use of force.
- (e) Review and approve all related reports for policy compliance or need for assessment; as well as collect all video/audio evidence is collected prior to the end of shift, or as soon as possible by the on-coming supervisor.
- (f) Evaluate the circumstances surrounding the incident and initiate an action assessment if the circumstances match those specified in the Use of Force Review Policy. The appropriate Section Commander and Deputy Chief shall be notified when an assessment is necessary.
- (g) If a supervisor is involved in the Use of Tactics/Force incident, an uninvolved supervisor will conduct the above steps.

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 SERGEANT RESPONSIBILITY

Best Practice MODIFIED

Upon receiving a use-of-tactics form, the sergeant shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.8 POLICY AVAILABILITY

State

The Chief of Police or the authorized designee should ensure that this policy (Wis. Stat. § 66.0511):

- (a) Is made available free of charge within three business days of the request.
- (b) Is publicly available on the department website and updated promptly upon amendment.

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300.9 TRAINING

Best Practice

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.

300.10 USE OF FORCE ANALYSIS

Best Practice **MODIFIED**

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.

Use of Force Review

301.1 PURPOSE AND SCOPE

Best Practice

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

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

301.2 POLICY

Best Practice

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

301.3 REMOVAL FROM LINE DUTY ASSIGNMENT

Discretionary

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

301.4 USE OF TACTICS/CRITICAL INCIDENT ACTION ASSESSMENT

Agency Content

- (a) All uses of force, unlawful use of force against officers resulting in injury, pursuits, and employee involved traffic accidents causing injury are required to be reported on a Use of Tactics Form. The form shall be reviewed by the Shift Supervisor (or on-coming) to determine whether:
 - 1. The pursuit, use of force, acts or omissions were within policy;
 - 2. If there were any witnesses to the use of tactics and conduct interviews, if necessary;
 - 3. If there was any video/audio evidence that needs to be recovered;
 - 4. In the case of accidents causing injury, the accident was non-preventable or preventable;
 - 5. If the incident falls in one of the categories that require an assessment.
- (b) The Shift Supervisor shall report his or her finding on the Use of Tactics Form and/or recommend an Action Assessment on the incident. An assessment is required for certain types of incidents. Upon completion, the Shift Supervisor shall forward the completed Use of Tactics Form to the Patrol Section Commander as soon as practical

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- (c) Upon receipt of Use of Tactics Forms, the Patrol Section Commander shall notify the Deputy Chief of Police of significant incidents consistent with parameters established by this policy. All Use of Tactics Reports shall be retained for a period of seven years and the data derived therefrom shall be compiled and periodically analyzed by the Chief and/or his/her designee to assess the effectiveness and adequacy of policy, training, equipment and personnel.
- (d) No Use of Tactics Review Required
 - 1. If no review is required, the shift sergeant shall forward the Use of Tactics form to a Use of Tactics Instructor for their review. The instructor shall review the incident and determine if training and equipment, policy, and the report are adequate. The Use of Tactics instructor shall document their review on the form, as well as in the Use of Tactics tracking program.

301.5 ACTION ASSESSMENT PROCESS

Best Practice **MODIFIED**

An action assessment will be conducted for the following circumstances:

- (a) Traffic accidents causing injury involving members of the department.
- (b) Pursuits involving department personnel.
- (c) An officer is injured in a use of force situation, or injured as the result of an unlawful use of force against the officer, which requires treatment at a medical facility.
- (d) Use of force where a subject receives an injury requiring medical treatment at a medical facility, whether such treatment is accepted or not.
- (e) Deadly force is used.
- (f) A firearm is discharged, whether on-duty or off-duty. (This standard does not apply to firearms training, hunting, authorized destruction of injured animals or participation in legitimate sporting events).
- (g) There is an alleged or actual unauthorized use of force.
- (h) A review is requested by the Department Management or the Shift Supervisor.
- (i) A civil lawsuit or claim for damages is filed.
- (j) Electronic Control Device discharge(s), with the exception of a spark test done in accordance to training

The action assessment will typically be conducted by the shift sergeant on the shift which the tactics or force was used. A member of the Command Staff will investigate and review the circumstances surrounding every discharge of a firearm, whether the employee was on- or off-duty, excluding training or recreational use, or euthanasia of an animal.

It will be the responsibility of the Section Commander or supervisor of the involved employee to notify the Deputy Chief of Police of any incidents requiring an action assessment. The involved

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employee's Section Commander or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the assessing supervisor.

301.5.1 RESPONSIBILITIES OF THE ASSESSING PERSONNEL

Best Practice **MODIFIED**

The assigned assessing supervisor is empowered to conduct an action assessment and inquiry into the circumstances of an incident.

The assessor, through consultation with the Section Commander and/or the Deputy Chief, may request further investigation, request reports be submitted for review, review all video/audio recordings and other incident material for the assessment. The involved employee will be notified of the assessment and will be updated throughout the process.

The assessor does not have the authority to recommend discipline. The assessor will review the incident and assess it based upon three primary areas, which are:

- Policy Relevance and Compliance
- Training Application
- Equipment Usage and Applicability

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

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

Any questioning of the involved employee conducted by the assessor will be in accordance with the department's corrective action procedures, the Employee Accountability Policy, the current collective bargaining agreement and any applicable state or federal law.

The assessor shall make one of the following recommended findings:

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

A recommendation from the assessor will then go to the appropriate Section Commander for review. The Section Commander may send the assessment back to the assessor for clarification. The Section Commander will then forward the assessment to the Deputy Chief of Police for review. The Deputy Chief will consult with the Chief of Police on the assessment.. The assessor may also recommend additional investigations or reviews, such as training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate.

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Use of Force Review

The Chief of Police shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Chief of Police's final findings will be forwarded to the involved employee's Section Commander for review and appropriate action. All training and coaching recommendation made by the assessor will be conducted by the appropriate instructor or department member and will be documented on the original action assessment form.

If the Chief of Police concludes that a policy violation occurred, an administrative investigation will be initiated.

At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Chief of Police. All assessment findings will be shared with the employee. The assessment findings will be incorporated into the training of the entire department to improve incident response and decision-making processes, as well as to highlight and reinforce exceptional performance.

The employee who is the subject of the action assessment has the ability to appeal the finding or recommendation of the assessment. Those appeals must be in writing to the Chief of Police within 10 days of the completion of the assessment. The Chief of Police will make a decision on the appeal as soon as practical, typically within 30 days.

Handcuffing and Restraints

302.1 PURPOSE AND SCOPE

Best Practice

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

302.2 POLICY

Best Practice

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

302.3 USE OF RESTRAINTS

Best Practice

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

302.3.1 RESTRAINT OF DETAINEES

Best Practice

Situations may arise where it may be reasonable to restrain an individual 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 assure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

302.3.2 RESTRAINT OF PREGNANT PERSONS

Best Practice **MODIFIED**

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Persons who advise the officer or are visibly 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.

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

302.3.3 RESTRAINT OF JUVENILES

Best Practice **MODIFIED**

A juvenile known by the officer to be under 14 years of age should not be restrained unless he/she is suspected of a crime involving violence or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

302.3.4 NOTIFICATIONS

Best Practice

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 subject (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail.

302.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

Best Practice **MODIFIED**

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

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. When feasible, handcuffs will 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 individual or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

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

302.5 APPLICATION OF SPIT HOODS

Best Practice **MODIFIED**

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Handcuffing and Restraints

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. An individual must be restrained with handcuffs prior to placing a spit hood on. 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 restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid comingling individuals wearing spit hoods with other detainees.

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

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

302.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Best Practice

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.

302.7 APPLICATION OF LEG RESTRAINT DEVICES

Best Practice

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 suspect.

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- (b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g., hitting his/her head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

302.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

Best Practice **MODIFIED**

When applying leg restraints the following guidelines should be followed:

- (a) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (b) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (c) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (d) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (e) When transported by ambulance/paramedic unit, 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 subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

302.8 REQUIRED DOCUMENTATION

Best Practice **MODIFIED**

The use of handcuffs or other restraints shall be documented in a report documenting the circumstances under which restraints were applied.

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) The types of restraint used and any safety procedures with the specific restraint, such as double-locking and checking for proper fit.
- (c) Observations of the person's behavior and any signs of physiological problems.
- (d) Any known or suspected drug use or other medical problems.

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302.9 TRAINING

Best Practice **MODIFIED**

Subject to available resources, the Deputy Chief should ensure that officers receive periodic training on the proper use of handcuffs and other restraints. The training on these restraint devices should be covered periodically through the department's annual Defensive and Arrest Tactics training.

Control Devices and Techniques

303.1 PURPOSE AND SCOPE

Best Practice

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

303.2 POLICY

Best Practice

In order to control subjects who are violent or who demonstrate the intent to be violent, the Fitchburg Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

303.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Best Practice

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 officers 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 subject 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.

When using control devices, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

303.4 RESPONSIBILITIES

Best Practice

303.4.1 DEPARTMENT RESPONSIBILITIES

Best Practice **MODIFIED**

The department, with the assistance of recognized department instructors, may authorize the use of a control device by selected personnel or members of specialized units who have successfully completed the required training.

303.4.2 PERSONNEL RESPONSIBILITIES

Best Practice **MODIFIED**

Department designated personnel shall control the inventory and issuance of all department purchased control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

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Every department purchased control device will be periodically inspected by the the designated instructor for a particular control device. The inspection will be reported in the event department needs are required.

303.4.3 USER RESPONSIBILITIES

Best Practice **MODIFIED**

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

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be brought to the attention of the immediate supervisor for disposition. Damage to City property informational reports, if applicable, shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

303.5 BATON GUIDELINES

Best Practice **MODIFIED**

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 the officer or others.

If an officer chooses to carry a baton, uniformed personnel shall carry the baton on the equipment belt or external vest carrier. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

303.6 OLEORESIN CAPSICUM (OC) GUIDELINES

Best Practice **MODIFIED**

As with other control devices, oleoresin capsicum (OC) spray may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. 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 officers or the public.

303.6.1 OC SPRAY

Best Practice **MODIFIED**

Uniformed personnel carrying OC spray shall carry the device in its holster on the equipment belt or external vest carrier. Plainclothes and non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

303.6.2 TREATMENT FOR OC SPRAY EXPOSURE

Best Practice **MODIFIED**

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with exposure to fresh air and clean water to cleanse the affected areas. Those persons

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Control Devices and Techniques

who complain of further severe effects shall be examined by appropriate medical personnel. Officers shall monitor the exposed person for approximately 45 minutes after exposure. Officers will notify the jail of the exposure as soon as practical.

303.7 POST-APPLICATION NOTICE

Best Practice **MODIFIED**

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

303.8 KINETIC ENERGY PROJECTILE GUIDELINES

Best Practice

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.

303.8.1 DEPLOYMENT AND USE

Best Practice

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.

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 subjects 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 people and/or officers.
- (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.

303.8.2 DEPLOYMENT CONSIDERATIONS

Best Practice **MODIFIED**

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

- (a) Distance and angle to target.

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- (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.
- (g) An additional officer present with the ability to deliver immediate deadly force is required.

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

303.8.3 SAFETY PROCEDURES

Best Practice **MODIFIED**

Shotguns specifically designated for use with kinetic energy projectiles will be specially marked with an orange stock that makes them readily identifiable as such. Only kinetic energy projectiles will be used in shotguns deployed for use by officers. Members of specialty units may deviate from this upon approval from the Chief of Police or designee.

Officers will inspect the shotgun and ensure the security tag is in place at the beginning of each shift to ensure that the shotgun is able to be utilized.

When it is not deployed, the shotgun will be securely stored in the vehicle. When deploying the kinetic energy projectile shotgun, the officer shall visually inspect the kinetic energy projectiles when initially charging to ensure that conventional ammunition has been loaded into the shotgun. The shotgun will not be deployed if the security tag is not intact on the weapon. Two firearms instructors will be responsible for loading the shotgun with the proper kinetic projectile, as well as applying the security tag.

303.9 TRAINING FOR CONTROL DEVICES

Best Practice **MODIFIED**

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The Deputy Chief shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or re-certified 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 officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to corrective action.

303.10 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

Best Practice

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

Search and Seizure

311.1 PURPOSE AND SCOPE

Federal

Both the United States and the Wisconsin Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for Fitchburg Police Department personnel to consider when dealing with search and seizure issues.

311.2 POLICY

Best Practice

It is the policy of the Fitchburg 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 as well as local community standards and prosecutorial considerations to specific search and seizure situations as appropriate.

311.3 SEARCHES

Federal

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 the following:

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances
- Statutory authority

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

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Search and Seizure

according to current training and his/her familiarity with clearly established rights as determined by case law.

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

311.4 SEARCH PROTOCOL

Best Practice MODIFIED

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) 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.
 3. When possible, record the search with BWC or a squad car camera.

311.5 DOCUMENTATION

Best Practice MODIFIED

Officers are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- 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 of the opposite sex and formally requests an officer of the same sex to perform a search of their person and none are available, any efforts

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used to summon an officer of the same sex as the person being searched and the identification of any witness officer

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

311.5.1 PAROLE AND PROBATION SEARCHES

State

Any member conducting a search of an individual on parole or probation under the following conditions shall ensure the search is reported to the Department of Corrections:

- (a) Released under risk reduction sentence (Wis. Stat. § 302.043(4))
- (b) Released to extended supervision under the challenge incarceration program, (Wis. Stat. § 302.045(3m)(e))
- (c) Released after completing substance abuse program (Wis. Stat. § 302.05(3)(c)(4))
- (d) Mandatory release parole (Wis. Stat. § 302.11(6m))
- (e) Released to extended supervision for felony offenders not serving life sentences (Wis. Stat. § 302.113(7r))
- (f) Released to extended supervision for felony offenders serving life sentences (Wis. Stat. § 302.114(8g))
- (g) Special action parole release (Wis. Stat. § 304.02(2m))
- (h) Paroles from state prisons and house of correction (Wis. Stat. § 304.06(1r))
- (i) Probation for a felony (Wis. Stat. § 973.09(1d))

Temporary Custody of Juveniles

312.1 PURPOSE AND SCOPE

Best Practice

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Fitchburg Police Department (34 USC § 11133).

This policy does not apply to secure detention facilities, the juvenile portion of a county jail, or municipal lockups certified to hold juveniles, but rather applies to the temporary custody of a juvenile before a juvenile is released, delivered to an intake worker, or delivered to any of these other facilities.

312.1.1 DEFINITIONS

Best Practice

Definitions related to this policy include:

Guardian - A person named by the court having the duty and authority of guardianship (Wis. Stat. § 938.02).

Juvenile non-offender - An abused, neglected, dependent, or alien juvenile who may be legally held for his/her own safety or welfare or any child 9 years of age or younger. 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 offender - A juvenile 10 years of age to 16 years of age who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) or an offense related to alcohol possession. It also includes an offense under Wis. Stat. § 948.60 where the juvenile possessed a handgun (28 CFR 31.303).

Non-secure custody - When a juvenile is held in the presence of an officer or other custody employee 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.

Secure custody - When a juvenile 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.

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- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.
- (d) A juvenile being processed in a secure booking area when an unsecure booking area is available.
- (e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.
- (f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
- (g) A juvenile is kept within the secure perimeter of a jail or lockup after booking/processing is completed even if a department member is present and visually supervising.
- (h) 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.

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, uncontrollable behavior, curfew violation, or truancy. A juvenile in custody on a court order or warrant based upon a status offense is also a status offender.

312.2 POLICY

Best Practice

The Fitchburg Police Department is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Fitchburg Police Department. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer or release.

312.3 JUVENILES WHO SHOULD NOT BE HELD

Best Practice

Juveniles who exhibit any of the following conditions should not be held at the Fitchburg Police Department:

- (a) Unconscious
- (b) Seriously injured
- (c) A known suicide risk or obviously severely emotionally disturbed
- (d) Significantly intoxicated
- (e) Extremely violent or continuously violent

Officers taking custody of a juvenile who exhibits any of the above conditions should take reasonable steps to provide medical attention or mental health assistance and notify a supervisor of the situation.

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These juveniles should not be held at the Fitchburg Police Department unless they have been evaluated by a qualified medical and/or mental health professional.

If the officer taking custody of the juvenile believes the juvenile may be a suicide risk, the juvenile shall be under continuous direct supervision until evaluation, release or a transfer is completed.

312.3.1 EMERGENCY MEDICAL TREATMENT

State

If a juvenile is believed to be suffering from a serious physical condition that requires prompt diagnosis or prompt treatment, the officer taking the juvenile into physical custody shall take the juvenile to a hospital or physician's office (Wis. Stat. § 938.20).

312.3.2 SUICIDE PREVENTION

Best Practice

The arresting officer should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to communicate, verbally threatening to kill him/herself or any unusual behavior that may indicate the juvenile may harm him/herself while in temporary custody.

312.4 CUSTODY OF JUVENILES

Federal MODIFIED

Officers should take custody of a juvenile and temporarily hold the juvenile at the Fitchburg 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 that is suspected of being a victim.

No juvenile should be held in temporary custody at the Fitchburg Police Department without authorization of the arresting officer's supervisor.

Any juvenile taken into custody shall be released to the care of the juvenile's parent or other responsible adult, or transferred to a juvenile custody facility or to other authority as soon as practicable, and should not be held more than two hours following the conclusion of processing, testing, and/or interrogation. In no event shall a juvenile be held beyond six hours from the time of his/her entry into the Fitchburg Police Department (34 USC § 11133; Wis. Stat. § 938.20).

312.4.1 CUSTODY OF JUVENILE NON-OFFENDERS

Federal

Non-offenders taken into protective custody in compliance with the Child Abuse Policy should generally not be held at the Fitchburg Police Department. Custodial arrangements should be made for non-offenders as soon as reasonably possible. Juvenile non-offenders may not be held in secure custody (34 USC § 11133).

312.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Federal

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Status offenders should generally be released by citation 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) or otherwise authorized under Wis. Stat. § 48.19 et seq. or Wis. Stat. § 938.19. Juvenile status offenders may not be held in secure custody (34 USC § 11133).

312.4.3 CUSTODY OF JUVENILE OFFENDERS

State

Juvenile offenders should be held in non-secure custody while at the Fitchburg Police Department.

Generally, a juvenile offender may be taken into custody when (Wis. Stat. § 938.19):

- (a) There is court order or warrant authorizing custody of the juvenile.
- (b) There are reasonable grounds (probable cause) to believe that a juvenile is committing or has committed an act which is a violation of a state or federal criminal law that would subject an adult to arrest.

When a juvenile offender is taken into custody, the officer taking the juvenile into custody shall immediately attempt to notify the parent, guardian, legal custodian or Indian custodian of the juvenile by the most practical means. The officer taking the juvenile into custody shall continue such attempts until the parent, guardian, legal custodian or Indian custodian of the juvenile is notified, or the juvenile is delivered to an intake worker under Wis. Stat. § 938.20(3), whichever occurs first (Wis. Stat. § 938.19).

If the juvenile is 15 years of age or older, the officer may release the juvenile without immediate adult supervision after counseling or warning the juvenile, as may be appropriate (Wis. Stat. § 938.20).

A juvenile offender who is not released after counseling or warning should be released to a parent, guardian or other responsible adult, unless the officer reasonably believes that he/she should be referred to an intake worker because he/she will injure others, injure the property of others, run away or be taken away, that the juvenile's safety and well-being will be at risk due to lack of care, or the juvenile otherwise qualifies for secure detention (Wis. Stat. § 938.20; Wis. Stat. § 938.205; Wis. Stat. § 938.208).

If the juvenile offender is not released, the officer who takes a juvenile offender into custody shall make a statement, in writing, with supporting facts, of the reasons why the juvenile was taken into custody and shall give a copy of the statement to the intake worker. If the intake interview is not done in person, the report may be read to the intake worker (Wis. Stat. § 938.20).

312.4.4 SECURE CUSTODY

Best Practice

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others or running away. Secure custody

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should not be used for convenience when non-secure custody is, or later becomes, a reasonable option.

The circumstances that justify any secure custody should be documented and approved by the Shift Sergeant.

When practicable, handcuffing one hand of a juvenile offender to a fixed object while otherwise maintaining the juvenile in non-secure custody should be considered as the method of secure custody, rather than the use of a locked enclosure. An employee must be present at all times to ensure the juvenile's safety while secured to a stationary object.

Generally, juveniles should not be secured to a stationary object for more than 60 minutes. Supervisor approval is required to secure a juvenile to a stationary object for longer than 60 minutes and every 30 minutes thereafter. Supervisor approval should be documented.

The following requirements shall apply to a juvenile offender who is held inside a locked enclosure:

- (a) A thorough inspection of the area shall be conducted before placing a juvenile into the enclosure. A second inspection shall be conducted after removing the juvenile. Any damage noted to the room should be photographed and documented in the crime report.
- (b) The juvenile shall constantly be monitored by an audio/video system during the entire custody.
- (c) Juveniles shall have constant auditory access to department members.
- (d) Initial placement into and removal from a locked enclosure shall be logged.
- (e) Random personal visual checks of the juvenile by staff member, no less than every 15 minutes, shall occur.
 1. All checks shall be logged.
 2. The check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
 3. Requests or concerns of the juvenile should be logged.
- (f) Males and females shall not be placed in the same locked room.
- (g) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- (h) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

312.4.5 RELEASE AFTER PROCESSING

State

Absent exceptional circumstances, juveniles should be released within two hours following the conclusion of processing, testing and/or interrogation.

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312.5 JUVENILE CUSTODY LOGS

Best Practice **MODIFIED**

Any time a juvenile is held in custody at the Department, the custody shall be promptly and properly documented in the juvenile custody log, including:

- (a) Identifying information about the juvenile being held.
- (b) Date and time of arrival and release from the Fitchburg Police Department.
- (c) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender or non-offender.
- (d) Any changes in status.
- (e) Time of all welfare checks.
- (f) Any medical and other screening requested and completed.
- (g) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The Shift Sergeant shall initial the log to approve the custody.

312.6 NO-CONTACT REQUIREMENTS

Federal

Sight and sound separation shall be maintained between all juveniles and adults while in custody at the Department (34 USC § 11133). 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 Fitchburg Police Department shall maintain a constant, immediate 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.

312.7 TEMPORARY CUSTODY REQUIREMENTS

Best Practice

Members and supervisors assigned to monitor or process any juvenile at the Fitchburg Police Department shall ensure the following:

- (a) The Shift Sergeant should be notified if it is anticipated that a juvenile may need to remain at the Fitchburg Police Department more than four hours. This will enable the Shift Sergeant to ensure no juvenile is held at the Fitchburg Police Department more than six hours.
- (b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (c) Personal visual checks and significant incidents/activities shall be noted on the log.

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- (d) There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware. Therefore, an employee should inform a juvenile under his/her care that the juvenile will be monitored at all times, unless he/she is using the toilet. This does not apply to surreptitious and legally obtained recorded interrogations.
- (e) Juveniles shall have reasonable access to toilets and wash basins.
- (f) Food should be 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.
- (g) Juveniles shall have reasonable access to a drinking fountain or water.
- (h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (i) Juveniles should have privacy during family, guardian and/or lawyer visits.
- (j) Juveniles should be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody.
- (k) Blankets should be provided as reasonably necessary.
- (l) Adequate shelter, heat, light and ventilation should be provided without compromising security or enabling escape.
- (m) Juveniles shall have adequate furnishings, including suitable chairs or benches.
- (n) Juveniles shall have the right to the same number of telephone calls as an adult in custody.
- (o) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation or mental abuse.

312.8 USE OF RESTRAINT DEVICES

Best Practice

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Fitchburg 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 Sergeant. 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 juveniles or monitored in such a way as to protect the juvenile from abuse.

312.9 PERSONAL PROPERTY

Best Practice

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Temporary Custody of Juveniles

The officer taking custody of a juvenile offender or status offender at the Fitchburg Police Department shall ensure a thorough search of the juvenile's property is made and all property is removed from the juvenile, especially those items that could compromise safety, such as pens, pencils and belts.

The personal property of a juvenile should be placed in a property bag. The property should be inventoried in the juvenile's presence and sealed into the bag. The property should be kept in a monitored or secure location until the juvenile is released from the custody of the Fitchburg Police Department.

312.10 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY OF A JUVENILE

Best Practice

The Shift Sergeant will ensure procedures are in place to address the suicide attempt, death, or serious injury of any juvenile held at the Fitchburg Police Department. The procedures will address:

- (a) Immediate notification of the on-duty supervisor, Chief of Police, and Detective Bureau Section supervisor.
- (b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.
- (c) Notification of the appropriate prosecutor.
- (d) Notification of the City Attorney.
- (e) Evidence preservation.

312.11 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

Best Practice

No interview or interrogation of a juvenile should occur unless the juvenile has the apparent capacity to consent, and does consent to an interview or interrogation.

Interviews of juveniles at schools should follow any protocols jointly developed with the local school officials and this department.

312.11.1 RECORDING CUSTODIAL INTERROGATIONS

State MODIFIED

Officers shall make an audio/visual recording of the custodial interrogation of a juvenile, in its entirety, when it is conducted at a place of detention unless good cause is shown for not making a recording or an exception applies.

If feasible, officers shall make an audio/visual recording of the custodial interrogation of a juvenile, in its entirety, when it is conducted at a place other than a place of detention unless good cause is shown for not making a recording or an exception applies.

Regardless of where the interrogation occurs, every reasonable effort should be made to secure functional recording equipment (Wis. Stat. § 938.195(2)).

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Temporary Custody of Juveniles

Exceptions to an audio or audio-and-visual recording of a juvenile interrogation include (Wis. Stat. § 938.31(3)(c)):

- (a) The juvenile refuses to respond or cooperate in the interrogation if a recording is being made.
 - 1. The juvenile's refusal shall be documented by contemporaneous audio or audio-and-visual recording or in a written report.
- (b) The juvenile's statement is made in response to a question asked as part of the routine processing.
- (c) The juvenile's statement is made spontaneously and not in response to a question.
- (d) The officer, in good faith, fails to make a recording because the equipment does not function, or it malfunctions, stops operating or the officer inadvertently fails to operate the equipment properly.
- (e) Exigent public safety circumstances exist that prevent the officer from making a recording or that render the making of such a recording infeasible.

An officer conducting a custodial interrogation is not required to inform the juvenile that the officer is making an audio/visual recording of the interrogation (Wis. Stat. § 938.195(3)).

No recording of a custodial interrogation should be destroyed or altered without authorization from the Support Services Commander. 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.

312.12 RESTRICTIONS ON FINGERPRINTING AND PHOTOGRAPHING

State

Juveniles should be booked, fingerprinted, and photographed and formal criminal charges filed under any of the following circumstances (Wis. Stat. § 165.83):

- (a) For an offense that is a felony
- (b) For an offense that is a misdemeanor or a violation of an ordinance involving burglary tools, commercial gambling, dealing in gambling devices; for contributing to the delinquency of a child, dealing in stolen property, possessing and selling controlled substances under Wis. Stat. Chapter 961; for violations involving firearms, dangerous weapons, explosives; for pandering, prostitution, or committing violations involving sex offenses where children are victims; or for issuing worthless checks
- (c) For an offense charged as disorderly conduct but that relates to an act connected with one or more of the above offenses
- (d) If the juvenile is a fugitive from justice

312.12.1 JUVENILE PHOTOGRAPHS AND RECORDS

State

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Temporary Custody of Juveniles

All photographs and records of juveniles shall be kept separate from adult photographs and records (Wis. Stat. § 938.396).

This department does not allow copies of juvenile photographs to be automatically obtained by parents, guardians, or legal custodians. However, parents, guardians, or legal custodians may submit a written request to review a juvenile's record or photograph in compliance with the Records Maintenance and Release Policy (Wis. Stat. § 938.396).

312.13 COLLECTION OF BIOLOGICAL SAMPLE

Agency Content

The following persons must submit a biological sample (Wis. Stat. § 165.84; Wis. Stat. § 165.76):

- (a) Adults arrested or juveniles taken into custody for a violent crime as defined in Wis. Stat. § 165.84.
- (b) Persons sentenced to the county jail for a qualifying offense.
- (c) Persons ordered by a court to provide a biological sample for DNA analysis.
- (d) Persons referred to the Department by the Wisconsin Department of Corrections (WisDOC) staff for collection of a biological sample and fingerprints.
- (e) A person being booked into jail when a review of that person's Computerized Criminal History (CCH) record reflects "DNA Sample Needed."

312.13.1 COLLECTION PROCEDURE

Agency Content

The following steps should be taken to collect a sample:

- (a) Verify that the arrestee or offender is required to provide a sample pursuant to Wis. Stat. § 165.76 or Wis. Stat. § 165.84.
- (b) Verify that a biological sample has not been previously collected from the arrestee or offender by querying Wisconsin Computerized Criminal History. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use the designated collection kit provided by the Wisconsin Department of Justice to perform the collection and take steps to avoid cross contamination.
- (d) Forward the sample to the appropriate crime laboratory as soon as practicable, but in all cases within 48 hours of collection (Wis. Admin. Code § JUS 9.04).

Report Preparation

322.1 PURPOSE AND SCOPE

Best Practice

Report preparation is a major part of each employee's job. The purpose of reports is to document sufficient information to refresh the employee's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized and on-the-job training.

322.1.1 REPORT PREPARATION

Best Practice MODIFIED

Employees should ensure that their reports are sufficiently detailed for their purpose and reasonably free of errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless permission to delay submission of 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 delayed and completed at the end of the shift.

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

All reports shall accurately reflect the identity of the persons involved, witnesses, all pertinent information seen, heard or assimilated by any other sense and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

322.2 REQUIRED REPORTING

Best Practice

Written reports are required in all of the following situations on the appropriate department-approved form unless otherwise approved by a supervisor.

322.2.1 CRIMINAL ACTIVITY REPORTING

Best Practice MODIFIED

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution.

Activity to be documented in a written report includes:

- (a) All arrests
- (b) All felony crimes
- (c) Non-felony incidents involving threats or stalking behavior
- (d) Situations covered by separate policy. These include:
 1. Use of Force Policy

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2. Domestic Abuse Policy
 3. Child Abuse Policy
 4. Adult Abuse Policy
 5. Bias-Motivated Crimes Policy
 6. Suspicious Activity Reporting Policy
- (e) All misdemeanor crimes or ordinance violations
- (f) Situations involving a suspected prescription drug law violation, opioid-related drug overdose, narcotic-related death or controlled substance prescription theft (Wis. Stat. § 961.37).

322.2.2 NON-CRIMINAL ACTIVITY

Best Practice

The following incidents shall be documented using the appropriate approved report:

- (a) Anytime an officer points a firearm at any person
- (b) Any use of force against any person by a member of this department (see the Use of Force Policy)
- (c) Any firearm discharge (see the Firearms Policy)
- (d) Anytime a person is reported missing (regardless of jurisdiction) (see the Missing Person Reporting Policy)
- (e) Any found property or found evidence
- (f) Any traffic crashes above the minimum reporting level (see the Traffic Crash Response and Reporting Policy)
- (g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy
- (h) All protective custody detentions
- (i) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

322.2.3 DEATH CASES

Best Practice

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with the Death Investigation Policy. The handling officer should notify and apprise a supervisor of the circumstances surrounding the incident to determine how to proceed. The following cases shall be appropriately investigated and documented using the approved report:

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- (a) Sudden or accidental deaths
- (b) Suicides
- (c) Homicide or suspected homicide
- (d) Unattended deaths (no physician or qualified hospice care during the period immediately preceding death)
- (e) Found dead bodies or body parts

322.2.4 INJURY OR DAMAGE BY CITY PERSONNEL

Best Practice

Reports shall be taken if an injury occurs that is a result of an act of a City employee. Reports also shall be taken when there is damage to City property or City equipment.

322.2.5 MISCELLANEOUS INJURIES

Best Practice

Any injury that is reported to this department shall require a report when:

- (a) The injury is a result of a drug overdose.
- (b) There is an attempted suicide.
- (c) The injury is major/serious, whereas death could result.
- (d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event.

The above reporting requirements are not intended to be all-inclusive. A supervisor may direct an employee to document any incident he/she deems necessary.

322.2.6 ALTERNATE REPORTING FOR VICTIMS

Discretionary

Reports that may be submitted by the public via online or other self-completed reporting processes include:

- (a) Lost property.
- (b) Misdemeanor thefts of property, other than firearms or materials that threaten public safety, when there is no suspect information, serial number or ability to trace the item.
 - 1. Misdemeanor thefts of cellular telephones may be reported even though they have a serial number.
- (c) Misdemeanor vandalism with no suspect information and no hate crime implications.
- (d) Vehicle burglaries with no suspect information or evidence.
- (e) Stolen vehicle attempts with no suspect information or evidence.
- (f) Annoying telephone calls with no suspect information.
- (g) Identity theft without an identifiable suspect.

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- (h) Online or email fraud solicitations without an identifiable suspect and if the financial loss classifies the crime as a misdemeanor.
- (i) Hit-and-run vehicle crash with no suspect or suspect vehicle.
- (j) Supplemental property lists.

Members at the scene of one of the above incidents should not refer the reporting party to an alternate means of reporting without authorization from a supervisor. Members may refer victims to online victim assistance programs (e.g., Federal Communications Commission FCC website for identity theft, Internet Crime Complaint Center (IC3) website for computer crimes).

322.3 GENERAL POLICY OF EXPEDITIOUS REPORTING

Best Practice

In general, all employees and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

322.3.1 GENERAL USE OF OTHER HANDWRITTEN FORMS

Discretionary

County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

322.4 REPORT CORRECTIONS

Discretionary

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should complete the report correction form, stating the reasons for rejection. The original report and the correction form should be returned to the reporting employee for correction as soon as practicable. It shall be the responsibility of the originating employee to ensure that any report returned for correction is processed in a timely manner.

322.5 REPORT CHANGES OR ALTERATIONS

Best Practice

Reports that have been approved by a supervisor and submitted to the Records Section 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 Section may be corrected or modified by the authoring employee only with the knowledge and authorization of the reviewing supervisor.

Outside Agency Assistance

327.1 PURPOSE AND SCOPE

State

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.

327.2 POLICY

Best Practice

It is the policy of the Fitchburg 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.

327.3 ASSISTING OUTSIDE AGENCIES

State MODIFIED

Generally, requests for any type of assistance from another agency should be routed to an on-duty supervisor for approval. In some instances, a memorandum of understanding (MOU) or other established protocol may exist that eliminates the need for approval of individual requests (Wis. Stat. § 66.0313; Wis. Stat. § 175.46).

When another law enforcement agency requests assistance from this department, the Shift Sergeant 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 by this department. Only in exceptional circumstances, and subject to supervisor approval, will this department provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling member unless otherwise directed by a supervisor.

327.3.1 INITIATED ACTIVITY

State MODIFIED

Any on-duty officer who engages in law enforcement activities of any type that are not part of a mutual aid request, pre-established MOUs or agreements and take place outside the jurisdiction of the Fitchburg Police Department should notify the local law enforcement agency of the county or municipality where the violation occurs, cooperate with that agency as necessary, and notify his/her supervisor or the Shift Sergeant and Dispatch as soon as reasonably practicable (Wis.

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Outside Agency Assistance

Stat. § 175.40(6)(d)). This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

327.4 REQUESTING OUTSIDE ASSISTANCE

Best Practice

If assistance is needed from another agency, the member requesting assistance should, if practicable, first notify a supervisor. 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.

327.5 CRITICAL INCIDENT MUTUAL AID

Federal

State, regional or county agencies may be summoned to assist and coordinate emergency services such as natural disasters, civil unrest, large crime scenes or accidents and hazardous or chemical spills. The Incident Commander, in cooperation with other agencies, is charged with making an immediate appraisal of the situation and its potential. Responders should:

- Establish scene management and control.
- Detect the presence of dangerous conditions or hazardous materials.
- Begin identification of dangerous conditions or hazardous materials (may use the most current Emergency Response Guidebook published by the U.S. Department of Transportation).
- Isolate the incident and identify zones of danger and activity.
- Contain the incident without risking unnecessary exposure.
- Perform firefighting, rescue, emergency medical and other critical life-saving response activities in accordance with the City Emergency Operations Plan.
- Begin evacuation or direct in-place sheltering.
- Consider personal protection/decontamination.
- Contact the local Wisconsin state dispatch center and request support if it occurs on any federal, state or county highway located outside of this department's jurisdiction.
- Seek additional resources if the event exceeds, or is expected to exceed, the capability of local resources, including mutual aid and state or federal assistance. When requesting local, state or federal assistance, this department should clarify whether it is requesting assistance only or complete scene management.

327.6 REPORTING REQUIREMENTS

Best Practice **MODIFIED**

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Outside Agency Assistance

Incidents of outside assistance or law enforcement activities shall be documented in a case report or as directed by the Shift Sergeant.

327.7 MANDATORY SHARING

Federal MODIFIED

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 Chief of Police or the authorized designee.

The documentation should include:

- (a) The conditions relative to sharing.
- (b) The training requirements for:
 - 1. The use of the supplies and equipment.
 - 2. The members training in the use of the supplies and equipment.
- (c) Copies of the documentation should be provided to Dispatch and the Shift Sergeant to ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

The Deputy Chief should maintain documentation that the appropriate members have received the required training.

Death Investigation

331.1 PURPOSE AND SCOPE

State

The investigation of cases involving death include those ranging from natural causes to homicide. Some causes of death may not be readily apparent and some cases differ substantially from what they appear to be initially. The importance of a thorough death investigation cannot be emphasized enough.

Death investigations shall be conducted pursuant to Wis. Stat. Chapter 979.

331.2 INVESTIGATION CONSIDERATIONS

Best Practice MODIFIED

Death investigation cases require certain actions be taken. Emergency Medical Services shall be called in all suspected death cases, unless the death is obvious (e.g., the person has been decapitated or the body is decomposed). Officers on-scene should suggest to EMS to be mindful of potential crime scene implications and to limit the number of personnel within the scene, if possible. A supervisor shall be notified in all death investigations.

331.2.1 MEDICAL EXAMINER REQUEST

State MODIFIED

The Medical Examiner shall be called in all deaths other than Hospice related deaths, including but not limited to the following (Wis. Stat. § 979.01):

- (a) All deaths in which there are unexplained, unusual or suspicious circumstances
- (b) All homicides
- (c) All suicides
- (d) All deaths following an abortion
- (e) All deaths due to poisoning, whether homicidal, suicidal or accidental
- (f) All deaths following accidents, whether the injury is or is not the primary cause of death
- (g) When there was no physician, or accredited practitioner of a bona fide religious denomination relying upon prayer or spiritual means for healing in attendance within 30 days preceding death
- (h) When a physician refuses to sign a death certificate
- (i) When, after reasonable efforts, a physician cannot be located or contacted to sign the death certificate
- (j) Unidentifiable bodies

331.2.2 SEARCHING DEAD BODIES

Best Practice MODIFIED

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Death Investigation

The Medical Examiner or an assistant and authorized investigators are generally the only persons permitted to move, handle or search a body. 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, the investigating officer shall first obtain verbal consent from the Medical Examiner when practicable.

An officer is permitted to make a reasonable search of an individual who it is reasonable to believe is dead, or near death, for a record of anatomical gift or other information identifying the individual as a donor or as an individual who made a refusal (Wis. Stat. § 157.06(12)). If a donor document is located, the Medical Examiner shall be promptly notified. If a donor record of gift or gift refusal is located, and the individual is transported to a hospital, the person responsible for conducting the search shall send the donor record of gift or gift refusal to the hospital.

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. The name and address of this person shall be included in the narrative of the death report. Whenever personal effects are removed from the body of the deceased by the Medical Examiner, an officer shall document the items taken.

331.2.3 DEATH NOTIFICATION

Best Practice **MODIFIED**

The Dane County Medical Examiner will make the death notification. An officer/investigator may assist with or make a notification if requested by the Dane County Medical Examiner Office.

331.2.4 DEATH INVESTIGATION REPORTING

Best Practice **MODIFIED**

All incidents involving a death shall be documented on a case report.

331.2.5 SUSPECTED HOMICIDE

Best Practice **MODIFIED**

If the initially assigned officer suspects that the death involves a homicide, any suspicious circumstances or the manner of death cannot be determined, the officer shall take steps to protect the scene. The Detective Bureau and Support Services Commander shall be notified to determine the possible need for an investigator to respond to the scene for further immediate investigation.

331.2.6 EMPLOYMENT-RELATED DEATHS OR INJURIES

Best Practice **MODIFIED**

Any member of this agency 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 nearest office of the Wisconsin Department of Health Services (WDHS) and OSHA are notified with all pertinent information.

Identity Theft

332.1 PURPOSE AND SCOPE

Best Practice

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

332.2 POLICY

Best Practice

It is the policy of the Fitchburg Police Department to effectively investigate cases of identity theft.

332.3 REPORTING

Best Practice

MODIFIED

- (a) To maintain uniformity in reporting, officers shall initiate a report for victims residing within the jurisdiction of this department where the crime occurred. For incidents of identity theft occurring outside this jurisdiction, officers should observe the following (Wis. Stat. § 943.201(4)):
 1. For any victim not residing within this jurisdiction, the officer may either take a courtesy report to be forwarded to the victim's residence agency or the victim shall be informed which law enforcement agency may have jurisdiction. The victim should be encouraged to promptly report the identity theft to the appropriate law enforcement agency.
- (b) While the crime of identity theft should be reported to the law enforcement agency where the victim resides, officers of this department should investigate and report crimes occurring within this jurisdiction that have resulted from the original identity theft (e.g., the identity theft occurred elsewhere, but the fraud, usage of services, or receipt of goods were acquired or occurred in this jurisdiction).
- (c) Officers should include all known incidents of fraudulent activity (e.g., credit card number applied for in victim's name when the victim has never made such an application).
- (d) Officers should also cross-reference all known reports made by the victim (e.g., U.S. Secret Service, credit reporting bureaus, U.S. Postal Service, Department of Motor Vehicles) with all known report numbers.
- (e) Following supervisory review and Department processing, the initial report may be forwarded to the appropriate investigator for follow-up investigation, coordination with other agencies, and prosecution as circumstances dictate.

332.4 PREVENTIVE MEASURES

Best Practice

MODIFIED

The victim should be advised to place a security freeze on his/her consumer report, as allowed by law.

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Identity Theft

The victim may file an identity theft complaint with the Wisconsin Department of Agriculture, Trade and Consumer Protection, Office of Privacy Protection (OPP) at 800-422-7128, www.privacy.wi.gov , or e-mail at wisconsinprivacy@dacp.state.wi.us .

332.5 INFORMATION

Federal **MODIFIED**

The victim should be encouraged to contact the Federal Trade Commission (FTC), which is responsible for receiving and processing complaints under the Identity Theft and Assumption Deterrence Act. The victim can contact the FTC online at <http://www.ftc.gov/bcp/menus/consumer/data/idt.shtm> or by telephone at 877-ID Theft (877-438-4338). Additional information may be found at the U.S. Department of Justice website, <http://www.usdoj.gov>, or the FBI at <http://www.fbi.gov/milwaukee>, or the city of Fitchburg website, <https://www.fitchburgwi.gov/1106/Identity-Theft>.

Private Persons' Arrests

333.1 PURPOSE AND SCOPE

State

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Wisconsin common law.

333.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Best Practice

Officers should use sound discretion in determining whether to advise an individual of the arrest process.

- (a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest, as listed below.
- (b) Private individuals should be discouraged from using force to effect a private person's arrest. Absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

333.3 ARRESTS BY PRIVATE PERSONS

State MODIFIED

A private person may arrest another under the following circumstances:

- (a) When a felony has been in fact committed and he/she has reasonable grounds to believe the person to be arrested has committed it.
- (b) For a misdemeanor amounting to a breach of the peace and committed in his/her presence. This typically applies to misdemeanor offense involving potential violence or public safety concerns, such as battery, 4th degree sexual assault, endangering safety by use of a dangerous weapon, and disorderly conduct.
- (c) When a merchant or service provider, a merchant's or service provider's adult employee or security agent, has reasonable cause to believe that a person has stolen merchandise or services in his/her presence, he/she may detain the person at the place of business where the offense occurred in a reasonable manner for a reasonable length of time to deliver the person to a peace officer or to a parent or guardian in the case of a minor (Wis. Stat. § 943.50(3)).

333.4 OFFICER RESPONSIBILITIES

Best Practice

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Private Persons' Arrests

Any officer presented with a private person who has made a private person's arrest must determine whether there is reasonable cause to believe that such an arrest would be lawful.

- (a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, to determine the lawfulness of the arrest and protect the public safety (Wis. Stat. § 968.08).
 - 1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual. The officer must include the basis of such a determination in a related report.
 - 2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.
- (b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise the appropriate option based upon the charges:
 - 1. Take the individual into physical custody for booking.
 - 2. Release the individual upon issuance of a misdemeanor and/or ordinance citation.
 - 3. Release the individual pending the filing of formal charges.

333.5 REPORTING REQUIREMENTS

Best Practice **MODIFIED**

In all circumstances in which a private person is claiming to have made an arrest, the individual must provide a full statement and fully identify themselves to officers. If the person fails or refuses to do so, the arrested subject shall be released unless the officer has an independent reason to take the person into custody.

Child and Dependent Adult Safety

337.1 PURPOSE AND SCOPE

Best Practice

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.

337.2 POLICY

Best Practice

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when a parent or caregiver is arrested. The Fitchburg 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.

337.3 PROCEDURES DURING AN ARREST

Best Practice

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. However, officers should inquire if the arrestee has any children or dependent adults who are without appropriate supervision. The following steps should be taken:

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should consider reasonable alternatives to arresting a parent, guardian or caregiver in the presence of 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 non-productive, 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.

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Child and Dependent Adult Safety

337.3.1 AFTER AN ARREST

Best Practice **MODIFIED**

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

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. 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 to the contrary (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.
 - (a) Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with a non-arrested parent, guardian or caregiver.
 - (b) Children should not be left in the care of persons previously convicted of child abuse, neglect, sexual abuse, etc. Also, dependent adults should not be left in the care of persons convicted of elder abuse or other adult related offenses that would compromise the safety of the dependent adult.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify the appropriate Aging and Disability Resource Center, if appropriate.
- (e) Notify the field supervisor or Shift Sergeant 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 dependents. The result of such actions should be documented in the associated report.

337.3.2 DURING THE ARREST PROCESS

Best Practice **MODIFIED**

During the arrest 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.

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If an arrestee is unable to resolve the care of any child or dependent adult through this process, or circumstances prevent them from making such arrangements (e.g., their behavior prevents reasonable accommodations for making necessary calls), a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

337.3.3 REPORTING

Best Practice **MODIFIED**

- (a) For all arrests where children are present or living in the household and other child care arrangements need to be made other than a parent or legal guardian, 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 and other arrangements need to be made other than a legal guardian or parents, the reporting member will document the following information about the dependent adult:
 - 1. Name
 - 2. Sex
 - 3. Age
 - 4. Whether he/she reasonably appears able to care for him/herself
 - 5. Disposition or placement information if he/she is unable to care for him/herself

337.3.4 SUPPORT AND COUNSELING REFERRAL

Best Practice

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 telephone number, the appropriate referral information may be provided.

337.4 DEPENDENT WELFARE SERVICES

Best Practice

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any children or dependent adults, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate.

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Only when other reasonable options are exhausted should a child or dependent adult be transported to the police facility, transported in a marked law enforcement vehicle or taken into formal protective custody.

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

337.5 TRAINING

Best Practice

The Deputy Chief is responsible to ensure 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

338.1 PURPOSE AND SCOPE

Federal

Service animals play an important role in helping to overcome the limitations often faced by people with disabilities. The Fitchburg Police Department recognizes this need and is committed to making reasonable modifications to its policies, practices and procedures in accordance with Title II of the Americans with Disabilities Act (ADA) to permit the use of service animals that are individually trained to assist a person with a disability.

338.2 SERVICE ANIMALS

Federal

The ADA defines a service animal as any dog or miniature horse that is individually 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 owner's disability (28 CFR 35.104).

338.2.1 STATE LAW

State

Any other animal that is individually trained or is being trained to do work or perform tasks for the benefit of a person with a disability, the work or task of guiding a person with impaired vision, alerting a person with impaired hearing to intruders or sound, providing minimal protection or rescue work, pulling a wheelchair, or retrieving dropped items is a service animal in accordance with Wis. Stat. § 106.52(1)(fm).

338.2.2 USE OF SERVICE ANIMALS

Best Practice

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar. Service animals are not pets and may be trained by an individual or organization to assist people with disabilities.

The following examples are some of the ways service animals may be used to provide assistance:

- 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.

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- 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.
- 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.

338.3 MEMBER RESPONSIBILITIES

Federal

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the Fitchburg Police Department affords to all members of the public (Wis. Stat. § 106.52(3)(am)).

If an animal 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 owner to remove the animal from the premises. A barking dog alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the animal. 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 as are reasonably available to an individual with the disability (Wis. Stat. § 106.52(3)(am)(3)).

If it is apparent or if an officer is aware the animal is a service animal, the owner 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 officer should ask the individual only the following questions:

- Is the animal required because of a disability?
- What task or service has the 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 question as to the animal's status should be asked. The person should not be questioned about his/her disabilities nor should the person be asked to provide any license, certification or identification card for the service animal.

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.

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 owner into all areas that other customers or members of the public are allowed.

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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 their disability should be referred to the Civil Rights Division of the U.S. Department of Justice or the Wisconsin Department of Workforce Development's Equal Rights Division.

Off-Duty Law Enforcement Actions

341.1 PURPOSE AND SCOPE

State

The decision to become involved in a law enforcement action when off-duty can place an officer as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for officers of the Fitchburg Police Department with respect to taking law enforcement action while off-duty (Wis. Stat. § 175.40(6m)(a)(3)).

341.2 POLICY

State

Initiating law enforcement action while off-duty is generally discouraged and an officer's authority is limited by the State of Wisconsin. Officers, unless responding to an emergency situation that poses a significant threat to life or bodily harm pursuant to Wis. Stat. § 175.40 (6m)(a)1, shall not attempt to initiate enforcement action when witnessing non-violent crimes or property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency (Wis. Stat. § 175.40(6m)).

341.2.1 OFF-DUTY LIMITATIONS

State

Officers are not expected to place themselves in unreasonable peril. However, any sworn member of this department may take reasonable law enforcement action to minimize or eliminate a threat if all of the following apply (Wis. Stat. § 175.40(6m)(a)):

- (a) An officer becomes aware of an incident or circumstance that he/she reasonably believes poses a significant threat to life or of bodily harm. Unless the safety of a person requires immediate action, officers should first consider reporting and monitoring the activity and only take direct action as a last resort.
- (b) The officer is taking action that would be authorized by the policies of the Fitchburg Police Department.

Nothing in this policy prevents an employee from conducting a lawful private person's arrest as long as his/her status with this department is not used or disclosed.

341.3 FIREARMS

Best Practice

Officers of this department may carry firearms while off-duty in accordance with federal regulations, state law and department policy. All firearms and ammunition must meet guidelines as described in the Firearms Policy. When carrying firearms while off-duty, officers shall also carry their department-issued badge and identification.

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Officers should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage or taken any medication or drugs that would tend to adversely affect the officer's senses or judgment.

341.4 DECISION TO INTERVENE

State

There is no legal requirement for off-duty officers to take law enforcement action. However, should officers who are authorized by law decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration (Wis. Stat. § 175.40(6m)(a)(3)(a)):

- (a) The tactical disadvantage of being alone and that there may be multiple or hidden suspects.
- (b) The inability to communicate with responding units.
- (c) The lack of equipment, such as handcuffs, oleoresin capsicum (OC) spray or a baton.
- (d) The lack of cover.
- (e) The potential for increased risk to bystanders if the off-duty officer were to intervene.
- (f) Unfamiliarity with the surroundings.
- (g) The potential for the off-duty officer to be misidentified by other peace officers or members of the public.

Officers should consider waiting for on-duty uniformed officers to arrive and gather as much accurate intelligence as possible, instead of immediately intervening.

341.4.1 INTERVENTION PROCEDURE

Best Practice MODIFIED

If involvement is reasonably necessary, the officer should attempt to call or have someone else call 9-1-1 to request immediate assistance. The operator should be informed that an off-duty officer is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the officer should loudly and repeatedly identify him/herself as a Fitchburg Police Department officer until acknowledged. Official identification should also be displayed as soon as reasonably practical.

341.4.2 INCIDENTS OF PERSONAL INTEREST

Best Practice

Officers should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances, officers should call the responsible agency to handle the matter.

341.4.3 NON-SWORN RESPONSIBILITIES

Best Practice

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Non-sworn personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

341.5 REPORTING

State **MODIFIED**

Any off-duty officer who engages in any law enforcement activity, regardless of jurisdiction, shall notify the applicable local law enforcement agency as soon as reasonably practicable. Additionally, the employee shall contact the Shift Sergeant. The Shift Sergeant will then contact a member of the command staff, who shall determine whether to send a supervisor to the scene and whether a report should be completed by the employee (Wis. Stat. § 175.40(6m)(a)(3)(c)).

Officers should cooperate fully with the agency having jurisdiction in providing statements or reports as requested or as appropriate (Wis. Stat. § 175.40(6m)(a)(3)(b)).