

Basic Police Refresher Resource

2016

The seal of the Oregon Department of Public Safety Standards and Training is a large, circular emblem with a scalloped outer edge. It features a central shield with a landscape scene including a ship, a plow, and a tree. Above the shield is an eagle with wings spread. The words "OREGON" and "DEPARTMENT OF PUBLIC SAFETY" are written in a circular path around the top, and "STANDARDS AND TRAINING" around the bottom. Two stars are positioned on the left and right sides of the inner circle. At the bottom of the shield, the motto "THE UNION" is visible.

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DISCLAIMER: The information contained in this document is reflective of the Department of Public Safety Standards and Training (DPSST) Basic Police Course curriculum as of October 1, 2016. The intended purpose of this document is to serve as a resource for Oregon law enforcement officers who have attended and successfully completed the DPSST Basic Police Course two or more years ago. The self-assessment opportunities throughout the document should not be interpreted as a test or evaluation of an officer's knowledge. Review of this document is not mandated by the DPSST and its content is not intended to serve as a substitute or update to basic training or agency-specific policies and procedures. Law enforcement officers and agencies should always consult all laws, policies and procedures which govern their activities and operations.

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TABLE OF CONTENTS

Content Topics	
Brady / Criminal Discovery Standards.....	4
Child Abuse.....	4
Crimes / ORS / Elements.....	5
Criminal Investigations	7
Domestic Violence.....	13
DUII Law	17
Elder Abuse.....	19
Ethics.....	20
Mental Health	22
Police Legitimacy	30
Procedural Law	33
Stress Awareness / Resiliency	37-38
Use of Force Law	42

*Check for Understanding.....	
Brady / Criminal Discovery Standards.....	6
Child Abuse.....	6
Crimes / ORS / Elements.....	6-7
Criminal Investigations	13
Domestic Violence.....	16-17
DUII Law	18-19
Elder Abuse.....	20
Ethics	22
Mental Health	28-29
Police Legitimacy	32-33
Procedural Law	36-37
Stress Awareness / Resiliency	41
Use of Force Law	43

Basic Police Refresher Resource

Brady / Criminal Discovery Standards (Investigative Report Writing and Note Taking)

Disclosure obligations -

In 2013, the disclosure principles announced in *Brady v. Maryland*, 373 US 83 (1963), were codified by the Oregon Legislature into the discovery statutes.

The state must disclose any material that tends to:

1. Exculpate the defendant,
2. Negate or mitigate the defendant's guilt or punishment, or,
3. Impeaches a person the state intends to call as a witness.

Child Abuse

Definition of Child – ORS 419B.005 (2)

Unmarried person under 18 (note – other states have different ages of majority)

Abuse means any assault as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused other than by accidental means, including any injury which appears to be at variance with the explanation given of the injury.

Mandatory Reporting

ORS 419B.010 Duty of Officials to Report Child Abuse

Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse, or that any person with whom the official comes in contact has abused a child, shall cause a report to be made. Reports must be made of suspected abuse or neglect regardless if information was gained in reporter's official capacity. This is a 24/7 obligation.

Oregon Laws- Karly's Law ORS 419B.022- 419B.024

Suspicion that injuries are caused by abuse must be addressed in the coordinated, comprehensive way required by Karly's Law.

HB 3328 – "Karly's Law" (2007 Oregon Legislature)

If a person is conducting a child abuse investigation (pursuant to 419B.020) and observes a child who has suffered suspicious physical injury and the person is certain or has a reasonable suspicion that the injury is or may be the result of abuse; the person shall, in accordance with the county MDT:

-) Immediately photograph the suspicious physical injuries; and

-) Ensure that a “designated medical professional” conducts a medical assessment within 48 hours or sooner if dictated by the child’s medical needs. The statute explains procedures to follow if a “designated medical professional” cannot be located.

This provision shall apply each time suspicious physical injury is observed by DHS or law enforcement personnel, during a new allegation of abuse, or if the injury had not previously been discovered during the investigation and regardless if the injury had already been photographed.

Any photographs that are taken as part of this investigation shall within 48 hours or by the end of the next business day, in hard copy or print format be provided to the designated medical professional and be placed in the case file maintained by law enforcement.

HB 2449 (2009) No exceptions to Karly’s Law suspicious physical injury documentation

-) If the first responder is certain that the injuries were caused by abuse, Karly’s Law protocols must be followed.
-) Photographs must be taken immediately and an assessment must be conducted by the Designated Medical Professional (DMP) within 48 hours of the initial report.

Crimes/ORS/Elements – issues with “proof”

Menacing – ORS 163.190

A suspect, by word or conduct, intentionally attempts to place a victim in fear of imminent serious physical injury.

The victim **need not** actually be afraid as long as it can be proved that the **suspect intended** to make the victim afraid. Imminent is defined as “near at hand, impending, on the point of happening.” The serious physical injury threatened does not have to actually be occurring, but cannot be a threat to cause injury sometime in the future.

Disorderly Conduct II – ORS 166.025

These crimes are incidents which require that either the defendant acts with intent to cause public inconvenience, annoyance or alarm, or recklessly creates a risk of causing public inconvenience, annoyance or alarm. Two theories have been **amended** by case law.

1. By engaging in fighting or in violent, tumultuous or threatening behavior

NOTE: The Oregon Court of Appeals has held that the words “violent, tumultuous or threatening behavior describe only physical acts of aggression, **not** speech.” And have “their commonly understood referents to physical force.”

2. By making unreasonable noise

NOTE: Subsection (1) (b) will not hold up if the person is engaged in constitutionally protected speech.

Harassment – ORS 166.065

Subsection (2), “publicly insults another by abusive words or gestures in a manner which is intended and likely to provoke a violent response,” may NOT be enforced.

NOTE: The Oregon Supreme Court in State v. Johnson, August 14, 2008, declared this subsection **unconstitutional**, concluding it violates the “free speech” provisions of Article 1 Section 8 of the Oregon Constitution.

Check Your Understanding

Directions: Use the following prompts, questions or activities to check your understanding of material covered so far.

1. Brady v. Maryland requires the state to disclose any material that tends to _____ the defendant, negate or mitigate the defendant’s _____, or, _____ a person the state intends to call as a witness.

Answers can be found in the “Brady / Criminal Discovery Standards” section on pg. 4

2. **True or False:** To prove “Menacing” the victim needs to actually be afraid.
 - A. True
 - B. False

Answer can be found in the “Crimes/ORS/Elements – issues with “proof” section on pg. 5

3. According to ORS 419B.010, Law Enforcement personnel are mandatory reporters in the following circumstances:
 - A. Only while on duty (official capacity)
 - B. Only when involved in an investigation
 - C. Always (24/7)
 - D. Only when child abuse is directly reported to the LE official

Answer can be found in the “Child Abuse” section on pg. 4

4. **True or False:** Karly’s Law applies each time suspicious physical injury is observed by law enforcement personnel.
 - A. True
 - B. False

Answer can be found in the “Child Abuse” section on pgs. 4-5

5. **True or False:** You can prove Disorderly Conduct II even if the person is engaged in constitutionally protected speech.

- C. True
- D. False

Answer can be found in the "Crimes/ORS/Elements – issues with "proof" section on pg. 5

Criminal Investigations

Eyewitness Identification

PURPOSE

The purpose of this policy is to provide procedures for obtaining objective results when preparing and conducting lineups and showups.

POLICY

It is the policy of this agency that eyewitness identifications be conducted in a manner most likely to assess witnesses' true and reliable recollections and in compliance with state and federal constitutional requirements.

DEFINITIONS

-) **Blind Presentation** – The presenter does not know who the suspect is. Also known as double-blind presentation.
-) **Blinded Presentation** – The equivalent of a blind presentation; conducted when the presenter knows who the suspect is. Also known as functionally equivalent presentation.
-) **Confidence Statement** – A witness's statement about his selection and of his confidence that his selection is the suspect; taken immediately after a pick has been made.
-) **Photo Lineup** – A presentation of photographs of persons.
-) **Presenter** – The officer presenting a lineup.
-) **Showup** – A presentation of a live person in the field that is close in time and proximity to the incident under investigation.
-) **Sequential** – A presentation of photographs one at a time, retrieving one photo before presenting another.
-) **Simultaneous** – A presentation at the same time of photographs arrayed together, either manually constructed or computer generated.

DOCUMENTATION

- A. Instructions to witnesses shall be read from the *Eyewitness Identification* form, which form shall also include the witnesses' affirmation of their confidence statements.
- B. In addition to documentation in the incident report(s) and on *Eyewitness Identification* forms, when it is reasonable and practicable presenters should record their presentations.
- C. Lineups, forms and recordings shall be treated as evidence, with copies of the lineups and forms included in the case file, whether or not the witnesses made identifications.
- D. If a photo lineup is developed electronically, the lineup shall be printed for documentation.
- E. See also Post-Presentation Interview and Documentation.

WITNESSES WITH LIMITED ENGLISH PROFICIENCY

If a witness to a criminal offense does not fluently speak the English language or otherwise has difficulty communication (e.g. hard of hearing), officers should make reasonable efforts to arrange for an interpreter before proceeding with an eyewitness identification.

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

PHOTO LINEUP

When a photo lineup is used for suspect identification, a blind or blinded sequential presentation should be made; consequently, the procedures that appear below are designed primarily for blind or blinded sequential presentations. If another photo lineup method is used – including a simultaneous presentation or a sequential presentation that is not blind or blinded – the reason(s) for using that method shall be documented.

DEVELOPMENT OF A PHOTO LINEUP

- A. Officers should obtain a thorough suspect description from each witness before developing a photo lineup. (Note that variant witness descriptions may require the presentation of different photo lineups to different witnesses.)
- B. A photo lineup shall consist of no fewer than six photographs, including one of the suspect.
- C. All photos should be similarly sized and none should be easily distinguished from the others.
 - 1. Filler photographs (not of a suspect) should generally fit the witness's(es's) description of the suspect. Because all photographs possess both common and variable features, the common features should be those that match the witness's(es's) description, whereas the remaining (i.e., nonrecalled or undescribed) features may vary.

2. When there is limited or insufficient suspect description or when the suspect description differs significantly from the available photograph(s) of the suspect, the filler photographs should resemble the suspect photograph, not the description.
- D. The photos shall be numbered and shall be loose or in individual folders.
 - E. When conducting a single lineup for multiple witnesses, the photographs should be renumbered for each witness.

PRESENTATION OF PHOTO LINEUP

A. Instructions to Witnesses

Prior to a presentation, the presenter shall read the witness instructions from the *Eyewitness Identification* form, ensuring and documenting that the witness understands the instructions.

B. Blind Presentation

1. In a blind presentation, the identity of the suspect is not known to the presenter.
2. The presenter shall present the photos to the witness sequentially, with one photo replacing another so that no two are presented at the same time.
3. The presenter shall present each photo to the witness, even if the witness identifies a previous photo as the suspect.
4. If, during the same presentation, the witness asks to see one or more photos again, the presenter may conduct the same presentation a second time but must present all of the photos, using the same method.

C. Blinded Presentation

If the presenter knows who the suspect is, an extra measure should be taken to prevent the presenter from knowing which photo is being shown to the witness.

1. The photos shall be placed in identical folders, with the folders shuffled and numbered, and each photo shall be presented such that only the witness can see the photo; the presenter is thus “blinded” to the process and cannot be suggestive.
2. The presentation shall continue as in B.2 above.

D. Post-Presentation Interview and Documentation

1. Following the presentation of a photo lineup, the presenter should avoid any words or actions that might identify the suspect or hinder further investigation.
2. If the witness picks a photo, the presenter shall ask the witness to describe why the photo was selected and to describe the confidence he or she has in the selection. The presenter should obtain a *description* of that confidence, not just a scaled assessment (e.g., not “90% sure” or “six out of ten”). The witness’ responses to the questions – commonly referred to together as a “confidence statement” – shall be carefully documented on the *Eyewitness Identification* form, and later, more completely in the report.

3. The presenter shall ask the witness to affirm the confidence statement on the *Eyewitness Identification* form.

DUPLICATION OF PRESENTATIONS

Presentations separated by time but involving the same suspect are discouraged. It is recommended that a suspect not be presented for identification more than once in any form. If this does occur, the reason(s) why a subsequent presentation was made shall be documented.

SHOWUPS

Photo lineups are preferable to showups; however, some circumstances require the prompt display of a suspect to a witness. Showups should be conducted as follows:

- A. Consider if a photo lineup can be conducted instead.
- B. Obtain a thorough description of the suspect from each witness prior to the showup.
- C. Ensure all officers avoid suggestive words or conduct while preparing for the presentation.
- D. If possible, avoid unnecessarily tarnishing the suspect by, for example, presenting a suspect in handcuffs or from the backseat of a patrol car.
- E. Transport the witness, not the suspect.
- F. Separate witnesses to avoid communication between them.
- G. Read the instructions from the *Eyewitness Identification* form, ensuring and documenting that the witness understands the instructions.
- H. Document the witness's statement on the *Eyewitness Identification* form.
- I. When possible, record the presentation.

TRAINING

All sworn personnel shall receive training on this policy and the presentation of lineups and showups.

[Eyewitness Identification forms on next pages]

EYEWITNESS IDENTIFICATION FORM

PHOTO LINEUP

Case Number: _____

Presenter Name: _____

Date & Time of Presentation: _____

Witness Name: _____

INSTRUCTIONS (READ BY OFFICER TO WITNESS)

In a moment I'm going to show you some photographs. A photograph of the person who committed the crime may or may not be among them. You will be shown all of the photographs and you may take your time looking at them.

If you see the person who committed the crime, pick that photograph. If not, don't pick any photograph.

If you pick a photograph, I'm going to ask you to explain why you picked that photograph and to describe how confident you are.

Do you understand these instructions? _____

WITNESS STATEMENT (WRITTEN BY OFFICER)

Witness picked photograph number: _____

I, _____, affirm that

-) I read or was read the instructions above,
-) I understood the instructions, and
-) The statement written by the officer accurately reflects what I said.

Finally, I understand that I should not talk to other people about the photos or tell them which photo I picked, if any.

Signature of Witness

EYEWITNESS IDENTIFICATION FORM

SHOWUP

Case Number: _____

Presenter Name: _____

Date & Time of Presentation: _____

Witness Name: _____

INSTRUCTIONS (READ BY OFFICER TO WITNESS)

In a moment a person is going to be shown to you. Just because the person is being shown to you or because police officers are standing nearby does not mean the person committed the crime or any other crime.

If you tell me you recognize the person as the person who committed the crime, I'm going to ask you to explain why you recognize him or her as the same person and to describe how confident you are.

Do you understand these instructions? _____

WITNESS STATEMENT (WRITTEN BY OFFICER)

Witness picked photograph number: _____

I, _____, affirm that

-) I read or was read the instructions above,
-) I understood the instructions, and
-) The statement written by the officer accurately reflects what I said.

Signature of Witness

Check Your Understanding

Directions: Use the following prompts, questions or activities to check your understanding of material covered so far.

1. Identify the documentation needed for Eyewitness Identifications. Check all the boxes that apply.

Instructions to witnesses shall be read from the *Eyewitness Identification* form

Witnesses' affirmation of their confidence statements

When it is reasonable and practicable, presenters should record their presentations

Copy of the presenter's photo identification and badge number, if applicable

Lineups, forms and recordings shall be treated as evidence, if the witnesses did not make identifications

If a photo lineup that is developed electronically, shall be printed for documentation

Translator identification, or explanation for why one was not used

Answers can be found in the "Criminal Investigations" section on pg. 8

2. **True or False:** Showups are preferable to photo lineups.

A. True

B. False

Answer can be found in the "Criminal Investigations" section on pg. 10

Domestic Violence

Mandatory arrest – ORS 133.055 (2)

"Assault" includes conduct constituting strangulation under ORS 163.187.

Mandatory arrest - Protective orders and no contact orders

See ORS 133.310 (3) through (6)

New crime –

ORS 163.192 (2015 Oregon Legislature) created the crime of Endangering a Person Protected by a Family Abuse Prevention Act Restraining Order as a class C felony.

A person commits the offense if having been (1) served with the order (or appeared in court, waiving service), (2) intentionally engages in conduct prohibited by the order; and (3) while engaging in the prohibited conduct, recklessly creates a substantial risk of physical injury to the protected person, or intentionally attempts to place them in imminent fear of physical injury.

Amendment to existing crime –

Senate Bill 525, 2015 Oregon Laws, Chapter 497, amended Unlawful Possession of Firearms, ORS 166.250 and prohibits persons from possessing firearms or ammunition if they are subject to a restraining order or have been previously convicted of a qualifying misdemeanor. Persons are not allowed to possess any firearm or ammunition if they are subject to a court order that restrains the person from stalking, intimidating, molesting or menacing an intimate partner, a child of an intimate partner or a child of the person. The court must have made a finding that the person represents a credible threat to the physical safety of an intimate partner, a child of an intimate partner, or a child of the person. To qualify, the order must also be one in which the person had actual notice and a hearing where they had the opportunity to be heard.

Persons are not allowed to possess any firearm or ammunition if they have been convicted of a qualifying misdemeanor where the victim was, at the time of the offense, a family or household member of the victim of the offense. A “qualifying misdemeanor” is any misdemeanor that has, as an element of the offense, the use or attempted use of physical force or the threatened use of a deadly weapon.

New protective order –

Temporary Emergency Protective Order – ORS 133.035 (2015 Oregon Legislature) authorizes a police officer to obtain an ex parte emergency protective order when the police officer has responded to an incident of domestic violence, or the person is in imminent danger of abuse by a family or household member. The emergency protective order expires seven days from the date the court signs the order.

No contact orders –

ORS 135.247 requires that all defendants who are in custody for domestic violence and sexual assault crimes (as defined in ORS 135.230 and ORS 181.594) shall be subject to a no contact condition with their victim(s). This shall be put into place by the Judge at arraignment. It may also be put into place prior to arraignment by a release officer who denies release for a defendant, but adds it as a condition while the defendant remains in custody. The defendant shall be given a copy of this condition in writing. The no contact order shall remain in effect until the defendant is sentenced for the crime, the charge is dismissed, or the defendant is acquitted of the crime. The victim may petition the court to terminate the no contact order prior to its termination after a hearing on the matter and a finding by the court that terminating the order is in the best interests of the parties and the community. Violation of this order is punishable by contempt of court.

House Bill 3466, 2015 Oregon Laws, Chapter 264, added language that these defendants are additionally prohibited from attempting to contact the victim directly or through a third party.

Mandatory arrest-Probable Cause

ORS 133.055 (2)(a), "...when a peace officer responds to an incident of domestic disturbance and has probable cause to believe that an assault has occurred between family or household members, as defined in ORS 107.705, or to believe that one such person has placed the other in fear of imminent serious physical injury, the officer shall arrest and take into custody the alleged assailant or potential assailant."

"Assault" includes conduct constituting strangulation under ORS 163.187.

Mandatory Arrest does not mean you forgo probable cause.

Do I Arrest?

1. Do I have probable cause to arrest for a crime?
2. If no, then no crime committed.
3. If yes, then does a relationship of parties fall under ORS 107.705(3)?
4. If yes, then the officer should arrest.
5. Is the crime Assault I, II, III or IV, Menacing or Strangulation?
6. If yes, then mandatory arrest.

Officers should never be looking for a reason not to arrest in a domestic violence case.

Arrest based on Probable Cause-

Probable cause (ORS 131.005 (11)) means that there is a substantial objective basis for believing that more likely than not an offense has been committed and a person to be arrested has committed it.

Probable cause has a subjective component: the officer's belief that more likely than not a crime has been committed, AND

An objective component: that there are objective facts that the officer can articulate to support the belief.

Relationship Defined-

Relationships defined in ORS 133.055 for a Mandatory Arrest Family or Household Member (ORS 107.705 (3)):

(3) "Family or household members" means any of the following:

- (a) Spouses
- (b) Former spouses

- (c) Adult persons related by blood, marriage or adoption
- (d) Persons who are cohabiting or who have cohabited with each other
- (e) Persons who have been involved in a sexually intimate relationship with each other within two years immediately preceding the filing by one of them of a petition under ORS 107.710
- (f) Unmarried parents of a child

Cohabiting-

Case law: The Oregon Court of Appeals, interpreting identical language in ORS 135.230 (4), has ruled “persons cohabiting with each other” means “persons living in the same residence in a relationship akin to that of spouses.” *State ex rel Juvenile Dept. of Washington County, v. C.M.C.* (June 1, 2011). Thus, the Court further ruled, it does not mean “simple roommates or dormmates.” Nor does it mean, “minor children and parents who live in the same residence.”

Mandatory Arrest Crimes-

Per ORS 133.055:

- Assault I, II, III, IV
- Menacing
- Strangulation

Check Your Understanding

Directions: Use the following prompts, questions or activities to check your understanding of material covered so far.

1. Which statute authorizes a police officer to obtain an ex parte emergency protective order when the police officer has responded to an incident of domestic violence, or the person is in imminent danger of abuse by a family or household?
 - A. ORS 133.055
 - B. ORS 107.710
 - C. ORS 133.035
 - D. ORS 163.192

Answer can be found in the “Domestic Violence” section on pg. 14

2. According to ORS 163.192, which of the following is NOT required for a charge of Endangering a Person Protected by a Family Abuse Prevention Act Restraining Order?
- A. A person was served with the order or appeared in court, waiving service
 - B. A person intentionally engages in conduct prohibited by the order
 - C. A person was previously convicted of a class C felony charge
 - D. While engaging in the prohibited conduct, a person recklessly creates a substantial risk of physical injury to the protected person, or intentionally attempts to place them in imminent fear of physical injury

Answer can be found in the "Domestic Violence" section on pg. 13-14

3. Identify which of the following would be considered a mandatory arrest relationship as defined in ORS 133.055. Check all the boxes that apply.

Spouses

Unmarried parents of a child

Lifelong friends or persons who have known each other a majority of their lives

Persons who are cohabiting or have cohabited with each other

Former significant others of one with whom they are currently cohabiting

Adult persons related by blood, marriage or adoption

Persons who are or have been in a sexually intimate relationship within two years of the petition

Former Spouses

Answers can be found in the "Criminal Investigations" section on pg. 15-16

DUII LAW

RIGHT TO COUNSEL

-What constitutes "privacy"?

- ✓ Call not recorded
- ✓ Out of earshot of law enforcement
- ✓ Defendant need not make request for privacy
- ✓ General "security concerns" do not justify denying privacy
- ✓ No need to remove handcuffs
- ✓ Must tell defendant beforehand privacy will be given

As previously noted, a person has a right to consult privately with counsel prior to making a decision to submit to a chemical test. For the purposes of this section, "privacy" means:

- The conversation with the attorney is not recorded by law enforcement; and,
- The conversation occurs out of earshot of law enforcement.
- Privacy cannot be denied to the defendant based on general security concerns.

For example, even though the officer believes that the defendant might damage the telephone he is still required to provide privacy for the purpose of consulting with an attorney. The idea of “privacy” does not mean, however, that an officer cannot maintain visual contact with the defendant, and the defendant can remain handcuffed if the officer believes it is necessary.

The case of *State v. Matviyenko*, 212 Or App 125 (2007), held that the defendant is not required to make a request for privacy when consulting with a lawyer – officers must recognize this right and provide privacy during any such consultation. Additionally, officers must tell the defendant beforehand that privacy will be given during the consultation.

Right to Counsel *State v. Matviyenko*, 212 Or App 125 (2007)

- Request to speak to attorney after arrest
- No specific request for privacy required
- Officer must tell person BEFORE CALL that once attorney is contacted privacy will be given
- If the suspect does NOT ask to talk to counsel of others:
 - Continue with breath test

If the suspect asks to make a call to *counsel or others* tell them:

Here is a phone and a phone book. For the next 15-20 minutes you will have a chance to talk to anyone you want, including an attorney. If you choose to talk to an attorney, I will leave the room and give you privacy

Reasons

- ✓ Efficiency: prevents additional 15 min observation period
- ✓ Allows officer to sit in the room
- ✓ During non-counsel calls
- ✓ Until attorney is contacted
- ✓ Prevents issues regarding purpose of call
- ✓ “I want to talk to someone for advice” = equivocal request for counsel. *State v. Ohm*, 224 Or App 290 (2008)

Check Your Understanding

Directions: Use the following prompts, questions or activities to check your understanding of material covered so far.

1. According to *State v. Matviyenko*, all of the following apply EXCEPT:
 - A. Request to speak to attorney after arrest
 - B. No specific request for privacy required
 - C. Always continue with breath test
 - D. Officer must tell person BEFORE CALL that once attorney is contacted privacy will be given

Answer can be found in the “DUII Law” section on pg. 18

2. **True or False:** The idea of “privacy” means that an officer cannot maintain visual contact with the defendant, and the defendant can remain handcuffed if the officer believes it is necessary.
- A. True
 - B. False

Answer can be found in the “DUII Law” section on pg. 17-18

Elder Abuse

What Mandatory reporting statutes require to be reported:

- a. Elder abuse – ORS 124.060 -124.070 (see attached)

Any public or private official who has reasonable cause to believe that any person 65-years of age or older whom the official comes in contact with has been abused must immediately report it or cause it to be reported. A report must be made regardless of the nature of the contact upon reasonable cause to believe abuse has occurred or is occurring.

The report may be made to the local office of the Department of Human Services or to a law enforcement agency in the county where the person making the report is located. If that law enforcement agency does not have jurisdiction, it must immediately notify the appropriate law enforcement agency.

When a report of a possible crime is received by the department under ORS 124.060, the department or the designee of the department shall notify the law enforcement agency having jurisdiction within the county where the report was made. If the department or the designee of the department is unable to gain access to the allegedly abused elderly person, the department or the designee of the department may contact the law enforcement agency for assistance and the agency shall provide assistance.

If the department or the designee of the department determines that there is reason to believe a crime has been committed, the department or the designee of the department shall immediately notify the law enforcement agency having jurisdiction within the county where the report was made. The law enforcement agency shall confirm to the department or the designee of the department its receipt of the notification within two business days.

Upon receipt of the report required under ORS 124.060, the Department of Human Services or the law enforcement agency shall cause an investigation to be commenced promptly to determine the nature and cause of the abuse. The investigation shall include a visit to the named elderly person and communication with those individuals having knowledge of the facts of the particular case. If the alleged abuse occurs in a residential facility, the department shall conduct an investigation regardless of whether the suspected abuser continues to be employed by the facility. (See ORS 124.070, attached, for other mandatory requirements of this investigation)

- b. Other abuse -ORS 441.640 (see attached)

Abuse of residents of long-term care facilities must be reported to Department of Human Services or to law enforcement.

ORS 430.735 (see attached)

Abuse of mentally ill or developmentally disabled adults must be reported to the Department of Human Services or to law enforcement.

Check Your Understanding

Directions: Use the following prompts, questions or activities to check your understanding of material covered so far.

1. According to ORS 124.060 -124.070, Mandatory report statutes require which of the following reporting of abuse:
 - E. Any time abuse is suspected, regardless of the nature of the contact
 - F. Any time abuse is suspected, when discovered while in official capacity
 - G. Only abuse suspected in a care home or nursing home facility
 - H. Only when the suspected abuse involves a family member

Answer can be found in the "Elder Abuse" section on pgs. 19

2. **True or False:** According to ORS 124.060 -124.070, Mandatory report statutes require the reporting of potential abuse for any individual of retired age.
 - C. True
 - D. False

Answer can be found in the "Elder Abuse" section on pg. 19

Ethics

Basics

- A. Ethics is about behavior – doing the right thing given the circumstances. Understanding human behavior is the key to understanding ethical behavior; all behavior is the result of processes in the brain.
- B. By applying critical thinking skills and a person's value system, most people (in particular public safety employees) will make good ethical decisions.
- C. There are two processes in the brain that can lead to behavior: the conscious/rational/thoughtful/reflective and the non-conscious/automatic/reactive/reflexive.
- D. The non-conscious/automatic/reactive/reflexive processes have flaws that can lead a person to behave in ways they may not want to. We are all influenced by contextual factors and cognitive errors, many of which we may not even be aware of.

- E. The non-conscious/automatic/reactive/reflexive processes necessary for good ethical behavior can be managed.
- F. One of the most important keys to ethical behavior is a person’s principles and/or value system, but just having good principles is not enough.

Self-Improvement

Just being aware of what’s right, how your brain processes things and how that leads to behavior is not enough. Only you can impact and/or manage these processes; strategies include:

1. Ask yourself the “why” questions
 -) Why do I think that?
 -) Why are/aren’t honest, integrity, trustworthy or moral my top traits/attributes?
 -) Why did I refer to them as “dirt bags”?

2. Challenge your own expertise
 -) Expose yourself to opposing views
 -) Pay attention to the potential impacts of public safety culture:
 - Z Rigid thinking
 - Z Competitive
 - Z Over-confidence about ethical behavior

What can you do about it?

- Γ Take an outsider’s perspective
- Γ Reflect on whether you are following social norms or ethical principles
- Γ Seek help from those who can help identify the complexities in situations you face

3. Recognize when you tend to respond automatically
 -) Under cognitive load
 -) Under pressure to respond quickly

People are more likely to override automatic responses and be more thoughtful or analytic when:

- A. They are held accountable for their decisions
- B. The outcomes are personally relevant
- C. They feel responsible for what happens next/later

SEE SOMETHING, DO SOMETHING

Check Your Understanding

Directions: Use the following prompts, questions or activities to check your understanding of material covered so far.

1. True or False: We are all influenced by contextual factors and cognitive errors, many of which we may not even be aware of.
 - A. True
 - B. False

Answer can be found in the “Ethics” section on pg. 20

2. When it comes to self-improvement, which is an important strategy?
 - A. Seek social settings where you are with like-minded people
 - B. Ask yourself the “why” questions
 - C. Attempt to disperse responsibility for your actions
 - D. Rely on your own expertise

Answer can be found in the “Ethics” section on pgs. 21

3. To better manage the processes in the brain that can lead to unethical behavior you should regularly challenge your own expertise. Which of the following practices has NOT been identified as helpful in doing so:
 - A. Exposing yourself to opposing views
 - B. Seek help from people who can help identify the complexities in situations you face
 - C. Being aware of the rigid thinking that tends to be part of public safety culture
 - D. Following social norms
 - E. Understanding that people can be over-confident in their ability to behave ethically

Answer can be found in the “Ethics” section on pg. 21

Mental Health and Disabilities

Hundreds of thousands of these men and women live desperate lives. They sleep on the streets, overflow emergency rooms and, increasingly, overwhelm the criminal justice system. Numbering somewhat fewer than 4 in every 100 adults in America, individuals with severe mental illness generate no less than 1 in 10 calls for police service and occupy at least 1 in 5 of America’s prison and jail beds. An estimated 1 in 3 individuals transported to hospital emergency rooms in psychiatric crisis are taken there by police.

As police officers, you are often the primary responder to incidents involving citizens with a mental health issue who are experiencing a crisis, committing crimes, acting strange or bizarre in public or are

making others in the community feel unsafe. Consumers with mental illness may have an impact on the livability of a community due to barriers caused by their mental illness. People do not choose to have a mental illness. Communities will watch how you, as a professional, treat a person with a mental illness. If you treat them with compassion and empathy – you set the example.

You are sworn to uphold the rights of all people. As a profession, we must refrain from labeling these people as “nuts,” crazy” or “wacko.” You would not use cultural or religious epithets when communicating to healthy citizens, so why would you use derogatory names for people suffering with a mental illness? You will gain respect and admiration from varying community groups if you make a conscious effort not to stigmatize people with a mental illness.

Symptoms of major mental illnesses

Thought disorders (ex: schizophrenia) are characterized by:

- / Disorganized thinking
- / Bizarre thoughts
- / Disorganized speech
- / Tangentiality
- / Illogicality
- / Paranoia
- / Poor hygiene
- / Possess random items
- / Minimal or inappropriate display or emotions

Mood disorders (ex: bipolar or depression) are characterized by:

- / Feeling of sadness all the time
- / Losing interest in life activities
- / Fluctuating between extreme moods
- / Hostility or aggression
- / Irritability
- / Fatigue
- / Poor hygiene
- / Difficulty concentrating
- / Feeling of euphoria

Hallucinations and delusions

Hallucinations are things a person sees, hears, smells, or feels that no one else can see, hear, smell, or feel. “Voices” or Auditory Hallucinations are the most common type in schizophrenia. Many people with the disorder hear voices. The voices may talk to the person about his or her behavior, order the person (command) to do things, or warn the person of danger. Sometimes the voices talk to each other. People with schizophrenia may hear voices for a long time before family and friends notice the problem.

Other types of hallucinations include seeing people or objects that are not there, smelling odors that no one else detects, and feeling things like invisible fingers touching their bodies when no one is near.

Types of hallucinations are:

-) Auditory: hearing something others do not hear. These are the most common, occurring in about 80% of cases.
 - The consumer may tell you they hear “voices inside” and that they cannot control them
 - Imagine a radio station you hear 24/7 that you cannot turn off
-) Visual: seeing something others do not
-) Tactile: feeling something that is not there
-) Olfactory: smelling something others do not
-) Gustatory: Tasting something that is not real

Delusions are false beliefs that are not part of the person's culture and do not change. The person believes delusions even after other people prove that the beliefs are not true or logical. People with schizophrenia can have delusions that seem bizarre, such as believing that neighbors can control their behavior with magnetic waves. They may also believe that people on television are directing special messages to them, or that radio stations are broadcasting their thoughts aloud to others. Sometimes they believe they are someone else, such as a famous historical figure. They may have paranoid delusions and believe that others are trying to harm them, such as by cheating, harassing, poisoning, spying on, or plotting against them or the people they care about. These beliefs are called "delusions of persecution."

Types of delusions:

-) Persecutory – “Everyone is plotting against me.”
-) Grandiose – “I am God.”
-) Religious – “I can talk to God directly.”
-) Nihilistic – “The world will end next week.”

Suicide warning signs

The first step in preventing suicide is to identify and understand the risk factors. A risk factor is anything that increases the likelihood that persons will harm themselves. However, risk factors are not necessarily causes. Research has identified the following risk factors for suicide:

-) Previous suicide attempt(s)
-) History of mental disorders, particularly depression
-) History of alcohol and substance abuse
-) Family history of suicide
-) Family history of child maltreatment
-) Feelings of hopelessness
-) Impulsive or aggressive tendencies
-) Barriers to accessing mental health treatment

-) Loss (relational, social, work or financial)
-) Physical illness
-) Easy access to lethal methods
-) Unwillingness to seek help because of the stigma attached to mental health and substance abuse disorders or suicidal thoughts
-) Cultural and religious beliefs – for instance, the belief that suicide is a noble resolution of a personal dilemma
-) Local epidemics of suicide
-) Isolation, a feeling of being cut off from other people

Trauma

Experiences that cause intense physical and psychological stress reactions. It can refer to a single event, multiple events, or a set of circumstances that is experienced by an individual as physically and emotionally harmful or threatening and that has lasting adverse effects on the individual's physical, social, emotional, or spiritual well-being.

According to the Substance Abuse and Mental Health Services Administration, a majority of people who have behavioral health issues and are involved with the justice system have significant histories of trauma and exposure to personal and community violence. Involvement with the justice system can further exacerbate trauma for these individuals. Traumatic events can include physical and sexual abuse, neglect, bullying, community-based violence, disaster, terrorism, and war. In the U.S., 61% of men and 51% of women report exposure to at least one lifetime traumatic event.

Psychological trauma is a unique reaction to an event(s) by an individual and the event overwhelms the individual's perceived ability to cope.

Types of traumatic events

- A. *Single event*: Generally this is a single event such as a car crash, a sexual assault or sudden unexpected loss of a loved one, for example.
- B. *Complex*: This is trauma that is experienced repeatedly over a period of time or which involves multiple trauma events. (ie: repeated child abuse events, domestic violence).
- C. *Collective*: This is an event that impacts a group of individuals simultaneously. (ie: Terrorist act, 9/11, Suicide in a school community)
- D. *Secondary/Vicarious*: This is generally experienced by a treatment provider or care giver who is involved with the care or treatment of an individual who has experienced trauma. Also susceptible to this are first responders.

Traumatic Stress Response

We are biologically wired to survive. A person has a physiological reaction to a perceived harmful event, attack, or threat to the person's survival. These can be mental or physical. The reaction is triggered when the person's sympathetic nervous system is activated by a sudden dump of adrenaline and noradrenaline into the person's system. The resulting automatic reactions are: fight, flight or freeze. When this happens, our body's resources are committed to only essential bodily functions in order to keep us safe. Recovery could take 20 to 60 minutes to return to its pre-arousal level.

Crisis intervention tactics

Verbal

- Tell them you are there to help
- Introduce yourself by first name
- Ask for and use their name
- Acknowledge their concerns/feelings
- Use "I" statements
- Don't argue
- Active listening
- Hands off equipment
- Ask about mental health history
- Silence is OK
- Be patient when waiting for a response
- Do not use sarcastic remarks or offensive terms
- Laugh with = OK Laughing at = NOT OK
- Tell them what you are going to do, and why

Non-verbal

-) Feedback loop
-) Body language (your own)
-) Be ready, but relaxed
-) Eye contact – Can be good or bad so watch for reaction
-) Get to eye level
-) Keep a good reactionary distance and be mindful of the person's personal space
-) You may close the distance as the situation evolves and you feel safe doing so
-) Move slowly

Questions to ask

- What caused the crisis today?
- Are you taking medications?
- Are you thinking of suicide?

Officer safety considerations

- Be aware of the potential for violence
- If you suspect voices, ask about them
- Be relaxed, not complacent
- Watch their hands
- Handcuff when transporting

Basic rules of intervention

-) The Rule of Time (Take as much time as you need.)
-) The Rule of Three (Stay at least 3 arms' length away.)
-) The Rule of Five (You may have to repeat yourself up to 5 times.)
 - When you are repeating yourself, it is critical to deliberately repeat yourself the same way with the same tone and the same volume the first time, the second time – through the fifth time.
-) The Rule of Palms (Show your palms to the person.)
-) The Rule of Echoes (Repeating back to someone what they said/feel.)
-) The Rule of Calm (Project a calm demeanor.)

LEDS Medical Health Database – ORS181.735

Information includes:

-) Name
-) Personal identifiers
-) Last known address
-) Physical description
-) Information about illness that may assist law enforcement
-) Date entered and updated
-) Contact info for at least two of the following:
 - Individuals primary care physician
 - Community Mental Health or Developmental Health Case Manager
 - Probation Officer
 - Family member
 - Other person willing to serve as an emergency contact

Check Your Understanding

Directions: Use the following prompts, questions or activities to check your understanding of material covered so far.

1. **True or False:** According to the Rule of Five, when you are repeating yourself, it is critical to deliberately repeat yourself the same way with the same tone and the same volume every single time.
 - A. True
 - B. False

Answer can be found in the “Mental Illness” section on pgs. 27

2. Which of the following is NOT a type of traumatic event?
 - A. *Single event:* Generally this is a single event such as a car crash, a sexual assault or sudden unexpected loss of a loved one, for example.
 - B. *Complex:* This is trauma that is experienced repeatedly over a period of time or which involves multiple trauma events. (ie: repeated child abuse events, domestic violence).
 - C. *Collection:* This is a collection of events that each traumatizes differently over a short period of time. (ie: loss of loved one, known associate hospitalized briefly, suicide of a friend’s co-worker).
 - D. *Secondary/Vicarious:* This is generally experienced by a treatment provider or care giver who is involved with the care or treatment of an individual who has experienced trauma. Also susceptible to this are first responders.

Answer can be found in the “Mental Illness” section on pg. 25

3. Identify the following as mental illness characteristics of “Mood Disorders” (M) or “Thought Disorders” (T).

- | | |
|---------------------------|--|
| / Disorganized thinking | / Minimal or inappropriate display or emotions |
| / Feeling of euphoria | / Feeling of sadness all the time |
| / Bizarre thoughts | / Poor hygiene |
| / Disorganized speech | / Possess random items |
| / Hostility or aggression | / Losing interest in life activities |
| / Irritability | / Fluctuating between extreme moods |
| / Tangentiality | / Fatigue |
| / Illogicality | / Poor hygiene |
| / Paranoia | / Difficulty concentrating |

Answers can be found in the “Mental Illness” section on pgs. 23

4. Match type of hallucination with its description.

Auditory	seeing something others do not
Olfactory	Tasting something that is not real
Gustatory	smelling something others do not
Visual	feeling something that is not there
Tactile	hearing something others do not hear

Answers can be found in the "Mental Illness" section on pg. 24

5. **True or False:** Hallucinations and delusions are the same thing.

- A. True
- B. False

Answer can be found in the "Mental Illness" section on pgs. 23-24

6. Which of the following are crisis intervention tactics? Check all that apply.

Silence is OK	Body language (your own)
Arguing with their stories to get to the "truth"	Feedback loop
Do not use sarcastic remarks or offensive terms	Keep a good reactionary distance and be mindful of the person's personal space
Insisting they are making it up, so they spill the truth	Accusing them of being crazy or nuts
Active listening	Asking, "Are you taking medications?"
Threatening punishment	Be relaxed, not complacent
Laughing / Humor	Watch their hands
Being authoritative and having a strong command presence	Get to eye level
Use "I" statements	

Answers can be found in the "Mental Illness" section on pgs. 27

Police Legitimacy

POLICE LEGITIMACY DEFINED:

The public's view of the police as entitled to exercise authority in order to maintain social order, manage conflicts, and solve problems in the community.

Legitimacy is reflected in three judgements:

1. Public Trust & Confidence in Police: This trust/confidence stems from a belief that police are honest, try to do their jobs well and are trying to protect the community (against crime & violence).
2. Willingness of Residents to Defer to Law and Lawful Authority: This stems from their sense of obligation and responsibility to accept police authority because they believe they are the rightful holders of that authority, and that the justice system is equal and fair.
3. Police Actions are Morally Justified & Appropriate: This stems from the actions of the police aligning with their own moral, principles and values or at least being able to be justified as appropriate with support regarding the circumstance.

PROCEDURAL JUSTICE DEFINED:

The procedures used by police officers where citizens are treated fairly and with proper respect as human beings.

The Formula

A citizen's Assessment of their police interaction is largely influenced by both the Outcome AND their Perception of the process (how they were treated).

$$A = O + P$$

A: the overall assessment of the interaction the individual had with the police
(how they feel about the entire encounter)

O: the outcome of the interaction with police; positive or negative
(warning, citation, arrest, etc.)

P: the perception of how they were treated; the process used by the police
(fair or unfair)

Research shows Procedural Justice is more important than the outcome, and that a positive or negative outcome mostly does NOT have effect on legitimacy.

FOUR COMPONENTS OF PROCEDURAL JUSTICE:

1. Voice: Giving the public or community a voice to be able to explain their situation, tell their side of the story, voice their point of view, make arguments or present evidence makes them feel like they are part of the process.
 - Requires active listening and professional non-verbal communication
 - Appropriate tone, inflection, facial expressions, etc. expected

2. Neutrality: Objective, consistent and transparent decision-making leads to a positive encounter.
 - Decisions made based upon the legal principles, evidence or facts, rather than opinions, biases and feelings.

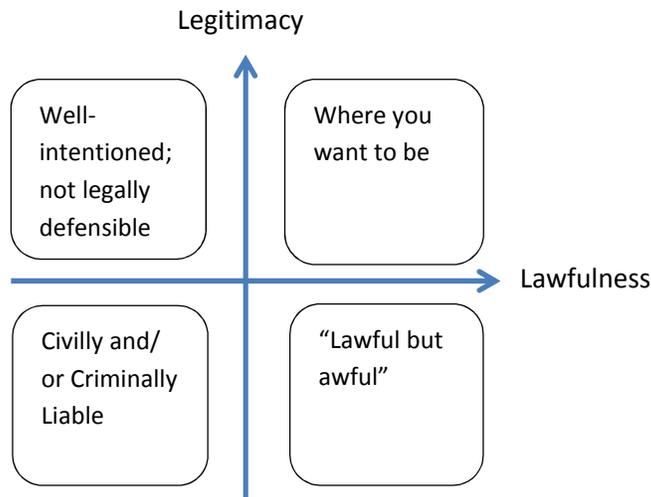
3. Respect: Treating others with respect, dignity and politely shows that their rights are being respected and validates their worth as an individual.
 - Quality of treatment toward others, especially with interpersonal encounters, impacts the response and outcome of that interaction (positive treatment – positive response; negative treatment – negative interaction)

4. Trustworthiness: Communicating or relaying cues of individual character, maturity, integrity and good intentions elicits respect and cooperation from those with whom the police are interacting.
 - Sincerity, benevolence, empathy and sensitivity result in favorable reactions
 - Establishing trustworthiness impacts an officer's power of influence, which is greater than the power of control or authority, and results in a more positive encounter from the public's perspective

LEGAL VS. LEGITIMATE:

Legitimacy is a concept dependent upon the public's beliefs, which is why decision-making and quality of treatment can lead to legitimacy.

Lawfulness is compliance with laws, rules, regulations, court rulings and decisions.



"THE BANK ACCOUNT"

Policing a community is like having a bank account:

-) When you have a good encounter, you make a deposit.
-) When you have a bad encounter, you make a withdrawal.

Check Your Understanding

Directions: Use the following prompts, questions or activities to check your understanding of material covered so far.

1. The formula for Procedural Justice is **A = O + P**. What do the letters in this formula stand for?
 - A. Assessment, Observation, Procedures
 - B. Actions, Outcomes, Process
 - C. Ask, Observe, Predict
 - D. Assessment, Outcome, Process

Answer can be found in the "Police Legitimacy" section on pg. 30

2. Which of the following are the correct components of Procedural Justice?
- A. Voice, Trustworthiness, Legitimacy and Respect
 - B. Neutrality, Voice, Respect, Trustworthiness
 - C. Legitimacy, Voice, Neutrality, Respect
 - D. Trustworthiness, Respect, Legitimacy, Bank Account

Answer can be found in the "Police Legitimacy" section on pgs. 31

3. Which of the following is NOT one of the judgments that reflect Legitimacy?
- A. Public Trust & Confidence in Police
 - B. Willingness of Residents to Defer to Law and Lawful Authority
 - C. Police Actions are Legal and Lawful
 - D. Police Actions are Morally Justified & Appropriate

Answer can be found in the "Police Legitimacy" section on pgs. 30

Procedural Law

"Compelling Circumstances" theory of custody requiring Miranda warnings –

If the police place a person in either full custody or "compelling circumstances," they must give that person Miranda warnings before questioning him or her. When determining whether a situation was compelling, "the relevant inquiry is how a reasonable person in the person's position would have understood the situation," based on the totality of the circumstances. In deciding whether a reasonable person would conclude the circumstances were compelling, the Oregon Supreme Court has considered the following non-exclusive host of factors:

- a) The location of the encounter;
- b) The length of the encounter;
- c) The amount of pressure exerted on the defendant; and
- d) The defendant's ability to terminate the encounter.

The "overarching inquiry is whether the officers created the sort of police - dominated atmosphere that Miranda warnings were intended to counteract."

The Oregon Court of Appeals has also considered a number of factors in determining whether the circumstances of an encounter were "compelling," including:

- a) The number of officers present;
- b) Whether the suspect was physically restrained with handcuffs or confined in a patrol car;
- c) Whether officers used force or displayed weapons;

- d) The duration of the detention;
- e) The demeanor of the officers in engaging and questioning a suspect;
- f) The language used by the officers;
- g) Whether sirens or flashing lights were present; and
- h) Whether the suspect had been expressly confronted with incriminating evidence at the time of the questioning.

Restrictions on “consent searches” – Scope of consent

Consent searches have been significantly restricted by the Court of Appeals, effective May 25, 2016. In *State v. Winn*, 278 Or App 460 (2016), Defendant entered a court house and her purse went through the x – ray machine. There were signs on the wall letting people know that they were subject to search and that firearms and dangerous weapons were prohibited in the building. The officer looking at the x-ray saw items that she thought might be drug-related, so she asked defendant for permission to run the purse through a second time. Defendant agreed. After the second scan, she asked defendant, “May I please search your purse?” Defendant consented to the search, and the officer opened an opaque make-up compact that contained meth. Defendant was charged with PCS, and moved to suppress the evidence on the grounds that the search exceeded the scope of her consent (she didn’t know or expect that the officer would open her make-up compact). The Court of Appeals agreed with defendant and suppressed the meth as they found that the search violated Article 1, section 9 of the Oregon Constitution. When the state relies upon a warrant exception, such as consent, the state has to prove that the officer conducting the search didn’t exceed the scope of defendant’s consent. The scope of consent is determined by looking at what a typical, reasonable person would have understood regarding the grant of consent in a particular case. The court focused on the signs prohibiting firearms and dangerous weapons, and determined that there was nothing that would have led a reasonable person to conclude that the search of defendant’s purse would include a search for drugs or paraphernalia. The court made it clear that the state has the burden of proving that the search fell within the scope of defendant’s consent, and they failed to do so.

In *State v. Blair*, 278 Or App 512 (2016), deputies responded to a report that armed suspects were chasing a man in a public park. When they arrived, they found defendant, who was dirty, agitated and couldn’t hold still or respond to questions. The deputies determined that the report about being chased by armed suspects was likely not “completely true.” Defendant mentioned that he had left his stuff, including his backpack, up at the park. A sergeant went with defendant to find his backpack, and when they found it the sergeant asked defendant if he could search it. Defendant said, “Yeah, go ahead.” The sergeant opened the backpack and found an opaque Fred Meyer grocery bag that was tied shut, which he opened. Inside, he found a bag of psilocybin mushrooms, and defendant was charged with PCS. Defendant moved to suppress the evidence, as he claimed that opening the closed bag inside his backpack exceeded the scope of his consent. He also claimed that his consent was not voluntary

since he was high on mushrooms when he gave it. The sergeant testified that when he asked to search the backpack, it was his intent to search for weapons and controlled substances, but that he had not communicated that to defendant.

The court analyzed the issue the same way they analyzed *State v. Winn*, and held that the sergeant exceeded the scope of defendant's consent. The search violated Article 1, section 9 of the Oregon Constitution. "Where the specific terms of an officer's request are vague or unavailable, the other circumstantial factors – including whether the surrounding circumstances would reasonably have alerted a person to what the officer was looking for – take on heightened significance." (The Court of Appeals did not address defendant's voluntariness argument, since they found the search exceeded the scope of defendant's consent).

In both *State v. Blair* and *State v. Winn*, the defendants failed to object when the officers opened the closed containers, and the state argued that the failure to object showed that the search was within the scope of their consent. The court found that in both cases, since the defendant didn't know what the officer was looking for, they didn't have a "meaningful opportunity" to stop the search or revoke their consent.

No "routine weapons inquiries" during noncriminal violation stops –

In *State v. Jimenez*, 357 Or 417 (2015), a defendant was stopped for jaywalking and was asked by the trooper if he had any weapons on him. The Oregon Supreme Court, upholding the ruling of the Oregon Court of Appeals, concluded: "Article 1, section 9 of the Oregon Constitution does **not** permit a law enforcement officer to make such an inquiry as a matter of routine and in the absence of circumstances that indicate danger to the officer or members of the public. In contrast, when an officer has probable cause to detain an individual and conduct a traffic investigation and the officer has reasonable, circumstance-specific concerns for the officer's safety, the officer may inquire about the presence of weapons. In that instance, the officer's inquiry is reasonably related to the traffic investigation, and reasonably necessary to effectuate it, and therefore does not violate Article 1, section 9."

When the *Jimenez* case was before the Oregon Court of Appeals, that court had held: "When a person is approached by a police officer – whether the person is in an automobile, on a bicycle, or on foot – for committing a noncriminal traffic violation, and the police officer and the person know that is the basis for the stop, then the officer who has approached the person must proceed to process the traffic violation, and may not launch an investigation into unrelated matters unless the inquiries are justified by reasonable suspicion of the unrelated matter, the inquiry occurred during an unavoidable lull in the citation-writing process, or some exception to the warrant requirement applies."

Trespass and “curtilage” –

Article I, Section 9, provides protection not only to an individual’s house proper, but also to the area surrounding the house, known as the curtilage. The “curtilage” of a home is the land immediately surrounding and associated with a person’s residence. Under the Oregon Constitution, a warrantless intrusion onto residential curtilage is presumptively a trespass, unless the entry is privileged or the defendant has given express or implied consent. A trespassory intrusion onto the curtilage of a person’s home violates Article I, section 9.

Consular notification –

Oregon law (ORS 181A.470) requires all police officers are trained to: “Understand the requirements of the Vienna Convention on Consular Relations and identify situations in which the officers are required to inform a person of the person’s rights under the convention.”

Summary of requirements pertaining to foreign nationals

-) When foreign nationals are arrested or detained, they must be advised of the right to have their consular officials notified.
-) In some cases, the nearest consular officials must be notified of the arrest or detention of a foreign national, regardless of the national’s wishes.
-) Consular officials are entitled to access to their nationals in detention, and are entitled to provide consular assistance.
-) When a government official becomes aware of the death of a foreign national, consular officials must be notified.
-) When a guardianship or trusteeship is being considered with respect to a foreign national who is a minor or incompetent, consular officials must be notified.
-) When a foreign ship or aircraft wrecks or crashes, consular officials must be notified.

Check Your Understanding

Directions: Use the following prompts, questions or activities to check your understanding of material covered so far.

1. **True or False:** If the police place a person in either full custody or “compelling circumstances,” they do not have to give that person Miranda warnings before questioning him or her.
 - A. True
 - B. False

Answer can be found in the “Procedural Law” section on pg. 33

2. **True or False:** In both cases (State v. Blair and State v. Winn), the court found that since the defendant didn't know what the officer was looking for, they didn't have a "meaningful opportunity" to stop the search or revoke their consent, significantly restricting consent searches in the State of Oregon.
- A. True
 - B. False

Answer can be found in the "Procedural Law" section on pgs. 35

3. Which of the following does the Oregon Court of Appeals consider factors in determining whether the circumstances of an encounter were "compelling? Check all that apply.
- | | |
|--|--|
| The amount of time it took to respond to the call | The demeanor of the suspect when interacting with the officers |
| The number of officers present | The duration of the detention |
| The number of agencies involved in the call | The demeanor of the officers in engaging and questioning a suspect |
| Whether the suspect was physically restrained with handcuffs or confined in a patrol car | The language used by the officers |
| Whether officers used force or displayed weapons | Whether sirens or flashing lights were present |
| | Whether the suspect had been expressly confronted with incriminating evidence at the time of the questioning |

Answers can be found in the "Procedural Law" section on pg. 33-34

4. The Court of Appeals upheld that there are to be no "routine weapons inquiries" during noncriminal violation stops, according to which case?
- E. State v. Blair
 - F. State v. Jimenez
 - G. Graham v. Connor
 - H. State v. Winn

Answer can be found in the "Procedural Law" section on pg. 35

Stress Awareness/Resiliency

Periodically self-reflect:

1. Is your "Sense of Self" still balanced, imbalanced, or becoming imbalanced?
How and why?

2. What coping skills are you employing to handle expected stress resulting from police work?
Are your coping techniques healthy or harmful?

Common stress reactions:

Stress may cause reactions within five specific areas: *Physical, cognitive (thinking), emotional, behavioral or spiritual*. Refer to the International Critical Incident Stress Foundation (ICISF) list below – those bolded are more frequently experienced by police officers. *Experiencing one or more stress reactions during or after a major event (personal or professional) is completely **NORMAL***. Stress symptoms are normal reactions to an abnormal event; no more, no less. *If the symptoms described below are severe or if they last longer than five weeks, the traumatized person may need professional counseling; contact a private psychiatrist, psychologist, mental health professional, or your local community health center for assistance.*

Physical**	Cognitive	Emotional	Behavioral
Nausea	Slowed thinking	Anxiety	Withdrawal
Upset stomach	Difficulty making decisions	Fear	Anti-social acts
Tremors (lips, hands)	Difficulty problem-solving	Guilt	Isolation
Chills	Confusion	Grief	Inability to rest
Profuse sweating	Disorientation (especially place & time)	Shame	Intensified pacing
Feeling uncoordinated	Difficulty calculating	Depression	Erratic movements
Diarrhea	Difficulty concentrating	Sadness	Change in speech patterns
Dizziness	Memory problems	Feeling lost	Change in social activity
Visual difficulties	Seeing an event over & over	Feeling abandoned	Loss or increase of appetite
Muscle tremors	Nightmares	Feeling isolated	Hyperalert to environment
Chest pain (be checked at hospital)	Poor attention span	Worry about others	Increased alcohol consumption
Difficulty breathing	Uncertainty	Wanting to hide	Change in usual communications
Rapid heart rate	Hypervigilance	Wanting to limit contact with others	Family problems
Insomnia/hypersomnia	Suspiciousness	Loss of emotional control	
Increased blood pressure	Intrusive images	Anger	Spiritual
Headaches	Blaming someone	Irritability	Sudden loss of faith
Muscle aches	Poor abstract thinking	Feeling numb	Sudden intense desire to be faith-based and/or religious
Sleep disturbances	Heightened or lowered alertness	Startled	
Thirst	Change in awareness of surroundings	Panic	
Fatigue		Denial	
Fainting		Agitation	
Twitches		Apprehension	
Vomiting		Inappropriate emotional response	
Weakness		Intense anger	
Grinding of teeth		Emotional outbursts	
Shock symptoms		Delayed response to calls for service (last one to arrive)	

****any of these symptoms may indicate the need for medical evaluation. When in doubt, contact a physician.**

Coping Techniques to Decrease Stress Reactions

Of the few areas we have control of, humans have control over areas in which we can decrease the amount of stress their body and mind is experiencing. Utilizing the following readily available tools on a consistent basis will aid in the prevention and management of stress:

Nutrition

Maintain good eating habits – 80/20

Plan your meals and bring them to work

Water – Excellent tool to decrease physiological stress build up

Caffeine & Alcohol – Limit intake. These are temporary solutions to a possibly more in-depth issue

Exercise

Physical exercise assists in the reduction of stress by washing out the dump of chemicals experienced during a critical incident. After a critical incident, one should increase physical activity by 2 to 3 times. For example, if a person walks approx. 2 miles a day, four times a week, that same person may increase the amount of walking to 3 miles a day for 5 or 6 days. Hundreds of studies have proven the reduction of chronic illnesses when one participates in a physical regimen. Maintaining this regimen before an incident may increase one's ability to effectively manage stress during and after an incident. Develop a workout routine now; incorporating how it will change due to shift changes.

Sleep

Sleep is essential for every living being. While sleeping, our bodies repair and restore vital cells and muscle tissue that is depleted on an average day. When a critical incident occurs, our bodies go in to a sort of "overdrive", preparing for the fight, flight or freeze response, depleting that much more. One event can be very draining to our physical and emotional beings. Experts state that a person should sleep **7 to 9 hours a day**, preferably without interruption, at night. To assist the process of getting a good segment of sleep, one can use ear plugs, white noise (fan), blackout windows, an eye mask, etc. Make sleep a priority, allowing your body to restore and recover.

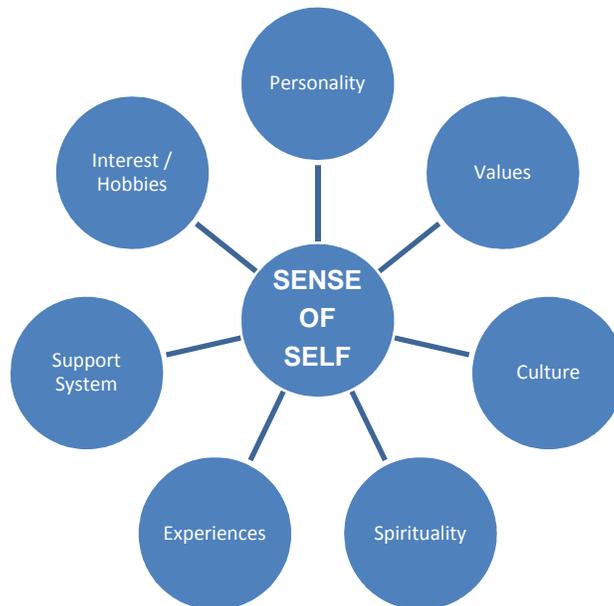
Breathe

Combat or tactical breathing is a tool used by the military and law enforcement for many years. The ability to control one's breathing may assist in reducing one's blood pressure. Practice tactical breathing in difficult situations, at work or at home, and it will become a natural event when under pressure. Read more about this process in Lt. Colonel Dave Grossman's books, "*On Killing*" or "*On Combat*".

-) Breathe in for 4 counts – hold for 4 counts – release for 4 counts
-) Repeat this process 4 times
-) The numbers are up to you – exchange 4 for any number, preferably 4 or higher.

Life

Continue to remain involved and enjoy it – it’s the only one you get. The more one may want to isolate or not participate in activities means that person should absolutely *get out and do something!* Keep your hobbies, develop relationships outside of law enforcement, and develop a healthy support system of friends, loved ones, relatives, etc. Additional reading: Emotional Survival for Law Enforcement: A guide for officers and their families (Dr. Kevin Gilmartin, 2002).



Additional coping techniques to decrease stress reactions

-) *Keep talking*
-) *Don't deny your stress*
-) *Do not work hard and/or longer hours*

Resources

Trauma teams: Make use of Trauma Teams (TTs) or Critical Incident Stress Management teams (CISM/CISD), peer support, and other resources in your agency/community, including clergy/chaplains, and mental health professionals.

Peer support: Co-workers or other first responders with specialized training. Peer support members should be selected and appointed by agency administration (*Refer: ORS 181.860*). If you need to talk with someone at work or someone needs to talk with you, find a safe location.

Employee Assistance Programs (EAP) – Most agencies contract with a company to provide a limited amount of free mental health counseling sessions from licensed clinicians (Cascade Center, Mental Health Network (MHN), etc.). Participation is confidential.

Psychologist or Psychiatrist (Medical doctor – can write prescriptions)

Clergy / Chaplains – Many law enforcement agencies utilize chaplaincy programs. Many chaplains and clergy members have received training in first responder issues and mental health counseling.

NOTE: Whomever you decide to seek “professional assistance” from, ask that person(s) what type of training they have received and if that person(s) has a foundational understanding of first responder issues!

Check Your Understanding

Directions: Use the following prompts, questions or activities to check your understanding of material covered so far.

1. If a person experiences stress responses for five weeks or more it is suggested that he/she:
 - A. Participate in a debriefing
 - B. Seek professional assistance
 - C. Speak with trusted family members
 - D. Talk with a peer

Answer can be found in the “Stress Awareness / Resiliency” section on pg. 38

2. Which of the following is NOT an effective coping technique?
 - A. Meal Planning
 - B. Drinking Alcohol
 - C. Increasing Physical Activity
 - D. Sleeping 7-9 hours

Answer can be found in the “Stress Awareness / Resiliency” section on pgs. 39

Use of Force

Objective reasonableness constitutional standard -

In *Graham v. Connor*, 490 U.S. 386 (1989), the United States Supreme Court decided what constitutional standard governs a free citizen's claim that law enforcement officials used excessive force in the course of making an arrest, investigatory stop, or other "seizure" of the person.

In *Graham*, the Court held:

1. All claims of "excessive force," *deadly or not*, are properly analyzed under the Fourth Amendment's "objective reasonableness" standard.
2. Fourth Amendment case law has long recognized that the right to make an arrest or stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.
3. The test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application. Therefore, proper application requires careful attention to the facts and circumstances of each particular case.
4. These "facts and circumstances" include (*but are not limited to*): the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether suspect is actively resisting arrest or attempting to evade arrest by flight. The question is, "whether the totality of the circumstances justifies a particular sort of ...seizure."
5. Reasonableness must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The standard of "reasonableness at the moment" applies.
6. Police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving, about the amount of force that is necessary. The determination of reasonableness must allow for this fact.
7. The "reasonableness" inquiry is an objective one: the question is whether the officer's actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.

Check Your Understanding

Directions: Use the following prompts, questions or activities to check your understanding of material covered so far.

1. In *Graham v. Connor*, the court held that _____ must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of _____.
Answer can be found in the "Use of Force" section on pg. 42
2. _____ Amendment case law has long recognized that the right to make an arrest or stop necessarily carries with it the right to use some degree of _____ or threat thereof to effect it.
Answer can be found in the "Use of Force" section on pg. 42
3. All claims of "_____" are properly analyzed under the Fourth Amendment's "_____" standard.
Answer can be found in the "Use of Force" section on pg. 42