

BASIC POLICE

OREGON DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING



2021 ACADEMY STUDENT MANUAL



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Student Success Guide

Congratulations on beginning your law enforcement career journey. You have successfully made it through a rigorous hiring process and your next step is completing the academy. The academy is 16 weeks (640 hours) packed with content and skills. It will be challenging academically, physically, and mentally. Academy staff are here to support you in this endeavor.

Some general success tips to get you started:

Plan your time wisely

Ask for help

Read the material in advance of class

Take breaks

Study Tips

Each course has identified **Learning Outcomes**. Let these be your study guide.

Strive to understand general concepts. Do not get caught up trying to memorize dates, numbers, and small details.

Despite our instinct to do so, reading and re-reading content is NOT an effective means of learning material. Read it once, before class. Then use the class time to help deepen your understanding of the content and ask clarifying questions. Read over it once more time after class. When we read and re-read, it fools us into believing we understand the material because it sounds familiar.

Pay attention to examples provided to you and try to generate your own examples.

Many of your classroom sessions will include group discussions and activities. Sometimes it can feel like you don't know what to take away from those discussions. Rest assured, your instructors are steering those discussions to make sure you are getting what you need. Often these discussions provide examples and context to understand a concept. Engage in these discussions and activities!



Highlight with purpose. It is easy to over highlight your reading material. Focus on key terms and concepts. Look back at the **Learning Outcomes**.

Quiz yourself and your peers. The act of retrieving information is the best learning strategy you can use! Every time you practice retrieving information, it helps you recognize what you do and do not know. The act of retrieval itself helps strengthen that knowledge, making it easier to retrieve in the future (for a test and in the field).

Use your student workbook! This book is designed to give your studies some direction. There are practice questions, can you answer them? Use the workbook to study while you are waiting for your turn in a scenario (not fragment drills). Use the questions to quiz yourself and others. Complete the reflection activities, these are a highly effective learning strategy.

Space out your studying. Cramming the night before a test is not helpful. Study a little bit each day and take breaks in between study sessions.

**If you are struggling, ask for help sooner rather than later!
The academy has additional resources to help support you.**

Taking Tests

Many adult learners feel stress when it comes to taking tests. If test taking makes you anxious, you are not alone. You will learn coping strategies for the career, which you can also apply to test taking. For example, you will learn some breathing and mindfulness techniques, use them.

Get some good sleep! Our brains require sleep for many reasons. Our performance and decision making deteriorates with fatigue. Our brains need sleep to lock in learning, and this could take 3-5 sleep cycles! This is one reason cramming the night before the test is not effective.



Resources

- Your student material can be overwhelming at over 1700 pages. It is however, a great source of information and you should read it (spaced out over time of course).
- Your student workbook is designed to help you study on-the-go.
- Your Class Training Coordinator and Class Instructor are here to support you.
- All training staff want to see you succeed and are available for help.
- Your classes have been designed to encourage active participation which enhances learning.

Affidavits and Search Warrants

BASIC POLICE ACADEMY





Affidavits & Search Warrants

Instructional Goal:

This course is designed to introduce a new officer to the use, limitations, and process of affidavits and search warrants.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify when a search warrant is required in a given situation.
2. Describe probable cause in a given situation.
3. Describe the scope of a search in a given situation.

Content Outline:

Definitions

Constitutional Foundations

Subjects of a Search Warrant

The Affidavit

Suggestions for Drafting a Warrant

Executing a Warrant



Scenario-

You have responded to a local business for a report of two stolen ATVs. As you walk around the property, you find a knife lying on the ground. Upon closer inspection, you see the knife has a name on it, Frank T. Lewiston. You are familiar with Lewiston because you have arrested him numerous times for theft. You go to Lewiston's house to speak with him. He admits the knife is his but denies knowing anything about stolen ATVs. You speak with Lewiston's neighbor who reports seeing two ATVs in Lewiston's garage earlier today. The neighbor has never seen ATVs at Lewiston's residence before. You believe that Lewiston is responsible for the thefts, and the ATVs will be located on his property.

The following content comes from the Oregon Department of Justice Search and Seizure Manual. The Department of Justice permits copies to be made for law enforcement use only.

Definitions

A **search** occurs when a person's privacy interests are invaded.

A **seizure** occurs when there is a significant interference with a person's possessory or ownership interests in property.

A **search warrant** is an order issued by a legal authority permitting or directing someone to take some action. A search warrant authorizes a police officer to search a specified place for evidence even without the occupant's consent.

An **affidavit** is a written statement of facts made by an affiant under an oath or affirmation.



Constitutional Foundations

Why are search warrants needed?

Article I, section 9, of the Oregon Constitution, provides safeguards against unreasonable searches and seizures and protects both privacy and possessory interests. The Fourth Amendment to the United States Constitution contains similar, although not identical, protections.

Oregon Constitution	US Constitution
No law shall violate the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search, or seizure; and no warrant shall issue but upon probable cause, supported by oath, or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.	The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

When is a search warrant required?

Under Article I, section 9, a search occurs when a government agent intrudes upon a person's protected privacy interests. In determining whether a "search" occurred, two issues are presented:

- 1) Does a constitutionally protected privacy interest exist in the area or object? and
- 2) Did the police conduct intrude upon that interest?

As a general rule, to be valid, searches and seizures require probable cause. There are exceptions to this rule, for example, consent searches, emergencies, and inventories.



The Oregon Supreme Court’s definition of probable cause to search: The probable cause requirement means that the facts upon which the warrant is premised must lead a reasonable person to believe that seizable things will probably be found in the location to be searched.

- “Probably” means “more likely than not.”
- Probable cause does not require certainty.
- Probable cause requires more than “reasonable suspicion” or “reasonable grounds.”

The United States Supreme Court has said that probable cause to search exists when “there is a fair probability that contraband or evidence of a crime will be found in a particular place.”

Is a search warrant needed for the above scenario? Why or why not?

Under the Oregon Constitution and the Fourth Amendment, warrantless searches and seizures by the government are unreasonable unless they fall within one of the few specifically established and carefully delineated exceptions to the warrant requirement.

Abandoned property- If a person with a protected privacy or possessory interest in property abandons that interest before police officers search the property, the person will have no entitlement to suppression for any illegality perpetrated by the police in conducting the search.

The Proper Subjects of a Search Warrant

Object of Search

ORS 133.535 sets forth the permissible objects of a search warrant. These include, among other things, evidence of a criminal offense, information “concerning” the commission of a criminal offense, contraband, “things criminally possessed,” and persons who are subject to arrest or who are being unlawfully held in concealment. The “fruits” of criminal activity are also proper objects of a search.

What are the objects of the search from the above scenario?



Nature of Offense

The authority provided by ORS 133.535(1) to issue a search warrant for mere “evidence” is limited to evidence of a “criminal offense.” It does not authorize a warrant for evidence of an infraction or a violation. But a warrant may issue under ORS 133.535(3) for property that has been used, or is possessed for the purpose of being used, to commit or conceal the commission of an offense.”

What is the nature of the offense in the above scenario?

To obtain a warrant, law enforcement officers must show that there is probable cause (PC) to believe a search is justified, that a crime was committed, and evidence of that crime is available. Officers must support this, showing with sworn statements (affidavits).

The Affidavit

Who can apply for a search warrant?

Under ORS 133.545, application for a search warrant may be made only by a district attorney, police officer, or a special agent.

Oath or Affirmation

Article I, section 9, and the Fourth Amendment each require that the issuance of a search warrant must be supported by statements made under oath or affirmation. This requirement is reflected in ORS 133.545(5) and (6), which require either the submission of an affidavit (a written statement under oath) or an “oral statement under oath” before a warrant may issue.

Probable Cause

A warrant may issue only if the record before the magistrate supports a finding of probable cause to believe that “the search will discover things specified in the application.” ORS 133.555(2). Probable cause for purposes of ORS 133.555(2) exists when the facts set out in the warrant lead a reasonable person to believe that seizable things will probably be found in the location to be searched.

What probable cause exists to request a search warrant in the above scenario?



Nexus Between Criminal Activity, Place to be Searched, and Items Sought

Article I, section 9, and ORS 133.565 both require that the warrant specifically identify the persons and places to be searched. However, the affidavit must provide probable cause to believe that the items sought will be found in the location to be searched and that the items relate to the crime alleged.

When the location to be searched is the suspect's residence:

- In addition to establishing probable cause to believe that the suspect committed the crime and still has evidence of the crime in his or her possession, the affidavit must provide probable cause to believe that the target evidence is located in the suspect's residence.
- The mere fact that the suspect resides there does not establish the nexus.

Officers should take care in drafting the affidavit so that it adequately explains the relationship between the people and the places described in the affidavit.

Describe the nexus in the above scenario.

Facts Justifying Special Authorizations

ORS 133.565 provides that a search warrant may authorize limited extensions of the statutory timing restrictions relating to the execution of the warrant and return of the warrant. The statute requires that these special authorizations appear on the face of the warrant. The factual justification for seeking any special authorization also should appear in the body of the affidavit.

Examples: nighttime execution, extension time for execution.

Staleness and Perishable Evidence

Information contained in an affidavit must be sufficiently "fresh" to justify the conclusion that seizable evidence is present at the location to be searched at the time that application for the warrant is made. An affidavit is not stale if it contains facts that show that it is more probable than not that the items sought are still at the location to be searched at the time the application is made.



The length of time is only one factor in the analysis. Other factors include the character of the crime and the thing to be seized; for example, is the item perishable or durable? Despite a lengthy delay in seeking the warrant, probable cause may still be found if the items sought are typically retained for a significant length of time and not readily discarded or consumed. In addition to durability, the fact that an item may be lawfully possessed is an additional factor indicating that the suspect may be less likely to dispose of the item. Evidence that the criminal activity is ongoing increases the likelihood that, even after the passage of time, items subject to seizure will remain in the location to be searched.

How would you describe probable cause in the scenario as related to staleness?

Items to be Seized

The objects sought to be seized also must be described with particularity in the search warrant. The particularity requirement for search warrants is not only statutory but also constitutional Article I, section 9; ORS 133.565(2)(c).

The authorization in a search warrant to search for items is not itself an authorization to seize the objects searched for — i.e., for a seizure pursuant to a search warrant to be lawful under ORS 133.565(2)(c), the warrant must expressly authorize the seizure.

Using the Fourth Amendment standard, the court in State v. Tidyman, held that the list of items in the search warrant must be sufficiently particular to guide the officer to the thing intended to be seized and to minimize the danger of unwarranted invasion of privacy by unauthorized seizures. The degree of specificity required to accomplish these purposes varies with the circumstances and with the property to be seized. The failure to provide a description that is specific enough to enable the person conducting the search to reasonably identify the things authorized to be seized violates the Fourth Amendment. It will result in suppression of the evidence seized.

Describe items to be seized in the scenario.



Suggestions for Drafting a Warrant

Many difficulties with the specification of the location to be searched and the scope of a search warrant may be avoided by careful drafting. In addition to the considerations contained in the “Search Warrant Checklist,” consider the following suggestions:

- **Proofread-** Carefully proofread the description on the face of the warrant for typographical errors and transposed numbers — particularly addresses, names, dates, vehicle identification, and the descriptions of specific items. Consider having someone else do the proofreading. Make sure that a factual basis for the description stated on the face of the warrant is set forth in the affidavit.
- **Authorization to Seize-** Ensure that the warrant expressly authorizes the seizure of those items for which you are searching.
- **Specify Small Items-** Be explicit in the description of the things sought. The circumstances of many offenses justify requesting a warrant to look for very small articles. The inclusion of small items will not only avoid challenges to the warrant based on lack of specificity but will also serve to expand the scope of the search. Individual bullets, folded bindles of controlled substances, papers with names and phone numbers of potential co-conspirators, and papers that tend to identify the person in custody or control of the premises are a few examples of common items that can bolster specificity and expand the boundaries of the search.
- **Expand List of Crimes Under Investigation-** Listing additional crimes under investigation may expand the potential scope of the search warrant.
- **Include a Catch-all Related to a Particular Crime-** The Oregon Supreme Court has upheld a warrant that directed a search for “any other evidence of the aggravated murder” of a named victim.



- Search for Evidence of Frequenting (Drug Cases) - Probable cause to believe a residence has been the location of narcotics sales will often support the inference that persons found on the premises at the time the warrant is executed will be committing the crime of frequenting a place where controlled substances are kept.
- Search for Identity of Primary Suspect- The identity of the prime suspect may be only partially known. Request authority to search persons present for identification to determine whether they may be the prime suspect.
- Justify Car and Person Searches- Include language justifying searches of cars and persons when probable cause exists for such a search.
- Seize Forfeitable Items- ORS 131A.060 (2) (civil forfeiture) and ORS 131.561 (criminal forfeiture) each permit a court to issue an order or endorse a search warrant with authority to seize property for forfeiture.

Additional Requirements for the Warrant

In addition to requiring “particularity” concerning the location to be searched, the name of the person to be searched, and the things authorized to be seized, the warrant must:

- Contain the date the warrant was issued. ORS 133.565(1) and (2) (a).
- Be addressed to and authorize its execution by an officer authorized by law to execute search warrants. ORS 133.565(1) (e.g., “To any peace officer of the State of Oregon.”).
- Set forth the identity of the judge who issued the warrant. ORS 133.565(2) (a).
- Contain authorization to execute the warrant after 10 p.m. or before 7 a.m. The judge may authorize execution “at any time of the day or night.” ORS 133.565(3)
- Specify an extended period of time (not to exceed ten days) within which the warrant must be executed. ORS 133.565(3). The statute does not require that the warrant indicate the execution time limit unless more than five days is authorized.
- Specify the period of time (not to exceed five days after execution) within which the warrant is to be returned to the court. ORS 133.565(2) (d).



The Issuing Magistrate

Only a judge can issue a search warrant, and only a judge can dictate the terms of a warrant. ORS 133.545(1). An officer executing a search warrant has no authority to correct an error in the warrant, but unauthorized interlineations do not necessarily invalidate the warrant.

Executing a Warrant

Securing Persons

A person may not be “seized” while a warrant is obtained unless the police have probable cause to arrest, or some other independent authority (e.g., ORS 131.615, authorizing stop and reasonable detention of a person suspected of criminal activity), to detain the person.

Securing Premises

Under Article I, section 9, of the Oregon Constitution, the “securing” of premises while a search warrant is sought is a seizure that must be justified under a recognized exception to the warrant requirement. For example: padlocking a storage unit while a warrant is sought to enter it.

Exigent circumstances may justify a warrantless seizure of premises. For example: when the police arrive at the scene of a homicide, they may make an immediate, warrantless entry of the premises to preserve the crime scene.

Securing Automobiles

The act of securing a vehicle or an object while a warrant is sought is a seizure. Absent probable cause and exigent circumstances, such a seizure is unlawful. For example: assigning an officer to watch a car versus towing it to impound lot until a search warrant can be obtained.

Under the Fourth Amendment, it is reasonable to seize and impound an automobile, based on probable cause, for “whatever period is necessary to obtain a warrant for the search.”



Identifying, Detaining, and Controlling Persons at Search Scene

ORS 133.605 authorizes officers to control persons present at a place where a search warrant is being executed to the extent necessary to execute the warrant with all practicable safety.

- That includes the authority to identify anyone entering the site.
- Handcuffing an occupant of a residence during the execution of a search warrant is permissible if the police have reasonable suspicion to believe that the person poses a threat to the safety of the officers or others.
- An officer may frisk an occupant of the place searched if there is reasonable suspicion that the person is armed and dangerous.
- A police officer also is entitled to conduct an officer-safety search of the immediate area around an individual when the officer has reason to believe that the individual may gain immediate control of a weapon.

Reading and Delivering a Copy of the Warrant

ORS 133.575(3) provides that, except for mobile tracking device warrants, before undertaking any search or seizure pursuant to the warrant, the executing officer shall read and give a copy of the warrant to the person to be searched or to the person in apparent control of the premises to be searched. If the premises are unoccupied or there is no one in apparent control, the officer shall leave a copy of the warrant suitably affixed to the premises.

Scope of the Search

The areas subject to lawful search pursuant to the warrant are defined by the description set forth on the face of the warrant. The test is whether the scope of the search is “reasonably necessary” to find those items specified in the warrant. The character of the things specified in the warrant defines the areas that may be searched. For example, police cannot move a stereo to view serial numbers while executing a warrant for evidence of a shooting.

If you are searching for stolen ATVs, can you search inside dresser drawers? Why or why not?

Absent probable cause or reasonable officer-safety concerns, persons not named in a search warrant who happen to be present during the execution of a warrant are not themselves subject to search.



Receipt for Things Seized

ORS 133.595 requires that promptly upon completion of the search, the officer shall make a list of the things seized and shall deliver a receipt embodying the list to the person from whose possession they are taken, or the person in apparent control of the premises or vehicle from which they are taken. If the vehicle or premises are unoccupied or there is no one present in apparent control, the executing officer shall leave the receipt suitably affixed to the vehicle or premises.

Returning the Warrant

ORS 133.615(2) provides an officer who has executed a search warrant shall, as soon as is reasonably possible and in no event later than the date specified in the warrant, return the warrant to the issuing judge together with a signed list of things seized and setting forth the date and time of the search. The return and warrant are then filed with the original affidavit, completing the record of the issuance and execution of the search. ORS 133.615(3).

Summary

A search warrant is a court order to search a specific place for specific items.

Place to be
searched

Person to be
searched

Property to
be seized



Search Warrant Checklist

Affidavit

“Boilerplate”

Does the affidavit explain expertise relating to a particular case (“boilerplate”)?

Case information

Basis of knowledge: Is it clear that the information is based on the affiant’s personal knowledge?

“I saw....” “Witness/officer told me...”

Does the affidavit address credibility of each informant?

Identified by name/agency/location

Motive to lie/other reasons to question credibility (drug/alcohol use, etc.)

Impeachable criminal history

Previously provided accurate information

Voluntarily provided evidence supporting contentions

Passed polygraphs

Does the affidavit address the reliability of information?

Cross-corroborated

Consistent with police knowledge/expertise

Was the accuracy verified?

Does the affidavit include information known that would weigh against the credibility of the informant/reliability of information?

Does the affidavit describe how the affiant verified the accuracy of information?



Descriptions

Is the place to be searched described with particularity?

Describe a unique location? Include outbuildings/vehicles/yards/persons, if applicable

Is property to be seized described with particularity?

Does it include a catch-all: "... and any other evidence of [the crime]"?

Probable Cause

Does the affidavit establish probable cause that the property in question is crime-related?

Does the affidavit explain why property in question is likely to be at the place to be searched?

Does the affidavit explain why the property is likely to be there still?

If applicable, does the affidavit explain why nighttime service is justified?

If applicable, does the affidavit explain why more than five days is needed for service?

Does the request say to "search" and "seize"?



Warrant

Does the place described in the warrant exactly match the place described in the affidavit?

Does the description of the property to be seized in the warrant exactly match the description in the affidavit?

Does the request say to “search” and “seize”?

Does it include a nighttime indorsement?

Does it include an extension of the five-day service limit?

Warrant Service

Before executing:

Knock and announce

Give a copy of the warrant to the person to be searched/person in apparent control of the property

If unoccupied/no one in apparent control, affix a copy of the warrant to premises/vehicle

After executing:

Make a list of things seized

Deliver receipt embodying list to the person from whom items seized/person in apparent control

If unoccupied/no one in apparent control, affix a copy of the receipt to premises/vehicle

Warrant Return

If not executed within the time specified in the warrant, return the warrant to the issuing judge immediately.

If executed within time limits on the warrant, return the warrant to the issuing judge by the date specified in the warrant with:

Signed list of things seized

Date and time of the search

nearest city), located in the, County of _____, State of Oregon, currently owned by _____, contains evidence of the crimes of **Burglary in the First Degree (ORS 164.225) and Theft in the First Degree by Receiving (ORS 164.095)**, including but not limited to:

A Hewlett Packard Laptop Computer

12 Sony Playstation Games with the titles

That the above property is evidence of a crime and subject to seizure per State law.

The facts supporting my above beliefs are as follows:

was, but that he did not know for sure. He again said he didn't want to know. I asked him what made him have an idea it was stolen. He said by the way _____ were acting. I explained the property had been taken from daytime residential burglaries and that I suspected _____ was responsibly. He told us he felt bad for the victims and that if he would have know the property was taken from burglaries, he would not have agreed to buy it. I asked him if he would be a witness in the case, he said he would. He also told us that we could check with the other people at his residence at the time the time property got brought over.

I asked him what was inside the black duffle bag that _____ was carrying. He told us _____ had a revolver in the bag. He told us that _____ showed him the revolver and he looked over it closely. I asked him if it was loaded. He told us he checked it and it wasn't. I asked him to describe the revolver. He told us it was a Colt

.38 special. He said the barrel was approx. 8" to 10" long. He demonstrated the length with his fingers. I asked if it was black or silver, he said it was black. He told us it had wood grips and he remembered seeing the words "Officer's model" stamped on the side of it. He told us he thought it probably belonged to a police officer. He also told us it was in "excellent" condition and looked like it was a "collector's" gun. He told us he wasn't interested in it because it was too long. I asked if the gun was in a case or holster. He said it was just loose in the bag.

I asked what else was in the bag _____ had. He said all three watches and all the foreign coins that Officer _____ had recovered were in that bag. This would have included the men's pocket watch identified by victim _____ and the two watches and coins identified by victim _____). _____ asked about a ruby and diamond ring (missing from _____ burglary). _____ said he remembered that ring being in the bag. He described the ring. His description matched the ring taken from _____. Officer _____ asked about a Walkman CD player (missing from _____ burglary). He said "maybe" and seemed to recall seeing one, but was not sure. I then showed him a color photo of a similar crystal vase taken in the _____ burglary. He said he did not see any crystal in the bag. I asked him if he remembered anything _____ might have said about any other property. He said he remembered _____ commenting that he had another revolver, but that he had already sold it.

I asked _____ what he agreed to buy. He said he agreed to buy the camcorder, watches, men's gold wedding band, and the coins for \$500. He told us that he and _____ agreed upon the price. I asked him if he offered to trade _____ any

drugs for the property. He told us something to the effect of "That's the funny thing, I offered to trade him for some, but he said he didn't want any". He told us he got the impression _____ didn't use drugs. It should be noted that during the 1997 investigation of _____, several subjects, to include _____ himself, told us he (_____) did not use drugs. Additionally, several subjects, to include an accomplice named _____, told us that _____ gets Adrenaline rushes from going into peoples houses and committing burglaries. When I had contacted _____'s probation officer, _____, I had reviewed _____s probation records. _____ himself wrote, just before being released from prison, that he did his burglaries for the "Adrenaline rush" and the money. He also wrote he did not use drugs or alcohol. When Sgt _____ and I spoke about the recent burglaries, Sgt _____ told me he remembered subjects telling us about _____ doing burglaries for the Adrenaline rush.

I asked _____ if he paid _____ for the property. He told us that he didn't have the money. He told us that "Spooky" (_____) was interested in the big diamond ring and the gun. He told us _____ agreed to let "Spooky" and him (_____) take the ring and gun to someone to see what it was worth and to see if that person wanted it. _____ told us after he agreed to pay _____ \$500 for the property, he put it in his bedroom. He told us that "Spooky" then called a Mexican male and asked to meet with him. He told us "Spooky", _____ and himself left the residence with the gun and diamond ring. He told us they met the potential buyer at the _____ on _____ Lane. He said _____ and _____ had agreed to wait at his (_____'s) residence until they got back, hopefully with some

money. He told us that when they met the buyer, "Spooky" showed him the ring and gun. He said he then found out that "Spooky" owed the Mexican male money. He told us the male took the gun and ring and agreed to clear "Spooky's" debt. He said he told Spooky that he couldn't do that, because _____ was back at his house waiting for the money. He said Spooky said he would give _____ \$100 or \$200 for the stuff. He told us they then drove back to his house, but _____, _____ and _____ had left. I asked if _____ ever came back. He said he didn't. He said that _____ had been back to the residence and he had explained to _____ what had happened. He told us he figured _____ probably never came back, because he knew he probably wasn't going to get any money.

It should be noted that _____ and myself interviewed _____ for approximately two (2) hours. I ran through the questioning a minimum of three times and _____'s statement did not change. It should be noted that I believe _____'s statement to be the truth, based on my training and experience. I also spoke with Officer _____. She also told me she believes _____'s entire statement is the truth.

What adds to the truthfulness of this statement is that on _____, after interviewing _____, I had a computer scan ran for any Colt .38 caliber revolvers stolen in the last six months. I learned there were three (3) stolen. I reviewed the information on each firearm. The only case that could have matched the Colt seen by _____ was a firearm reported stolen to the _____ police department, _____ PD case #21-4294. The computer scan indicated the firearm was taken in a residential burglary and provided the victim's name, _____.

On _____, I called _____. She told me she lives at _____ Lane in _____ and her residence was burglarized. I asked her to describe the .38 revolver that was taken. She told me it was a Colt .38 special revolver with a very long barrel. I asked how long the barrel was. She said it was approx. 8” to 10” in length. I asked her if she knew what model it was. She told me it was an “Officer’s model” and had Officer’s model stamped on the side of it. I asked her what color it was and she said it was black with wood grips. She told me it belonged to her late husband and the gun was made between 1908 and 1940. She said her husband had bought it new and that it was in “Excellent condition”. I asked _____ if the gun was in a case or holster when it was stolen. She told me the suspects broke into a wood case and left the case at her residence. She told me it was a “Collector’s” gun and was very unique. She said she believed her husband had shot it one time in the past.

I asked _____ when the burglary to her residence occurred. She told me the burglary occurred on December 17th, between 9:15 a.m. and 10:30 a.m., 2001. This would have been the day _____ saw _____ with the gun. This was confirmed as the day _____ saw his probation officer. Based on _____’s observations of the gun and _____’s information about the gun, I believe _____ was in possession of _____’s firearm the day of the burglary to _____ residence. _____ observed _____ with the firearm on _____, at approximately 12 noon to 1:00 p.m., approx 2 to 3 hours after the burglary to _____’s residence occurred.

_____ told me she is missing additional items to include; an unknown brand .38 caliber revolver, black in color, with short barrel, a gray in color duffle bag with red

_____ piping, a dark maroon jewelry box with gold etching, a three stand Austrian crystal necklace, Miscellaneous costume jewelry items, a white pillow case with ruffled edges, a star shaped Wells Fargo Sheriff's badge, gold in color, a Minolta 35 mm point and shoot camera with zoom lens, a women's ring, rainbow design with black onyx, a women's ring, silver with turquoise stone, a women's ring, Pewter with numerous small black stones, and a small gold pin with enameling.

_____ told me that the suspect(s) dumped out her ski boots from a ski bag and probably used it to remove property from the residence. She described the duffle bag as gray in color with red in color piping (trim). She told me the bag contained a pair of ski goggles, a blue ski hat, a pair of ski gloves and a pair of mirrored sunglasses. I asked Brubaker if she was missing any other items. She told me she was missing two weather cubes, which she described as being 3" x 3" x 3". She told me you push a button on the cubes and they are tuned into a radio station that provides constant weather reports.

_____ also told me the suspect(s) removed a pillowcase from her bed and probably used it to remove property from her residence.

Based on _____ being seen with the long barreled .38 caliber Officer's model revolver the day of the burglary and the M.O. of the burglary itself, I believe

_____ is a suspect in _____'s burglary. I also suspect, based on _____ being present with _____, _____ should be considered a suspect.

On _____, I contacted _____ County Community Corrections. I advised secretary personnel that I was attempting to locate a "_____" and provided his physical description and the address of _____. On _____, I received a voice

mail message from “_____” who is employed in the Community Service Department at _____ County Community Corrections. The message advised that she was familiar with a _____, with a dob of 3-16-78, and his address was _____. The message advised he matched the description I provided.

On _____, I prepared a photo line-up which included _____ photograph. On _____, I provided the line-up to Officer _____ and requested she show it to _____. Ofc _____ told me that she met with _____ on _____ and _____ positively identified _____ as the “_____” subject that brought some of the stolen property into the residence.

On _____, I checked Department of Motor Vehicle (DMV) computer records and learned _____ and _____ both used the address of _____ for their Oregon driver’s licenses/identification cards. I also checked _____ County Jail booking records and observed that _____ gave the address of _____, when he was booked on _____. I also checked _____ County Community Corrections computer files and observed _____ provided his address _____.

That on _____, I drove to the residence of _____, located in the City of _____, County of _____, State of Oregon and observed the residence is a single story/single family dwelling of wooden construction located on the northeast corner of West _____ Street and _____ Street. I observed the residence is blue in color with white trim and has the numbers “208” clearly displayed on the front of

the residence. I observed the front of the residence has a white picket fence and the carport is accessed from _____ Street. I also observed the above listed vehicle was parked in the carport at the residence. That on _____, I ran a registration check through DMV and the vehicle returned registered to _____.

The residence of _____ Street can be located by traveling northbound on _____ Street from the _____ Police Department. _____ Street becomes _____ Street. That you continue on _____ Street to the intersection of _____ Street. That you make a right turn on _____ Street and continue to the intersection of _____ Street and North _____ Street. That you make a left turn onto North _____ Street and travel northbound to the intersection of North _____ Street and West _____ Street. That you make a left turn onto West _____ Street and travel to the intersection of West _____ Street and _____ Street. That _____ is located on the northeast corner of the intersection of West _____ Street and _____ Street, in the City of _____, County of _____, State of Oregon.

That through my training and experience I have found that persons who commit burglaries often retain stolen property for extended periods of time, to include years. I am also aware that they will keep property on their person, in their vehicles, and in their residences.

That based upon the above and foregoing, I hereby pray for a warrant to search the certain residence of 208 West _____ Street, located in the City of _____, County of _____, State of Oregon, occupied by _____, dob _____, _____, dob _____, and _____, dob _____, as well as, a

1987 Honda Accord, light blue in color, Oregon License _____, registered to _____, for evidence of the crimes of Burglary in the First Degree (ORS 164.225), Theft in the First Degree (ORS 164.055), Theft in the First Degree by Receiving (ORS 164.095), and Ex-Con in Possession of Firearms (ORS 166.270) including, but not limited to:

- 1) \$2,500 cash
- 2) 3 coin sets
- 3) A Walkman CD player A crystal vase
- 4) A crystal vase.
- 5) Several United Airline lapel pins.
- 6) An antique Safe 6" x 8" brass colored with a number dial and letter dial.
- 7) An Olympus 35mm point and shoot camera, serial number 6001246.
- 8) 2 VHS tapes (one swimsuit, one fitness)
- 9) A Jack Daniels bottle with approx. \$150 worth of change money.
- 10) Six (6) books of collector's coins.
- 11) An orange/Red Athalon brand duffle bag.
- 12) Misc. silver coins.
- 13) A Canon ELF 35 mm camera, model 370Z camera.
- 14) Approx. 45 photos of Mike Bauer and his girlfriend engaged in sexual activity.
- 15) An unknown brand .38-caliber revolver, black in color, with short barrel.
- 16) A gray in color duffle bag with red in color piping. (trim)
- 17) Ski goggles.
- 18) A blue ski hat.

- 19) A pair of blue ski gloves.
- 20) A pair of mirrored sunglasses.
- 21) Two weather cubes, 3" x 3" x 3"
- 22) A dark maroon jewelry box with gold etching.
- 23) A three-strand Austrian crystal necklace.
- 24) Misc. costume jewelry items.
- 25) A white pillow case with ruffled edge
- 26) A star shaped Wells Fargo Sheriff's badge, gold in color.
- 27) A Minolta 35 mm point and shoot camera with zoom lens.
- 28) A women's ring, rainbow design with black onyx.
- 29) A women's ring, silver with turquoise stone.
- 30) A women's ring, Pewter with numerous small black stones.
- 31) A small gold pin with enameling.
- 32) Burglar tools and gloves.
- 33) Shoes, which could contain insulation material from victim's safe.
- 34) Insulation material from victim's safe.
- 35) Ammunition.

That said above described property is also evidence of a crime and subject to seizure per State law.

That if you find the same or any part thereof, you are to seize the same, and you are further directed to make return of this warrant to me within five days after execution thereof.

Subscribed and sworn to me this _____ day of _____, 20__.

Circuit Court Judge

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR _____ COUNTY

SEARCH WARRANT

IN THE NAME OF THE STATE OF OREGON

TO ANY POLICE OFFICER IN THE STATE OF OREGON, GREETINGS:

NOTE to STUDENT: Names, addresses and other information is being replaced with a _____ hints of information needed after the _____ are put in (brackets) as information only. Make sure those are removed prior to finishing your Search Warrant. **This NOTE also needs to be removed**

You are hereby commanded to search the certain _____ (residence, building, structure or property) of _____ (Use specific address if possible or a description if needed), to include outbuildings and property, located in the City of _____, County of _____, State of Oregon, (**NOTE: if vehicle are also being searched then list it like this, if NOT, DELETE this NOTE and vehicle info as well as, a 1993 Honda 2 door vehicle, white in color, Oregon license plate _____, and a Sportsmen brand travel trailer, white in color, Oregon license plate _____,**) for evidence of the crimes of _____, _____ and _____, including but not limited to:

- **A 3' x 3' safe, model FF-250, serial # c-5576/dc4028.**
- **6 – 100 ounce bars of solid silver**
- **2 trays containing misc. silver coins.**
- **Approx. 20 collectible baseball cards, to include 2 Ken Griffey rookie cards.**

- A Saquille Oneil Rookie Gold College Card Limited Edition.
- Approx. 50-100 certificates for Walt Disney Collectibles.
- An unknown amount of misc. jewelry, to include Disney charms.
- Approx. 2 - \$2 bills.
- Passports and Birth Certificates with the last name of _____.
- 4 baseballs, signed with San Francisco Giant players.
- 1 baseball with Mark McGuire's signature.
- A coin set from Italy with 3 coins, (1 bronze, 1 silver and 1 gold)

That the certain residence of _____ is further described as a single story dwelling of wooden construction, light brown in color with rust and white colored trim. The front of the residence is surrounded by a cyclone fence approx. 6 foot in height, with the numbers _____ are on the gate on the south end of the property.

That the certain residence of _____ can be located by traveling northbound on _____ Road from the City of _____ to the intersection of _____ Road and _____ Road. That you make a left turn on _____ Road and travel west to the intersection of _____ Road and _____ Road. That you make a right turn on _____ Road and travel northbound on _____ to the intersection of _____ and _____ Road. That you make a right turn on _____ Road and travel eastbound on _____ approx. one-tenth of a mile to the intersection of _____ Road and _____. That you make a left turn on _____ and proceed approx. 100 yards to the residence of _____, which is located in the County of _____, State of Oregon.

That if you find the same or any part thereof, to seize the same, and you are further directed to make return of this warrant to me within five (5) days after the execution thereof.

____ This warrant may be executed more than 5 days, but not more than 10 days from its date of issuance.

____ This warrant may be executed at any time of the day or night.

Dated this ____ day of _____, 20____, at _____ o'clock, _____.m.

Circuit Court Judge

Oregon contains evidence of the crimes of _____ and _____, including but not limited to:

Use a list and describe the items missing.....and can be located by traveling _____ on _____ from _____ to the _____. That you travel _____ on _____. That you make a _____ turn onto _____, which travels to _____, located in the area of _____ County Oregon. The (describe stolen items and where on their property they can be found) _____ on the property at _____, _____ County, Oregon. A map depicting the location of the trailer and vehicle is attached as Exhibit 1 of this affidavit. A photo of the travel trailer and vehicle are attached as Exhibit 2 of this affidavit.(add this type of evidence if you have it)

That the facts supporting my above described beliefs are as follows:

On _____, Detective _____ and I contacted _____ at his residence, _____ Oregon. _____ told us that he had information on a stolen, gold in color, Jeep. He told us he observed a subject named "Jason" operating the stolen Jeep on Sunday, _____ 1 at approx. 9:30 am, in the parking lot at _____, Oregon. He said he contacted Jason and Jason said he stole the Jeep. _____ and I checked the stolen vehicle list and observed a gold in color Jeep, Oregon License plate _____, stolen between _____ and _____ from _____. _____ told us that the Jeep was full of other property and that "Jason" bragged about breaking into three other vehicles the night he stole the vehicle.

_____ told us he “checked out” the stolen Jeep and when Jason wasn’t looking, he took a women’s purse and stereo faceplate out of the vehicle. _____ told us he found ID in the purse and subsequently contacted a victim of a theft. He did not know the victim’s name, but the victim told him her black Honda Civic was broke into the night prior and her purse was stolen. _____ told us the victim reported several other items stolen out of the vehicle. _____ subsequently returned the ID to the victim. _____ also provided us with an Alpine CD faceplate. He said he got it out of the stolen Jeep.

_____ told _____ and I that another tenant in the apartment complex, _____, knew Jason’s last name. _____ and I contacted _____. _____ told us Jason’s last name was _____ and told us he was living with his cousin off _____ Road. He described the residence and its location. _____ and I also spoke to two additional witnesses who observed _____ with the stolen Jeep.

On _____, at 2:15 pm, Detective _____ and I arrived at _____ and contacted _____. _____ was wanted on a PV Detainer and was placed in custody. I advised _____ of his rights, which he said he understood. I explained the information I had concerning the stolen Jeep and theft from the black Honda. _____ denied being involved in any UUMVs or thefts from vehicles. He told us he was living in the above listed trailer. He gave us consent to search the trailer. Inside the trailer I located Oregon license plate _____, the plate off the reported stolen Jeep. I also located a pink checker women’s make up bag and another make up bag with cherries on the outside.

_____ told us that he had got extremely intoxicated one weekend and woke up to find some property on his brown Toyota. He said he could not remember what he had done and told us it was possible he could have stolen a vehicle. I asked _____ about the license plate, he alleged he didn't know how it got in the trailer. I observed a green and black duffle bag in the trailer. The bag contained the two makeup cases. _____ told me the duffle bag belonged to a friend. There were several other items in the trailer he alleged were either his or a friends. I observed two pair of sunglasses on the counter inside the trailer. One pair of the glasses had yellow lenses. _____ alleged they belonged to him.

He also gave _____ and I consent to search the above listed vehicle. Inside _____ and I located a stolen typewriter from the stolen Jeep. The vehicle was full of other clothing items and boxes of property to include clothing items.

After removing the typewriter, _____ told us the other clothing items in the vehicle belonged to someone else and did not want us to look through the property. He did tell us that when he woke up, and allegedly discovered property sitting on his car, he put the property in the trailer and his vehicle. _____ was lodged at county jail on the detainer.

On _____, I located a UEMV/Theft report from a black Honda Civic. The theft occurred from _____ between _____ and _____, the same night the jeep was stolen. I contacted the victim's mother, _____. I asked her if her daughter was missing any makeup cases. She described the makeup cases. These were the makeup cases that I had seized inside _____'s trailer. She verified that _____ had contacted her and her daughter and got the ID back to them. She

told me her daughter had a green and black duffle bag, a retainer, a hand made pillow and numerous clothing items taken.

Detective _____ told me that he contacted, _____, the victim of the theft from the black Honda. Miller told me she provided a list of additional items still missing from the vehicle to include a Old Navy brand black women's sweater, a Columbia brand blue in color coat, and numerous other clothing items.

_____ also told me _____ reported two pairs of sunglasses taken, one with yellow lenses. _____ told me _____ identified the Alpine faceplate as hers. _____ told _____ there were numerous other items in the vehicle and that she could identify the items if seen. _____ told _____ she would be available to look over any items if and when this search warrant is granted and could easily identify the items. _____ also told me she could verify her daughter's stolen property and could assist in identifying items after the warrant was executed.

I have received local and state training in the investigation of property crimes, to include UEMV and Theft. I have also investigated numerous thefts from vehicles and know that people will often take stolen property to where they are living and also hide stolen property in the vehicles and that they retain the stolen property for extended periods of time. I have attached a map to this affidavit as Exhibit 1 identifying the location of the above listed trailer and vehicle. A photo of the trailer and vehicle is attached as Exhibit 2. That based upon the above and foregoing, I hereby apply for a warrant to search the above listed trailer and vehicle for evidence of the crimes of UEMV and Theft in the First Degree for the above listed items. That if you find the same or any

part thereof, you are to seize the same, and you are further directed to make return of this warrant to me within five days after execution thereof.

Print name of Officer

Subscribed and sworn to me this _____ day of _____, 20____.

Circuit Court Judge

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR _____ COUNTY

SEARCH WARRANT

IN THE NAME OF THE STATE OF OREGON

TO ANY POLICE OFFICER IN THE STATE OF OREGON, **GREETINGS:**

NOTE to STUDENT: Names, addresses and other information is being replaced with a _____ hints of information needed after the _____ are put in (brackets) as information only. Make sure those are removed prior to finishing your Search Warrant. **This NOTE also needs to be removed**

You are hereby commanded to search the certain residence located at _____, to include any outbuildings, located in the County of _____, State of Oregon, occupied by _____, for evidence of the crimes of _____, including, but not limited to:

- A 37" Olivia, black in color, flat screen television, serial number 43023565

- A Compac lap top computer, serial number, CND7480NCK

That the above listed property is evidence of a crime and subject to seizure per state law.

The certain residence located at _____, located in the County of _____, State of Oregon, can be located by traveling eastbound on _____ Street from the _____ Police Department to the intersection of _____ Street, which becomes _____ Street. You travel to the intersection of _____ Street and South _____ Avenue. That you make a left turn on South _____ Avenue and travel northbound on South

_____, which becomes North _____ Avenue. That you continue north bound on North _____ Avenue to North _____. That you travel north bound on North _____ Highway, through the city limits of _____, to the intersection of North _____ and _____ Avenue. That you make a right turn onto _____ Avenue, which is a dirt road and travel to the first dirt road to the left, which is located approximately 100' from the intersection of _____ and _____ Avenue. That you make a left turn onto this dirt road. This dirt road is not marked, however, is _____ Avenue. That you travel north bound on _____ Avenue to the residence of _____ Avenue, which is identified by the numbers "_____" on a post at the entrance to the driveway. Below the numbers is the word "_____".

The certain residence of _____ Avenue, located in the County of _____, State of Oregon, is further described as a single story residence of wooden construction that is white with natural wood trim. There is a detached building behind the residence which is also white in color. A map depicting the location of _____ Avenue is attached as **Exhibit A**.

That if you find the same or any part thereof, to seize the same, and you are further directed to make return of this warrant to me within five (5) days after the execution thereof.

____ This warrant may be executed more than 5 days, but not more than 10 days from its date of issuance.

____ This warrant may be executed at any time of the day or night.

Dated this ____ day of _____, 20 __, at ____ o'clock, ____ .m.

Circuit Court Judge

That based upon the above and foregoing, I hereby apply for a warrant to search the above listed trailer and vehicle for evidence of the crimes of UEMV and Theft in the First Degree for the above listed items. That if you find the same or any part thereof, you are to seize the same, and you are further directed to make return of this warrant to me within five days after execution thereof.

Print name of Officer

Subscribed and sworn to me this _____ day of _____, 20__.

Circuit Court Judge

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR _____ COUNTY

SEARCH WARRANT

IN THE NAME OF THE STATE OF OREGON

TO ANY POLICE OFFICER IN THE STATE OF OREGON, **GREETINGS:**

You are hereby commanded to search the certain residence located at _____, to include any outbuildings, located in the County of _____, State of Oregon, occupied by _____, for evidence of the crimes of _____, including, but not limited to:

-

That the above listed property is evidence of a crime and subject to seizure per state law.

The certain _____ located at _____, located in the County of _____, State of Oregon, can be located by.....

The certain _____ of _____, located in the County of _____, State of Oregon, is further described as a _____.

A map depicting the location of _____ Avenue is attached as **Exhibit A**.

That if you find the same or any part thereof, to seize the same, and you are further directed to make return of this warrant to me within five (5) days after the execution thereof.

____ This warrant may be executed more than 5 days, but not more than 10 days from its date of issuance.

____ This warrant may be executed at any time of the day or night.

Dated this ____ day of _____, 20 __, at ____ o'clock, ____ .m.

Circuit Court Judge

Behavioral Health Parts 1 & 2: Awareness

BASIC POLICE ACADEMY





Behavioral Health 1 & 2 - Awareness

Instructional Goal:

This course is designed to develop a new officer's understanding of behaviors commonly associated with mental illness, addiction, trauma, and developmental disabilities.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Articulate how stigma impacts mental illness and addiction.
2. Articulate behaviors commonly associated with mental illness, addictions, trauma, and developmental disabilities.
3. Identify potential barriers to communication with a person experiencing a mental health crisis.

Content Outline:

Introduction

Impact of Stigma

Myths and Facts about mental illness

Impacts and characteristics of mental illness

Introduction to Universal Communication

Strategies

Schizophrenia

Bi-Polar Disorder

Major Depression

Suicide

Substance Dependence Disorders

Disabilities

Dementia

Introduction to Crisis Intervention

LEDS Medical Health Database



National Institute of Mental Health statistics (2016):

- 18.3% (about 44.7 million) of American adults suffer from mental illness
- In terms of the impact on emergency services:
 - Estimates 1 in 10 law enforcement calls for service involve someone with a mental illness
 - Estimates 1 in 5 individuals in jails and prisons
 - Estimates 1 in 3 individuals taken to the emergency room (by law enforcement) for mental health issues

Stigma

A mark of disgrace associated with a particular circumstance, quality, or person.

Stigma

- The stigma that surrounds mental illness is powerful and pervasive
- Is a barrier to accessing services for many who have mental illness as they fear being judged
- Respect and empathy (Emotional Intelligence) can help overcome this

Myths and Facts about Mental Illness

Myth	Fact
Psychiatric disorders are not true medical illnesses like heart disease and diabetes. People who have mental illness are just “crazy.”	Brain disorders, like heart disease and diabetes, are legitimate medical illnesses. Research shows there are genetic and biological causes for psychiatric disorders, and they can be treated effectively.
People with a severe mental illness, such as schizophrenia, are usually dangerous and violent.	Statistics show that the incidence of violence in people who have a brain disorder is not much higher than it is in the general population. Those who have a psychosis such as schizophrenia are more often frightened, confused, and despairing than violent.
Mental illness is the result of bad parenting.	Most experts agree that a genetic susceptibility, combined with other risk factors, leads to a psychiatric disorder. In other words, mental illnesses have a physical cause.
Depression results from a personality weakness or character flaw, and people who are depressed	Depression has nothing to do with being lazy or weak. It results from changes in brain chemistry



could just snap out of it if they tried hard enough.	or brain function, and medication or psychotherapy often helps people to recover.
Schizophrenia means split personality, and there is no way to control it.	Schizophrenia is often confused with multiple personality disorder. Schizophrenia is a brain disorder that robs people of their ability to think clearly and logically. The estimated 2.5 million Americans with schizophrenia have symptoms ranging from social withdrawal to hallucinations and delusions. Medication has helped many of these individuals to lead fulfilling, productive lives.
Depression is a normal part of the aging process.	It is not normal for older adults to be depressed. Signs of depression in older people include loss of interest in activities, sleep disturbances, and lethargy. Depression in the elderly is often undiagnosed. Seniors and their family members need to recognize the problem and seek professional help.
Depression and other illnesses, such as anxiety disorders, do not affect children or adolescents. Any problems they have are just a part of growing up.	Children and adolescents can develop severe mental illnesses. In the United States, one in ten children and adolescents has a mental disorder severe enough to cause impairment. However, only about 20 percent of these children receive needed treatment. Left untreated, problems with mental illness can get worse. Anyone talking about suicide should be taken very seriously.
If you have a mental illness, you can will it away. Being treated for a psychiatric disorder means an individual has, in some way, “failed” or is weak.	Severe mental illness cannot be willed away. Ignoring the problem does not make it go away, either. It takes courage to seek professional help.
Addiction is a lifestyle choice and shows a lack of willpower. People with a substance abuse problem are morally weak or “bad.”	Addiction is a disease that generally results from changes in brain chemistry. It has nothing to do with being a “bad” person.
Electroconvulsive therapy (ECT), formerly known as “shock treatment,” is painful and barbaric.	ECT has given a new lease on life to many people who suffer from severe and debilitating depression. It is used when other treatments such as psychotherapy or medication fail or cannot be used. Patients who receive ECT are asleep, and under anesthesia, so they do not feel anything.



Statutory References

Peace Officer Custody (POC) – ORS 426.228 will be covered in detail in the Mental Health – Legal Considerations Unit.

Impact and Common Characteristics of Mental Health Disorders

- Biologically based

- May negatively impact
 - Perception (hallucinations)
 - Orientation (person, place, time awareness, etc.)
 - Thinking (delusions, paranoia)
 - Judgment/insight (poor decision making)
 - Feeling (incongruent, variable, extreme)
 - Behaviors (actions, movements)
 - Environment (unusual items or unusual use of items)

- May have a significant negative impact on:
 - Independent Living (Social)
 - Difficulty maintaining necessities
 - Occupational
 - Difficulty maintaining employment
 - Interpersonal
 - Difficulty developing and maintaining relationships



Major Mental Illnesses

<p>Psychotic (thought) Disorders</p>	<p>Severe mental disorders that cause abnormal thinking and perceptions. People with psychosis lose touch with reality.</p> <p>Characterized by:</p> <ul style="list-style-type: none">• Disorganized thinking/confused thinking• Odd thoughts• Strange or unusual behavior• Disorganized speech• Tangential thoughts• Delusions (false belief)• Hallucinations (false sensory perceptions, i.e., hearing, seeing, olfactory, touch, taste, something not in current reality)• Illogicality• Paranoia• Poor hygiene• Possess random items• Minimal or inappropriate display or emotions• Suicidal thoughts and actions <p>Examples: Schizophrenia, Schizoaffective, Drug-Induced Psychosis, Delusional Disorder</p>
<p>Mood Disorders</p>	<p>A psychological disorder characterized by the elevation or lowering of a person's mood.</p> <p>Characterized by:</p> <ul style="list-style-type: none">• Feeling of sadness• Losing interest in life activities• Fluctuating between extreme moods• Hostility or aggression• Irritability• Fatigue• Poor hygiene• Difficulty concentrating• Feeling of euphoria• Suicidal thoughts and actions <p>Examples: Bipolar, Major Depressive Disorder, Substance-induced mood disorder</p>



<p>Anxiety Disorders</p>	<p>Anxiety – worry about and fear about future events.</p> <p>Characterized by</p> <ul style="list-style-type: none">• Hypervigilance• Hyperarousal• Exaggerated Startle Response• Avoidance• Panic• Self-destructive behavior• Suicidal thoughts and actions <p>Examples: Generalized Anxiety Disorder, Phobias, Obsessive-Compulsive Disorder, Post-Traumatic Stress Disorder, Panic Disorder</p>
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Universal Communication Strategies:

1. Remain Calm
2. Maintain even tone
3. Simplify questions, instructions and commands
4. Be patient. Give them time to process what you are saying
5. Ask for and use their name
6. Give them your first name
7. Reassure them you are there to help
8. Use active listening
9. Label emotions
10. Allow them time to process
11. Hands off equipment – unless tactically necessary
12. Non-threatening body posture
13. Continually assess for escalation
14. If what you are doing seems to be causing the person to become agitated and/or escalate, try a different tactic
15. Avoid triggers
16. Use “I” messages
17. Use grounding techniques
18. Show empathy



- 19. Don't lie
- 20. Use your own experiences
- 21. Be aware of potential for re-traumatization
- 22. Don't get involved in their drama
- 23. Above all – Be yourself!

Schizophrenia

- A psychotic (thought) disorder with persistent defects in perception and expression of reality
- The first psychotic break generally occurs between 18 and 25 but can be earlier or later
- 1-2% of the population with no socio-economic or geographic boundaries
- Will last a lifetime

Symptoms:

Negative	Cognitive
Flat affect – no expression Lack of interest in pleasurable activities Lack of energy and inability to sustain activities	Disorganized thinking Difficulty focusing on thoughts or tasks May include memory loss or confusion issues
Hallucinations	Delusions
Effects senses (Auditory) is most common– Occurs in about 80% or cases Others include: (Visual) – second most common Tactile – feel Olfactory – smell Gustatory – taste	(False Belief) Examples: “The CIA is watching me”; “My neighbors have put listening devices in my teeth.” Types: Persecutory – “The government is out to get me.” Grandiose – “I am the king of the planet.” Religious – “I am god.” Nihilistic – “The world is going to end tomorrow.”
Other chronic problems associated with schizophrenia	
Poor hygiene Unusual behavior Inappropriate clothing for conditions Difficulty following a thought process Disorganized or apparent nonsensical speech – “Word Salad” Emotions may not match the situation or may fluctuate randomly	



Treatment:

- Medications can help: Anti-psychotics
 - Examples: Seroquel, Thorazine, Haldol, Loxapine, Trilafon, Navane
- Assisted living conditions may be necessary for some people

Suggested Approaches:

- Universal Communication Strategies
- In addition:
 - Don't get involved in their delusions or hallucinations
 - If you suspect voices are present, ask:
 - Are you hearing voices?
 - What are they saying?
 - Have you ever acted on what the voices tell you?
 - How do you cope with hearing these voices?

Bipolar Disorder

- Formerly Manic-Depressive Disorder
- 2.6% of the US adult population
- Highs of Mania to lows of depression
- Hypo-mania v. Hyper-mania
- Four or more cycles in a year – rapid cycling

Characteristics of Mania
Rapid/pressured speech High energy Rapid, animated or exaggerated movements Feeling of euphoria Risk-taking behaviors Extreme mania may feature psychotic symptoms such as hallucinations, delusions, and disorganized thinking Difficulty processing external stimuli



Medications can help:

- Mood stabilizers
- Anti-depressants
- Anti-psychotics

Examples: Lithium and Depakote

Suggested Approaches – Mania:

- Universal Communication Strategies
- Also
 - Let them talk – if their speech is coherent and productive. If not, use redirecting techniques
 - Being a good listener is critical with the person with Bi-Polar disorder

Clinical Depression

- Depression is a Mood disorder
- High correlation between depression and suicidal thoughts and actions
- Many never seek treatment

Types:

Major Depression	Psychotic Depression	Postpartum Depression	Seasonal Affective Disorder (SAD)
Interfere with basic life functions Could have just one or several episodes over a lifetime	Depression with psychosis	Occurs for a woman after giving birth	Typically occurs during the winter months when there is less sunlight

Medication can help: Anti-depressants



Suggested Approaches:

- Universal Communication Strategies
- Also:
 - Ask directly about suicide

Note- Asking a person if they are thinking about suicide or killing themselves will NOT cause them to consider suicide when they were not considering it in the first place.

Suicide

- Males – 4 times more likely to die
- Females – 3 times more likely to attempt
- Youth – 2nd leading cause of death for 10-24 years old
- Elderly – Firearms used in 73% of completed suicides by those over 65 (2001)

Myths and Facts about Suicide

Myth	Fact
People who talk about killing themselves rarely die by or attempt suicide.	Most people who die by suicide have given some verbal clues or warnings of their intention.
The tendency toward suicide is inherited and passed from generation to generation.	Although suicidal behavior does tend to run in families, it does not appear to be transmitted genetically.
The person thinking about suicide wants to die and feels that there is no turning back.	People thinking about suicide are usually ambivalent about dying and frequently will seek help immediately after attempting to harm themselves.
All people who think about suicide are profoundly depressed.	Although depression is often closely associated with suicidal feelings, not all people who die by suicide appear depressed. Some people who are thinking about suicide appear to be happier than they've been in years because they have decided to "resolve" all of their problems by killing themselves and often feel "better" or feel a sense of relief at having made that decision. It is essential to be aware that a severely depressed person may lack the energy to carry out a suicide



	attempt but may attempt suicide later, once they regain their energy.
People thinking about suicide are individuals with mental illness.	Although many people dealing with suicidal thoughts are suffering from a mental illness, suicide can occur in undiagnosed people during periods of a socio-economic, family, or personal crisis (e.g., loss of a loved one, loss of a job, divorce).
Once someone attempts suicide, that person will always entertain thoughts of suicide.	People are at the highest risk of a second suicide attempt within the first three months to a year following the first attempt. If the person receives the proper support and treatment, he/she may never be suicidal again. Only about 10 percent of the people who attempt later die by suicide. [However, 40% of persons who complete suicide attempts have made a previous attempt.]
If you ask someone about their suicidal intentions, you will only encourage them to kill themselves	The opposite is true. Asking someone directly about their suicidal intentions will often lower their anxiety level and act as a deterrent to suicidal behavior by encouraging the ventilation of pent-up emotions through a frank discussion of their problems.
Suicide is quite common among the lower class.	Suicide crosses all socio-economic distinctions, and no one class is more susceptible to it than another.
People considering suicide rarely seek medical attention.	Research has consistently shown that most people who attempt suicide visit a physician within the month before they make a suicide attempt.

Sources:

Suicide Myths and Facts | HealthyPlace. <https://www.healthyplace.com/gender/gay-is-ok/suicide-myths-and-facts>

Frontiers | *Suicide and Youth: Risk Factors* | Psychiatry.

<https://www.frontiersin.org/articles/10.3389/fpsyt.2018.00540/full>

How Do You Cope? | *Semel Institute for Neuroscience and ...* https://www.semel.ucla.edu/dual-diagnosis-program/news_and_resources/how_do_you_cope



Every individual will be different in their process of considering suicide. However, there are risk factors that may help give us some insight into a person at risk for suicide. A person may have one or more risk factors, and it is unlikely that a person will have all of them.

- Threaten to harm self
- Prior suicide attempt(s)
Disturbance in sleep/appetite/weight
- Constricted thinking, all or nothing, black or white
- Increased risk-taking behavior
- Has plan and means for suicide
- Emotionless/numb
- Angry/agitated
- Sad/depressed
- Hopeless, not future-oriented, giving away valued possessions
- Problems at work/home
- A recent loss (status, loved one)
- Under investigation
- Socially isolated/withdrawn
- Increased consumption of alcohol/drugs

Suggested Approach:

- Universal Communication Strategies
- Also:
 - Ask directly about suicide.
 - This will NOT cause the person to consider suicide if they were not already
 - If you ask and they answer “Yes”, ask: How (means)? When? Where?
 - Have the means removed if possible



Victim Precipitated Homicide

- An act by a person that compels an officer to use deadly force
- Some also refer to this as Victim Precipitated Shooting or Suicide by Cop

Officer Reactions:

- Second guessing
- PTSD
- Anger

Trauma-Informed Approach

Definition of Trauma:

Individualized trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or threatening, and that have lasting adverse effects on the individual's functioning and physical, social, emotional, or spiritual well-being. (SAMSHA).

How we experience trauma is very individualized, and we need not judge a person's response to a traumatic experience.

Simplified definition:
Anything that
overwhelms one's
ability to cope

Trauma can be a one-time event, or it can be complex trauma consisting of multiple traumatic exposures.

Trauma can be experienced as an individual, as a family, as a community, and as generational trauma. Kaiser Permanente did a study that is known as the Adverse Childhood Experiences (ACES) study. The study found that childhood experiences have a tremendous impact on future victimization and perpetration of violence. Trauma can affect a person's adult health and quality of life. A measurement tool known as the ACES assessment is attached at the end of the student resource, and you are encouraged to review it.



The higher the score the more likely a person is to experience adverse effects in adulthood. Understanding the impact trauma can have on a child can help support the importance of getting resources to someone in crisis. For more information, please see the website: <https://www.cdc.gov/violenceprevention/acestudy/index.html>

We experience trauma in one of three ways (DSM5):

Directly	Witness	Indirectly
Experiences the traumatic event	Witnesses the traumatic event in person	Learns that the traumatic event occurred to a close family member or close friend (if a traumatic event involved actual or threatened death, it must have been violent or accidental); or Experiences first-hand repeated or extreme exposure to aversive details of the traumatic event (not through media, pictures, television, or movies unless work-related).

Responses to Trauma Exposure:

Fight	Flight	Freeze	Faint
I will fight	I will leave to preserve myself	I will freeze so the threat could pass by me	A faint is an extreme form of freeze where the person will appear to be dead, unconscious or asleep



Four categories of symptoms identified in the DSM5:

Re-experiencing	Avoidance	Negative cognitions and mood	Arousal
Nightmares, flashbacks, intrusive thoughts	Persistent and effortful avoidance of distressing trauma-related stimuli, such as distressing memories, thoughts, feelings, or external reminders of the event.	Represents myriad feelings, from a persistent and distorted sense of blame of self or others to estrangement from others or markedly diminished interest in activities, to an inability to remember key aspects of the event.	Marked by aggressive, reckless, or self-destructive behavior, sleep disturbances, hyper-vigilance, or related problems. (American Psychiatric Association)

Examples of Observable Behaviors of Trauma Survivors

- Substance Use (Alcohol, Drugs)
- Addictive Behaviors (Eating Disorders, Gambling, Sex Addiction)
- Irritable, anger, rage, violence
- Isolation, Loner
- Jumpy, nervous, easily startled, over-reactive to noises, anxious
- Children – magical thinking (hide under a blanket and I will be invisible)
- Physical symptoms
- Depression
- Self-Harm
- Suicidal thoughts and actions



Substance Dependence Disorders

Addictions – Overview and Meaning

Alcohol and drugs are experienced in the pleasure part of our brain. Not everyone who uses alcohol or drugs becomes addicted. Addiction is a brain disease. Addiction changes how the brain works. The need to continue using the alcohol/drug becomes a priority, and the individual cannot function normally without the use of the substance. Some problems associated with addiction include mood swings, memory loss, problems with making decisions. Addiction can have a significant impact on a person's life and may impair their ability to perform daily functions.

Behaviors associated with addiction:

Lying	Blackouts and other types of memory loss
Defensiveness	Manic behavior
Loss of interest in personal hygiene and grooming	Excessive talking
Unexplained disappearances	Illogical thinking
Mood swings	Hallucinations
Depression	Withdrawal symptoms
Suicidal thoughts	Frequently ill from the night before
Paranoia	Accident proneness and clumsiness
Slurred speech	Easily agitated
Inability to concentrate	

Source: Common Symptoms and Behavior of Addiction - Alcohol Rehab. <https://alcoholrehab.com/alcohol-rehab/addiction-symptoms-behavior/>

Co-occurring Disorders

- An individual can have an addiction disorder and a mental health disorder.
- Substance use can cause a mental illness with substance-induced psychosis.
- A person with mental illness may use substances to self-medicate their mental illness symptoms.



Disabilities

Intellectual Disability

- Formerly known as “Mental Retardation”
- Generally identified before the age of 18
- Characterized by low IQ – below 70

Impacts:

- Intellectual functioning (reasoning, learning, problem-solving) may be at a much younger age level
- Adaptive behaviors (social and practical skills) may be at a much younger age level
- Memory issues
- Inability to connect actions with consequences
- Behavior problems
- Difficult time problem solving or logical thinking
- Short attention span
- Eager to please – “Yes” may just be intended to please you as it is a pleasing answer
- Low tolerance for stress
- Thought process concrete and linear
- Dislike for terms “Mentally Retarded” and “MR”



Suggested Approaches:

- Universal Communication Strategies
- Also:
 - Use simple language
 - Avoid leading questions
 - Miranda – slow and one right at a time
 - Show compassion with and understanding of their disability
 - Be patient
 - Ask them how you can help them cope
i.e. “What has helped you in the past when you feel like this?” “Is there someone we can call that helps you?”
 - Avoid questions involving:
 - Time
 - Complex sequences
 - Consequences or reasons

Autism Spectrum Disorder

- Broad-spectrum neurological disorder
- Symptoms vary greatly
- Impacts the brain in areas that control social interaction and communication skills
- No cure
- Four times more prevalent in boys
- No racial, ethnic, social or socio-economic boundaries
- Annual rate is growing dramatically
- Law enforcement may encounter an autistic person anywhere
- Common characteristics:
 - May be non-verbal
 - May be stubborn or belligerent
 - May say “No” or “why” in response to all questions
 - May not understand humor, especially sarcasm
 - May be passive or monotone



- Usually very honest, blunt
- Pain sensitivity – may be hypersensitive or non-responsive to pain
- Autistic children may be targets for:
 - Child abuse
 - Hate crimes
 - Other crimes, i.e., “scams,” “opportunistic predators”
 - Sexual abuse/assault

Suggested Approaches:

- Keep questions or instructions short and simple
- Show compassion and patience
- Normalize difficulty understanding
- Give concrete examples
- Reassure them
- Have a friend or family help them understand
- Distract them
- Refrain from jokes or teasing

Suggestions to help officers advise families:

ID Cards

Photo ID and fingerprint cards

ID Bracelets

Clothing tags

LEDS Medical Health Database



Dementia

Loss of cognitive functioning which is progressive and interferes with a person's daily life and activities

Impacts:

- Memory
- Ability to learn new information
- Ability to communicate
- Confusion, disorientation
- Judgment
- Motor coordination
- Personality Disintegration

Examples:

- Alzheimer's Disease
- Vascular Dementia
- Parkinson's Disease

A person with dementia can act out violently

Suggested Approach:

- Universal Communication Strategies
- Also:
 - Don't argue
 - Reassure them you are there to help
 - Rephrase rather than repeat if the person doesn't seem to understand
 - Turn negatives into positives: Instead of saying "Don't do that," consider saying "Let's try this."



LEDS Oregon Medical Health Database

ORS 181.735

- Voluntary inclusion into the database
- To assist law enforcement and public health agencies in providing services
- No HIPAA restrictions
- Qualifying mental illness:
 - Dementia
 - Developmental Disability
 - Mental Health diagnosis, i.e., schizophrenia
 - A physical or behavioral disorder that causes disorientation or impedes ability to interact effectively with law enforcement

How to get entered

- Complete DHS LEDS Medical Health Database Volunteer Consent Form
- Deliver it to the local county health authority who verifies and entered into LEDS
- Voluntary submission
- Written consent from:
 - The individual
 - Guardian
 - Parent if under 14
 - Two adults must witness consent

How are records removed?

- Automatically removed after three years unless resubmitted by consent
- Consent may be revoked in writing from the individual or guardian



What information included in the database?

- Name
- Personal identifiers
- Last known address
- Physical description
- Information about the 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
 - Another person willing to serve as an emergency contact



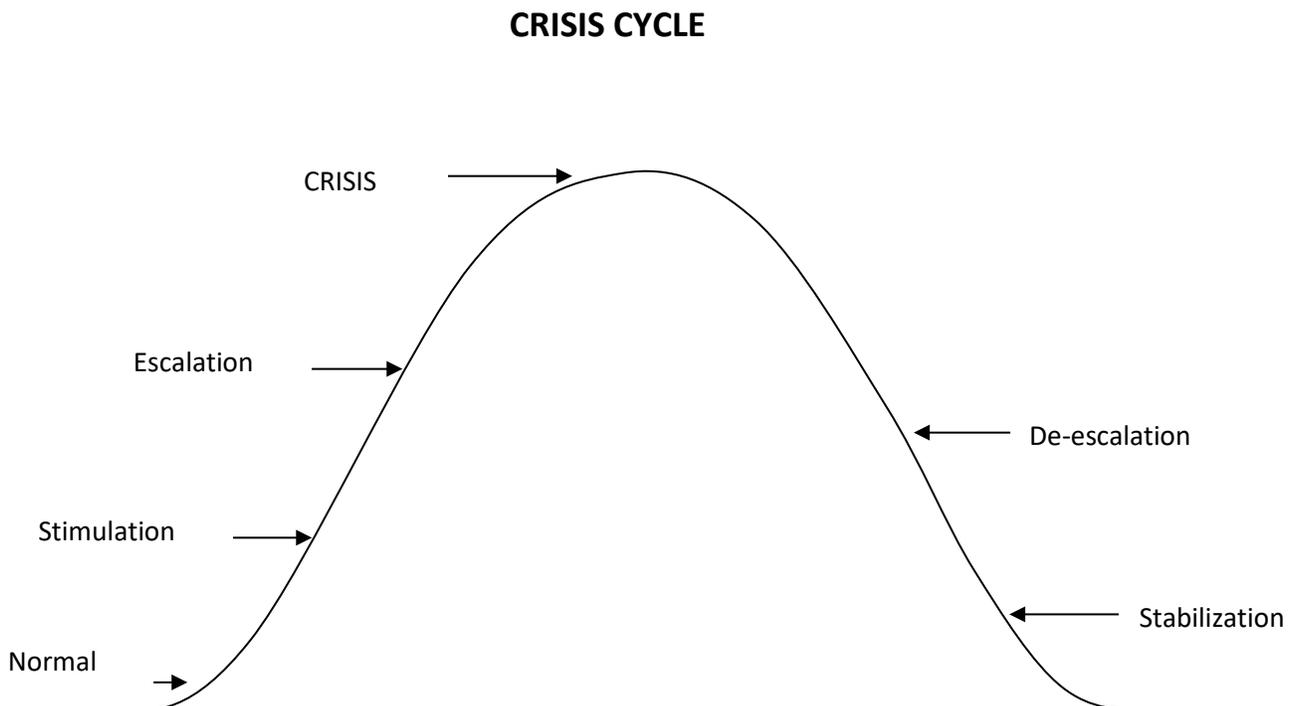
Introduction to Crisis Intervention

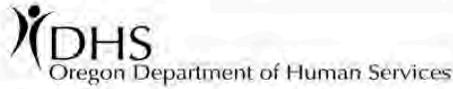
CRISIS CYCLE

What is a crisis?

“An event, series of events, or set of circumstances that are experienced by an individual as physically or emotionally harmful or threatening “(*SAMSHA*)

- Unique to an individual
- May or may not be apparent to the observer





Volunteer Consent Form
 LEADS Medical Database

Purpose of this program:

By completing this form the signer is authorizing the release of protected health information to law enforcement agencies and other emergency responders.

The information in this form will be entered into the Law Enforcement Data System to help the responding agencies assist persons with a qualifying illness or condition in obtaining medical, mental health and social services when responding to a request for an emergency service. The information will only be accessed to provide necessary information will only be accessed to provide necessary information to responding law enforcement officers and other responding emergency personnel to assist in an emergency situation.

Please check one:

- Enrollment (first time) Renewal/re-enrollment Disenrollment/termination

Name of individual to be entered into the database:

Last: _____ First: _____ Middle: _____

Date of birth: ____ / ____ / ____ Social Security number: ____ - ____ - ____

Drivers license identification number: _____ State: _____ Gender: choose one

Drivers licenses expiration date: _____ CPMS number: _____

Description:

Height: _____ Weight: _____ Hair color: _____ Eye color: _____

Scars/marks/tattoos: _____

(Use proper codes when entering this into LEADS.)

Illness/condition information: REQUIRED

Provide symptoms, activities or other information that would be helpful for a responding officer to be aware of for the safety of this person and others. Please provide as much information as possible.

(If additional space is needed, please continue on a separate piece of paper. Indicate above that there are additional pages.)

Diagnosis (if known): _____

Last known address of person listed above: _____

Street _____ Apt./space # _____

City/state/ZIP code _____

Phone numbers: _____

Resident _____ Cell _____ Message _____

Contact information: Required to have a minimum of two (2) listed. This information will be provided to emergency personnel if the above person is contacted and in need of assistance. Please fill out as many as possible.

Emergency contact: Relationship to person listed above: _____

Name: _____ Phone: _____

Case manager: Name: _____ Phone: _____

Probation officer: Name: _____ Phone: _____

Primary care physician: Name: _____ Phone: _____



STATE OF OREGON
 DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
 Basic Police

Volunteer Consent Form LEDS Medical Database *(continued)*

Please type or print clearly.

Name of person submitting this form: _____

Address: _____

Phone number: _____ Relationship: _____

Signature: _____ Date: _____

Witnessed by: To be valid, the express written consent of this form must be witnessed by at least two adults and at least one witness shall be a person **who is not:**

- (A) A relative of the individual by blood, marriage or adoption or;
- (B) An owner, operator or employee of a health care facility in which the individual is a patient or a resident.

The individual's primary care physician or mental health services provider or any relative of the physician or provider, may not be a witness.

Witness number 1: *(Print clearly or type.)*

Name: _____

Address: _____

Phone number: _____

Relationship to person this form is being filed for: _____

Relationship to person submitting this form: _____

Signature: _____ Date: _____

Witness number 2: *(Print clearly or type.)*

Name: _____

Address: _____

Phone number: _____

Relationship to person this form is being filed for: _____

Relationship to person submitting this form: _____

Signature: _____ Date: _____

Date received: _____ Date entered into database: _____

A community mental health and developmental disabilities program director shall enter an individual's information into the medical health database no later than seven days after receiving a completed enrollment form and has: (1) verified that the individual has a qualifying illness or condition; and (2) obtained the express written consent of: (A) The individual; (B) A person authorized to make medical decisions for the individual, if the individual is subject to a guardianship, advanced directive for health care, declaration for mental health treatment or power of attorney that authorizes the person to make medical decisions for the individual; or (C) A parent of the individual, if the individual is under 14 years of age.

This document can be provided upon request in alternative formats for individuals with disabilities. Other formats may include (but are not limited to) large print, Braille, audio recordings, Web-based communications and other electronic formats. E-mail dhs.forms@state.or.us, call 503-378-3486 (voice) or 503-378-3523 (TTY), or FAX 503-373-7690 to arrange for the alternative format that will work best for you.



MHD Sample Record

MEDICAL RECORD (BASED ON DOB,NAM)
EIP OR037MHD0 NAM/MEDICAL,LEDS TEST DOB/1969/09/09
SEX/U RAC/U POB/ HGT/600 WGT/199 EYE/GRY HAI/PLE SKN/
OCA/MEDICAL-TEST-2011A SMT/SC L BUTTK
OLN/44444444.OR.2015

****RECORD INFORMATION****

APPLICATION DATE/2011/01/21 RTP/MED
MIS/* * THIS IS A TEST RECORD ONLY * * DO NOT TAKE ANY ACTION ON THIS TEST
RECORD * * DO NOT REMOVE OR CANCEL RECORD * * TEST RECORD ENTERED BY OSP
LEDS TRNG UNIT * * THIS IS A TEST RECORD ONLY * *

****SUPPLEMENTAL INFORMATION****

SMT/MC BEHAVIO / MISS PANCR / MOLE ABDOM / PRCD L EAR / TAT WRS

****ASSOCIATED ADDRESSES****

SUBJECT HOME
ADR/3225 STATE ST
CITY/SALEM ST/OR ZIP/97309 DAC/2011/01/21
PH1/(503) 378-1111

****CONTACT INFORMATION****

PRIMARY CARE PHYSICIAN/LEDS PHYSICIAN
PH/(503) 378-3055 EXT/55015 REL/FAMILY DOCTOR
CASE MANAGER/LEDS CASE MANAGER
PH/(503) 378-3055 EXT/55013 REL/LEDS CO CASE WRKR
PROBATION OFFICER/LEDS PROBATION OFFICER
PH/(503) 378-3055 EXT/55014 REL/LEDS CO PROB OFCR
EMERGENCY CONTACT/EMERGENCY CONTACT
PH/(503) 378-5565 REL/MOTHER

ENT: 2011/01/21 AT 0955 FROM LE63 BY/LEDS COUNTY MENTAL HEALTH PRO ()

UPD: 2011/01/21 AT 1016 FROM LE63

PURGEDATE: NOT PURGEABLE

LNU/W084867471 RECORD IN NCIC/NO



Report of Peace Officer Custody of an Allegedly Mentally Ill Person

TO THE TREATING PHYSICIAN OF AN APPROVED HOSPITAL OR NONHOSPITAL FACILITY:

Re: _____
 a person alleged to be mentally ill

I, _____, a peace officer of _____, Oregon,
 agency

Badge No. _____ took the above-named person, DOB: _____, whose address is:

_____ into custody at ____ m., on the ____ day of _____, 20__ in
 _____ County, Oregon for the following specific reasons: _____

_____ pursuant to ORS 426.228(1) because the above factors establish probable cause to believe the above named person is a mentally ill person who is dangerous to self or other and in need of immediate care, custody or treatment for mental illness.

X _____
 Peace officer's signature

The community mental health program director of the above-named county can reached by telephone at:

() _____

If more than one hour is required to transport the person to an approved hospital a physician must complete the following section prior to transport:

Physician's Certificate

I certify that I have personally examined the above-named person and believe the person is dangerous to self or other and in need of immediate care, custody or treatment for mental illness and that travel to _____, a hospital or other approved non-hospital facility will not be detrimental to the person's physical health.

Signed at _____ m., on the ____ day of _____, 20__.

X _____ M.D.
 Signature

Deliver This Report to Treating Physician at Receiving Facility. Do Not File This Report With the Court.

Original: Treating physician
 Copy: Peace Officer



Resources

- 211 (Resource information by zip code)
 - 211info.org
 - 211 App
- Alcohol & Drug Helpline
 - 800-923-4357
- Alzheimer's Association (Oregon)
 - www.alz.org/oregon
- Autism Society of Oregon
 - Autismsocietyoregon.org
- Crisis Intervention Teams International
 - Citinternational.org
- Lines for Life
 - www.linesforlife.org
- Military Helpline
 - 888-457-4838
- National Alliance on Mental Illness
 - www.nami.org
 - www.namioregon.org (Oregon specific)
- National Institute of Mental Health
 - <https://www.nimh.nih.gov/index.shtml>
- National Suicide Lifeline
 - 800-273-8255
 - Military press "1"
- Oregon Criminal Code Book
- Substance Abuse and Mental Health Services Administration
 - www.samhsa.gov
- Youth line
 - 877-968-8491

Adverse Childhood Experience (ACE) Questionnaire
Finding your ACE Score

While you were growing up, during your first 18 years of life:

<p>1. Did a parent or other adult in the household often ... Swear at you, insult you, put you down, or humiliate you? Or Act in a way that made you afraid that you might be physically hurt?</p>	<p>Yes/No</p>	<p>If yes enter 1:</p>
<p>2. Did a parent or other adult in the household often ... Push, grab, slap, or throw something at you? Or Ever Hit you so hard that you had marks or were injured?</p>	<p>Yes/No</p>	<p>If yes enter 1:</p>
<p>3. Did an adult or person at least 5 years older than you ever... Touch or fondle you or have you touch their body in a sexual way? Or Try to or actually have oral, anal, or vaginal sex with you?</p>	<p>Yes/No</p>	<p>If yes enter 1:</p>
<p>4. Did you often feel that ... No one in your family loved you or thought you were important or special? Or Your family didn't look out for each other, feel close to each other, or support each other?</p>	<p>Yes/No</p>	<p>If yes enter 1:</p>
<p>5. Did you often feel that ... You didn't have enough to eat, had to wear dirty clothes, and had no one to protect you? Or Your parents were too drunk or high to take care of you or take you to the doctor if you needed it?</p>	<p>Yes/No</p>	<p>If yes enter 1:</p>
<p>6. Were your parents ever separated or divorced?</p>	<p>Yes/No</p>	<p>If yes enter 1:</p>
<p>7. Was your mother or stepmother: Often pushed, grabbed, slapped, or had something thrown at her? Or Sometimes or often kicked, bitten, hit with a fist, or hit with something hard? Or Ever repeatedly hit over at least a few minutes or threatened with a gun or knife?</p>	<p>Yes/No</p>	<p>If yes enter 1:</p>
<p>8. Did you live with anyone who was a problem drinker or alcoholic or who used street drugs?</p>	<p>Yes/No</p>	<p>If yes enter 1:</p>
<p>9. Was a household member depressed or mentally ill or did a household member attempt suicide?</p>	<p>Yes/No</p>	<p>If yes enter 1:</p>
<p>10. Did a household member go to prison?</p>	<p>Yes/No</p>	<p>If yes enter 1:</p>
<p>Now add up your "Yes" answers</p>		

This is your ACE Score

Behavioral Health Part 4: Legal

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATSON 1960-1980
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY INDEED



Behavioral Health 4- Legal Considerations

Instructional Goal:

This course is designed to develop a new officer's understanding of state and federal statutes and case law related to interactions between law enforcement officers and people with mental illnesses.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Describe the officer's authority under ORS 426.228 (custody of persons in need of emergency care and treatment).
2. Articulate significant case law principles impacting interactions between law enforcement and mentally ill persons.
3. Understand the significance of the Americans with Disabilities Act as it relates to law enforcement interactions with mentally ill persons.

Content Outline:

Custody of persons in need of emergency care and treatment – ORS 426.228

Selected cases - Use of force and persons with mental illness

Discussion: The Americans with Disabilities Act



Custody of Persons in Need of Emergency Care and Treatment – ORS 426.228

A. Discretionary peace officer custody – ORS 426.228 (1)

1. “A peace officer may take into custody a person who the officer has probable cause to believe is dangerous to self or to any other person and is in need of immediate care, custody or treatment for mental illness.”
2. “May” establishes that while actions are authorized, they are not required. Scovill v. City of Astoria, 324 Or 159 (1996).
3. The person must be taken to a designated facility approved by the OHA.
4. Form: “Report of Peace Officer Custody of an Allegedly Mentally Ill Person” (See example in student handout). The peace officer must present this report to the treating physician.
5. See ORS 426.228 (3) for the procedure when a transport will take more than one hour.

B. Mandatory peace officer custody – “Director’s custody” – ORS 426.228 (2)

1. “A peace officer shall take a person into custody when the community mental health and developmental disabilities program director, pursuant to ORS 426.233, notifies the peace officer that the director has probable cause to believe that the person is imminently dangerous to self or to any other person.”
2. “Shall” when used in a statute “ordinarily is mandatory.” Scovill.
3. The person must be taken to a designated facility approved by the OHA.
4. The community mental health and developmental disabilities program director shall prepare the written report for the peace officer to deliver to the treating physician.
5. See ORS 426.228 (3) for the procedure when a transport will take more than one hour.

C. Custody of a foreign national - ORS 426.228 (9)(a) “When a peace officer takes a person into custody under this section, and the peace officer reasonably suspects that the person is a foreign national, the peace officer shall inform the person of the person’s right to communicate with an official from the consulate of the person’s country.”



D. Legal authority to enter a residence related to a mental health crisis

1. Nothing in ORS 426.228 provides authority to enter a residence forcibly.
2. Absent a warrant, which is unlikely as this is a mental health crisis, not a crime, must have a valid warrant exception.
3. “Community caretaking” statute, ORS 133.033, is NOT a warrant exception, though the statute expressly provides: “‘Community caretaking functions’ includes, but is not limited to: (a) the right to enter or remain upon the premises of another if it reasonably appears to be necessary to: (A) Prevent serious harm to any person or property....”
4. Oregon courts and Ninth Circuit have held that law enforcement making an entry for community caretaking purposes may only enter based on a valid exception to the warrant requirement. “A lawful community caretaking search, in other words, must first be within the universe of police action described in ORS 133.033, and then it must also fall within one of the constitutional exceptions to the warrant requirement.” State v. Martin, 222 Or App 138 (2008).
5. The Oregon Supreme Court has articulated that the “need to render emergency aid or prevent serious injury or harm is an appropriate justification for an immediate warrantless entry under Article 1, Section 9.” In State v. Baker, 350 Or 641 (2011), the Court thus concluded that an “emergency aid” exception to the warrant requirement is justified when: “Police officers have an objectively reasonable belief, based on articulable facts, that a warrantless entry is necessary to either render immediate aid to persons, or to assist persons who have suffered, or who are imminently threatened with suffering, serious physical injury or harm.”



- E. What happens next after taking a person into custody, as described above?
1. When a peace officer delivers a person to a designated facility, a physician licensed by the Oregon Medical Board shall examine the person immediately. If the physician finds the person to need emergency care or treatment for mental illness, the physician shall proceed under ORS 426.232; otherwise, the person shall not be retained in custody. If the person is to be released from custody, the peace officer **or** the community mental health and developmental disabilities program director **shall** return the person to the place where the person was taken into custody unless the person declines that service. Pursuant to ORS 426.130, after hearing all of the evidence, and reviewing the findings of the examiners, the court shall determine whether the person has a mental illness and needs treatment.
 2. Refer to ORS 426.130 in your student resource.
 3. The court will either find the person is or is not a person with mental illness. The court's options vary depending on this finding. A "person with mental illness" can be committed, conditionally released, or released to pursue treatment voluntarily. One who is "not a person with mental illness" must be released, and the case is either dismissed or the person is ordered to participate in "assisted outpatient treatment" per ORS 426.133. You will find that statute in your resource.



Selected Cases - Use of Force and Persons with Mental Illness

A. Graham v. Connor:

1. We measure the objective reasonableness of force applied by weighing the “governmental interest in the need for force” against the “nature and quality of force used” or “quantum of force.”
2. “Governmental interest” is analyzed by assessing the “Graham factors”: Severity of the crime, whether the suspect/person poses an immediate threat to the officer or others (the Ninth Circuit has emphasized this is the most important factor) and whether the suspect was actively resisting arrest or attempting to evade arrest by flight.
3. The “Graham factors” were not intended to be exclusive. The federal appellate courts were free to interpret Graham in such a way as to “add additional factors.”

B. Deorle v. Rutherford 272 F3d 1272 (9th Cir. 2001)

1. Deorle was acting erratically and became suicidal, and was screaming and banging on the walls of his residence. His wife called 911, and a number of officers responded. Officers surrounded Deorle’s residence and began talking with Deorle. He was verbally abusive but generally followed the officers’ instructions. Deorle was carrying a crossbow and what appeared to be a can of lighter fluid.
2. Officers told Deorle to drop his crossbow, which he did, and then he started walking toward the officers. Deputy Rutherford was one of the officers on the scene, and he was armed with a 12-gauge shotgun loaded with less-lethal “bean bag” rounds. Deorle continued to walk towards the officers, and when Deorle reached a point where Deputy Rutherford had predetermined he would not allow Deorle to cross, Deputy Rutherford fired a beanbag round striking Deorle in the face. Deputy Rutherford did not warn Deorle that he was going to shoot, did not tell Deorle to drop the can, and did not order him to halt.
3. The court first examined the nature and quality of force used. It concluded the force was sufficient to cause “grave physical injury” even though the “bean bag” rounds were designed to render an individual incapable of resistance without resulting in death. The court concluded, “... the degree of force used by Rutherford is permissible only when a strong governmental interest compels the employment of such force.”



4. The court then looked at the governmental interests at stake, evaluating the crime at issue, whether the suspect posed an immediate threat to the safety of the officer or others, and whether he was actively resisting arrest or attempting to evade arrest by flight. The court said a desire to quickly resolve a potentially dangerous situation is not the type of governmental interest that, standing alone, justifies the use of force that may cause serious injury. There must be other significant circumstances that warrant such a degree of force at the time it is used.
5. The court said Rutherford's failure to provide Deorle any warning that he would be shot if he approached any closer, also supports their conclusion that the force was not justified.
6. "The problems posed by, and thus the tactics to be employed against an unarmed, emotionally distraught individual who is creating a disturbance or resisting arrest are ordinarily different from those involved in law enforcement efforts to subdue an armed and dangerous criminal."
7. "Even when an emotionally disturbed individual is 'acting out' and inviting officers to use deadly force to subdue him, the governmental interest in using such force is diminished by the fact that the officers are confronted, not with a person who has committed a serious crime against others, but with a mentally ill individual. We do not adopt a per se rule establishing two different classifications of suspects: mentally disabled persons and serious criminals. Instead, we emphasize that where it is or should be apparent to the officers that the individual involved is emotionally disturbed, that is a factor that must be considered in determining, under Graham, the reasonableness of the force employed."
8. "In the case of mentally unbalanced persons, the use of officers and others trained in the art of counseling is ordinarily advisable, where feasible, and may provide the best means of ending a crisis."

C. Hayes v. San Diego 736 F 3d 1223 (9th Cir. 2013)

1. Mr. Hayes was shot after two deputies, King and Greer, entered his residence. They observed Hayes's right hand behind his back. When ordered to show his hands, Hayes raised them, revealing a large knife pointed tip down in his right hand. King testified he believed Hayes was a threat to his and Greer's safety because Hayes took one to two steps toward them as he raised his hands. Hayes's girlfriend, Neill testified Hayes, was not "charging" at the deputies. Neither deputy ordered Hayes to stop before shooting. King



testified he didn't believe he had time to give that command. He testified only four seconds elapsed between "show your hands" and the first shot.

2. Deputies had been called to Hayes's residence by neighbors who heard an argument between Hayes and Neill. Neill told King they argued about Hayes's attempt that night to commit suicide by inhaling exhaust from his car. Neill told King Hayes had harmed himself before. Neill told King there were no guns in the house but did not tell King Hayes might have a knife. Neill denied any physical confrontation between herself and Hayes.
3. King did not ask Neill about the manner of the previous suicide attempts and was therefore unaware Hayes had previously stabbed himself with a knife. King briefed Greer that there was a suicidal man in the residence. They decided to enter to check on Hayes's welfare as they were concerned he might harm himself. They did not check to see if there were any prior calls for service regarding Hayes and did not know he attempted suicide with a knife four months prior and was taken into protective custody.
4. The court found reasonable jurors could conclude the deputies' use of deadly force was not objectively reasonable. Hayes "was complying with Deputy King's order when he raised the knife and posed no clear threat at the time he was shot without warning." Hayes was still six to eight feet away from King at the time he was shot. There was no clear evidence Hayes was "threatening" the officers with the knife here. "The mere fact that a suspect possesses a weapon does not justify deadly force." Hayes's unexpected possession of the knife alone, when he had committed no crime and was confronted in his own home, was not sufficient reason to employ deadly force.
5. The court also ruled, applying California law to the plaintiff's negligent wrongful death claim, that the deputies' duty to act reasonably when using deadly force extended to their *pre-shooting* conduct. This ruling suggests the Ninth Circuit is interested in officers' actions and/or inactions before the use of force in determining whether or not the force is justified. Officers will apparently be expected to conduct a comprehensive investigation about the person before approaching, especially if the person is believed to be emotionally disturbed or suicidal.



D. Glenn v. Washington County 661 F3d 460 (9th Cir. 2011)

1. Glenn’s mother had called 911 for help with her distraught and intoxicated 18-year-old son. Glenn was threatening to kill himself with a pocketknife and was breaking household property. Glenn had no history of violence or criminal activity. Glenn’s mother told dispatchers her son would not leave until the cops come and shoot him. She thought her son had attempted suicide before and was “so suicidal right now.”
2. The dispatcher relayed a “fight with a weapon,” and that Glenn threatened to kill himself if officers arrived. Officers were told Glenn was suicidal and very intoxicated, and had broken a window and was out in the driveway. There were rifles in the house, but officers were told Glenn could not get to them. Officers were told the front door could not be secured because Glenn had “busted” through it.
3. Once the first two officers, Gerba and Mateski, arrived, they found Glenn in the driveway in front of the garage, near his parents. His two friends were there as well. Seeing Glenn with the knife at his neck, officers started yelling commands to drop the knife, etc. Witnesses would later state the commands conflicted. They didn’t know if Glenn understood them, owing to his intoxication, and that they did not feel threatened by Glenn. Eventually, the officers ordered the friends to exit behind the officers, and the parents to go in the house. The officers knew when they did so, that the front door could not be secured. They did not position themselves between Glenn and the front door. The court found they could have done so without closing any distance with Glenn. These officers did not have a Taser or a beanbag gun.
4. A third officer, Pastore, arrived with a beanbag shotgun and a Taser. Mateski immediately ordered him to “beanbag” Glenn. Pastore yelled “beanbag, beanbag” and shot six beanbag rounds at Glenn. Glenn responded to the beanbag fire by putting his hands down, grabbing his pants, and moving toward the alcove between the house and the garage. Mateski and Gerba determined that if Glenn made a move toward the house with his parents inside, they would use deadly force. After Glenn took about two steps, they both fired at him. All the lethal fire occurred before the last beanbag round was fired, and less than four minutes after the first officer arrived on the scene. Glenn was shot eight times and bled to death.
5. The lower court had found the officers were justified in using less-lethal force to prevent Glenn’s suicide. The Ninth Circuit assumed officers could have used some reasonable level of force to try to prevent Glenn from committing a suicidal act. However, they found no



case law holding it is reasonable to use a *significant* amount of force to try to stop someone from attempting suicide. “It would be odd to permit officers to use force capable of causing serious injury or death in an effort to prevent the possibility that the person might attempt to harm only himself.”

6. As an aside, Oregon law states physical force, not deadly force, may be used to thwart a suicide. ORS 161.205 (4) provides, “The use of physical force upon another person that would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:...(4) A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical self-injury may use *physical force* upon that person to the extent that the person reasonably believes it necessary to thwart the result.”
7. As for the lower court’s finding that officers were justified in shooting Glenn with the beanbag gun because he posed an immediate threat to the officers and bystanders, the Ninth Circuit felt that issue should go to trial. While Glenn did not comply with officers’ orders to drop the knife during the three minutes that elapsed before he was shot with the beanbag gun, “by all accounts Glenn was suicidal on the night in question and the threats of violence known to the responding officers focused on harming himself rather than other people.” Officers were “informed that Glenn was intoxicated and emotionally disturbed and that he was the teenaged son of the homeowners rather than an intruder or criminal.” Glenn was obviously “emotionally disturbed, a factor to which the officers should have assigned greater weight.”
8. Officers “need not avail themselves of the least intrusive means of responding to an exigent situation; they need only act within that range of conduct we identify as reasonable.” ... However, “police are ‘required to consider [w]hat other tactics if any were available,’” and if there were “clear, reasonable and less intrusive alternatives” to the force employed, that “militate against finding [the] use of force reasonable.”
9. “We...recognized in *Deorle*, that when dealing with an emotionally disturbed person who is creating a disturbance or resisting arrest, as opposed to a dangerous criminal, officers typically use less forceful tactics.”
10. As for the deadly force used after Glenn’s response to the beanbag rounds was to move toward the house, the court observed, “the officers’ decision to employ the beanbag gun is critical to the resolution of the reasonableness of the lethal force as well because the use of



less-lethal force precipitated the use of deadly force.” Here, the Court applied its “provocation” analysis, referencing a doctrine fairly unique to the Ninth Circuit. “Where an officer intentionally or recklessly provokes a violent confrontation, if the provocation is an independent Fourth Amendment violation, he may be held liable for his otherwise defensive use of deadly force.” The Court ordered that issue should go to trial as well. NOTE: THE US SUPREME COURT HAS SINCE ELIMINATED THE NINTH CIRCUIT’S PROVOCATION RULE, EFFECTIVE MAY 30, 2017, WITH ITS RULING IN COUNTY OF LOS ANGELES V. MENDEZ. THE COURT RULED THAT ONCE A USE OF FORCE IS DEEMED REASONABLE UNDER GRAHAM V CONNOR, IT MAY NOT BE FOUND UNREASONABLE IN REFERENCE TO A SEPARATE CONSTITUTIONAL VIOLATION.

Jury instructions after Ninth Circuit ruled Glenn lawsuit needed to go to trial

- Is the suspect presenting an immediate threat?
- What is the severity of the crime or circumstances to which the officer is responding?
- Is the suspect actively resisting arrest or attempting to escape?
- How much time did the officer have to make a decision, and were there any environmental factors or changing circumstances that impacted the decision to use force?
- What was the type and amount of force used?
- Is it feasible to warn the suspect prior to using force? (If not, we must articulate why)
- Is the suspect emotionally disturbed or mentally distraught – including under the influence of drugs/alcohol?
- Did the officer consider/implement alternatives to using force or de-escalation of the situation?
- Was the suspect in close proximity or had access to weapons?



- E. Sheehan v. City and County of San Francisco - 743 F3d 1211 (9th Cir. 2014) (Ninth Circuit ruling which was appealed to US Supreme Court) and 135 S Ct 1765 (2015) (US Supreme Court ruling)
1. Ms. Sheehan's federal lawsuit (Title 42 USC Sec. 1983) alleged violations of Fourth Amendment rights pertaining to warrantless search and excessive force, as well as violations of rights protected by the Americans with Disabilities Act. (See below under ADA for that part of the discussion)
 2. Sheehan lived in a group home for individuals with mental illness. After Sheehan began acting erratically and threatened to kill her social worker, police officers were dispatched to help escort Sheehan to a facility for temporary evaluation and treatment. When the officers first entered Sheehan's room, she grabbed a knife and threatened to kill them. They retreated and closed the door. Concerned about what Sheehan might do behind the closed door, and without considering if they could accommodate her disability, the officers reentered her room. Sheehan, knife in hand, again confronted them. After pepper spray proved ineffective, the officers shot Sheehan multiple times.

The Supreme Court ruled that the officers were entitled to qualified immunity from liability for the injuries Sheehan suffered. (Students were trained on the law of Qualified Immunity in their Civil Liability class). The Court found officers did not violate the Fourth Amendment when they opened Sheehan's door the first time, and that there was no doubt that they could have opened her door the second time had she not been disabled. The officers' use of force after the second entry was ruled reasonable. The Court reasoned the "real question" was whether officers violated the Fourth Amendment when they decided to reopen Sheehan's door rather than attempt to accommodate her disability. Rather than resolving that question, the Court instead noted that there was no clearly established law that would identify the officers' conduct as a Fourth Amendment violation. Therefore, the Court ruled the officers were entitled to qualified immunity. Because the Court deemed the qualified immunity analysis as "straightforward," it determined it "need not decide whether the Constitution was violated by the officers' failure to accommodate Sheehan's illness.



The Americans with Disabilities Act

Basic protections- background

- Review from Civil Rights and Liabilities
- Title II of the ADA provides that subject to certain exceptions, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.
- Law enforcement agencies would be considered public entities and, therefore, are among those that must abide by the law prohibiting exclusion due to disability.

Sheehan v. City and County of San Francisco

1. The US Supreme Court did NOT rule on the ADA claim that the city and county had originally sought to be resolved, which was whether the ADA “requires law enforcement officers to provide accommodations to an armed, violent, and mentally ill suspect in the course of bringing the suspect into custody.” They refused to rule on this question, finding that the city and county changed the nature of their argument from what they initially represented on appeal. The net result of their refusal to do so means, for the time being, that the ruling issued by the Ninth Circuit stands as regards what it said about the ADA.
2. So, what did the Ninth Circuit say about the ADA *generally*?
 - i. We agree with the majority of [federal] circuits to have addressed the question that Title II [of the ADA] *applies to arrests*.
 - ii. Title II of the ADA provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs or activities of a public entity, or be subjected to discrimination by any such entity...Discrimination includes a failure to *reasonably* accommodate a person’s disability.
 - iii. [However], we agree with the Eleventh and Fourth Circuits that exigent circumstances inform the reasonableness analysis under the ADA, just as they inform the distinct reasonableness analysis under the Fourth Amendment...Just as the constraints of time figure in what is required of police under the Fourth Amendment, they bear on what is reasonable under the ADA.



3. What did the Ninth Circuit say about the ADA *as specifically applied to Ms. Sheehan*?
- i. Courts have recognized at least two types of Title II claims applicable to arrests: (1) wrongful arrest, where police wrongly arrest someone with a disability because they misperceive the effects of that disability as criminal activity; and (2) reasonable accommodation, where although police properly investigate and arrest a person with a disability for a crime unrelated to that disability, they fail to reasonably accommodate the person's disability in the course of investigation or arrest, causing the person to suffer greater injury or indignity in that process than other arrestees. Sheehan raised the second type of claim.
 - ii. It is undisputed that Sheehan had a disability and that the officers knew it at the time they encountered her. We turn, therefore, to whether the city discriminated against Sheehan by failing to provide reasonable accommodation during the second entry. [The court having ruled the first entry was lawful under the emergency aid warrant exception].
 - iii. A reasonable jury could ... find that the situation had been defused sufficiently, following the initial retreat from Sheehan's room, to afford the officers an opportunity to wait for backup and to employ less confrontational tactics, including the accommodations that Sheehan asserts, were necessary.
 - iv. Because the reasonableness of an accommodation is ordinarily a question of fact...we hold that the city is not entitled to judgment as a matter of law on Sheehan's ADA claims. [As the lower district court had ruled]
4. So, where is Ms. Sheehan's claim now? Where are we after Sheehan?
- a. The net effect of what the Ninth Circuit said in 3.d above, is that the lower district court's ruling in favor of the city and county, which essentially dismissed Ms. Sheehan's ADA claim, was reversed. But that does not mean the Ninth Circuit found in favor of Ms. Sheehan on her ADA claim. It only means the claim needs to go to trial, where factual findings regarding the reasonableness of the accommodation she sought, can be made.
 - b. To repeat, the Ninth Circuit did not rule that the officers violated Ms. Sheehan's rights under the ADA when they made their second entry into her room. The Court did rule that because a reasonable jury could agree with Ms. Sheehan's version of the facts, and with her assertion of what would have been a reasonable accommodation, it was not appropriate to dismiss her ADA claim as a matter of law.



- c. Therefore, broadly, post-Sheehan, in the Ninth Circuit, the ADA applies to arrests. However, discrimination under the ADA requires a failure to *reasonably* accommodate a disability. When assessing the reasonableness of an accommodation sought, exigent circumstances (such as a person's violence and perceived dangerousness) will inform this analysis.



Sources and/or Resources

Oregon Criminal Code Book

The Americans with Disabilities Act

Cited case studies



Supplemental Resource

OREGON REVISED STATUTES

Definitions for ORS 426.005 to 426.390.

(1) As used in ORS 426.005 to 426.390, unless the context requires otherwise:

(a) “Community mental health program director” means the director of an entity that provides the services described in ORS 430.630 (3) to (5).

(b) “Director of the facility” means a superintendent of a state mental hospital, the chief of psychiatric services in a community hospital or the person in charge of treatment and rehabilitation programs at other treatment facilities.

(c) “Facility” means a state mental hospital, community hospital, residential facility, detoxification center, day treatment facility or such other facility as the authority determines suitable that provides diagnosis and evaluation, medical care, detoxification, social services or rehabilitation to persons committed to the Oregon Health Authority under ORS 426.130.

(d) “Nonhospital facility” means any facility, other than a hospital, that is approved by the authority to provide adequate security, psychiatric, nursing and other services to persons under ORS 426.232 or 426.233.

(e) “Person with mental illness” means a person who, because of a mental disorder, is one or more of the following:

(A) Dangerous to self or others.

(B) Unable to provide for basic personal needs and is not receiving such care as is necessary for health or safety.

(C) A person:

(i) With a chronic mental illness, as defined in ORS 426.495;

(ii) Who, within the previous three years, has twice been placed in a hospital or approved inpatient facility by the authority or the Department of Human Services under ORS 426.060;

(iii) Who is exhibiting symptoms or behavior substantially similar to those that preceded and led to one or more of the hospitalizations or inpatient placements referred to in subparagraph (ii) of this subparagraph; and



(iv) Who, unless treated, will continue, to a reasonable medical probability, to physically or mentally deteriorate so that the person will become a person described under either subparagraph (A) or (B) of this paragraph or both.

(f) “Prehearing period of detention” means a period of time calculated from the initiation of custody during which a person may be detained under ORS 426.228, 426.231, 426.232 or 426.233.

(2) Whenever a community mental health program director, director of the facility, superintendent of a state hospital or administrator of a facility is referred to, the reference includes any designee such person has designated to act on the person’s behalf in the exercise of duties.

426.130 Court determination of mental illness; discharge; release for voluntary treatment; conditional release; commitment; prohibition relating to firearms; period of commitment.

(1) After hearing all of the evidence, and reviewing the findings of the examiners, the court shall determine whether the person has a mental illness and is in need of treatment. If, in the opinion of the court, the person:

- (a) Is a person with mental illness based upon clear and convincing evidence, the court:
 - (A) Shall order the release of the person and dismiss the case if:
 - (i) The person is willing and able to participate in treatment on a voluntary basis; and
 - (ii) The court finds that the person will probably do so.
 - (B) May order conditional release under this subparagraph subject to the qualifications and requirements under ORS 426.125. If the court orders conditional release under this subparagraph, the court shall establish a period of commitment for the conditional release.
 - (C) May order commitment of the person with mental illness to the Oregon Health Authority for treatment if, in the opinion of the court, subparagraph (A) or (B) of this paragraph is not in the best interest of the person. If the court orders commitment under this subparagraph:
 - (i) The court shall establish a period of commitment.
 - (ii) The authority may place the committed person in outpatient commitment under ORS 426.127.



(D) Shall order that the person be prohibited from purchasing or possessing a firearm if, in the opinion of the court, there is a reasonable likelihood the person would constitute a danger to self or others or to the community at large as a result of the person's mental or psychological state as demonstrated by past behavior or participation in incidents involving unlawful violence or threats of unlawful violence, or by reason of a single incident of extreme, violent, unlawful conduct. When a court makes an order under this subparagraph, the court shall cause a copy of the order to be delivered to the sheriff of the county who will enter the information into the Law Enforcement Data System.

(b) Is not a person with mental illness, the court shall release the person from custody if the person has been detained under ORS 426.070, 426.180, 426.228, 426.232 or 426.233 and:

(A) Dismiss the case; or

(B) Order the person to participate in assisted outpatient treatment in accordance with ORS 426.133. The court may continue the proceeding for no more than seven days to allow time for the community mental health program director to develop the person's assisted outpatient treatment plan.

(2) A court that orders a conditional release, a commitment or assisted outpatient treatment under this section shall establish a period of commitment or treatment for the person subject to the order. Any period of commitment ordered for commitment or conditional release under this section shall be for a period of time not to exceed 180 days. A period of assisted outpatient treatment shall be for a period of time not to exceed 12 months.

(3) If the commitment proceeding was initiated under 426.070 (1)(a) and if the notice included a request under ORS 426.070 (2)(d)(B), the court shall notify the two persons of the court's determination under subsection (1) of this section.

(4) If the court finds that the person is a person with mental illness and either orders commitment under subsection (1)(a)(B) or (C) of this section or enters an order under subsection (1)(a)(D) of this section, the court shall notify the person that the person is prohibited from purchasing or possessing a firearm under state and federal law unless the person obtains relief from the prohibition from the Psychiatric Security Review Board under ORS 166.273 or under federal law.



426.133 Assisted Outpatient Treatment

(1) As used in ORS 426.005 to 426.390, “assisted outpatient treatment” may not be construed to be a commitment under ORS 426.130 and does not include taking a person into custody or the forced medication of a person.

(2) A court may issue an order requiring a person to participate in assisted outpatient treatment if the court finds that the person:

- (a) (A) Is 18 years of age or older;
- (B) Has a mental disorder;
- (C) Will not obtain treatment in the community voluntarily; and
- (D) Is unable to make an informed decision to seek or to comply with voluntary treatment; and
- (b) As a result of being a person described in paragraph (a) of this subsection:
 - (A) Is incapable of surviving safely in the community without treatment; and
 - (B) Requires treatment to prevent a deterioration in the person’s condition that will predictably result in the person becoming a person with mental illness.

(3) In determining whether to issue the order under subsection (2) of this section, the court shall consider, but is not limited to considering, the following factors:

- (a) The person’s ability to access finances in order to get food or medicine.
- (b) The person’s ability to obtain treatment for the person’s medical condition.
- (c) The person’s ability to access necessary resources in the community without assistance.
- (d) The degree to which there are risks to the person’s safety.
- (e) The likelihood that the person will decompensate without immediate care or treatment.
- (f) The person’s previous attempts to inflict physical injury on self or others.
- (g) The person’s history of mental health treatment in the community.
- (h) The person’s patterns of decompensation in the past.
- (i) The person’s risk of being victimized or harmed by others.
- (j) The person’s access to the means to inflict harm on self or others.



(4) The community mental health program director may recommend to the court a treatment plan for a person participating in assisted outpatient treatment. The court may adopt the plan as recommended or with modifications.

(5) As part of the order under subsection (2) of this section, the court may prohibit the person from purchasing or possessing a firearm during the period of assisted outpatient treatment if, in the opinion of the court, there is a reasonable likelihood the person would constitute a danger to self or others or to the community at large as a result of the person's mental or psychological state, as demonstrated by past behavior or participation in incidents involving unlawful violence or threats of unlawful violence, or by reason of a single incident of extreme, violent, unlawful conduct. When a court adds a firearm prohibition to an order under subsection (2) of this section, the court shall cause a copy of the order to be delivered to the sheriff of the county, who shall enter the information into the Law Enforcement Data System.

(6) The court retains jurisdiction over the person until the earlier of the end of the period of the assisted outpatient treatment established under ORS 426.130 (2) or until the court finds that the person no longer meets the criteria in subsection (2) of this section.

(7) This section does not:

- (a) Prevent a court from appointing a guardian ad litem to act for the person; or
- (b) Require a community mental health program to provide treatment or services to, or supervision of, the person:

- (A) If the county lacks sufficient funds for such purposes; or
- (B) In the case of a county that has declined to operate or contract for a community mental health program, if the public agency or private corporation that contracts with the Oregon Health Authority to provide the program, as described in ORS 430.640, lacks sufficient funds for such purposes.



426.228 Custody; authority of peace officers and other persons; transporting to facility; reports; examination of person.

(1) A peace officer may take into custody a person who the officer has probable cause to believe is dangerous to self or to any other person and is in need of immediate care, custody or treatment for mental illness. As directed by the community mental health and developmental disabilities program director, a peace officer shall remove a person taken into custody under this section to the nearest hospital or nonhospital facility approved by the Oregon Health Authority. The officer shall prepare a written report and deliver it to the treating physician. The report shall state:

- (a) The reason for custody;
- (b) The date, time and place the person was taken into custody; and
- (c) The name of the community mental health and developmental disabilities program director and a telephone number where the director may be reached at all times.

(2) A peace officer shall take a person into custody when the community mental health and developmental disabilities program director, pursuant to ORS 426.233, notifies the peace officer that the director has probable cause to believe that the person is imminently dangerous to self or to any other person. As directed by the community mental health and developmental disabilities program director, the peace officer shall remove the person to a hospital or nonhospital facility approved by the authority. The community mental health and developmental disabilities program director shall prepare a written report that the peace officer shall deliver to the treating physician. The report shall state:

- (a) The reason for custody;
- (b) The date, time and place the person was taken into custody; and
- (c) The name of the community mental health and developmental disabilities program director and a telephone number where the director may be reached at all times.



(3) If more than one hour will be required to transport the person to the hospital or nonhospital facility from the location where the person was taken into custody, the peace officer shall obtain, if possible, a certificate from a physician licensed by the Oregon Medical Board stating that the travel will not be detrimental to the person's physical health and that the person is dangerous to self or to any other person and is in need of immediate care or treatment for mental illness. The physician shall have personally examined the person within 24 hours prior to signing the certificate.

(4) When a peace officer or other authorized individual, acting under this section, delivers a person to a hospital or nonhospital facility, a physician licensed by the Oregon Medical Board shall examine the person immediately. If the physician finds the person to be in need of emergency care or treatment for mental illness, the physician shall proceed under ORS 426.232, otherwise the person shall not be retained in custody. If the person is to be released from custody, the peace officer or the community mental health and developmental disabilities program director shall return the person to the place where the person was taken into custody unless the person declines that service.

(5) A peace officer may transfer a person in custody under this section to the custody of an individual authorized by the county governing body under ORS 426.233 (3). The peace officer may meet the authorized individual at any location that is in accordance with ORS 426.140 to affect the transfer. When transferring a person in custody to an authorized individual, the peace officer shall deliver the report required under subsections (1) and (2) of this section to the authorized individual.

(6) An individual authorized under ORS 426.233 (3) shall take a person into custody when directed to do so by a peace officer or by a community mental health and developmental disabilities program director under ORS 426.233.

(7) An individual authorized under ORS 426.233 (3) shall perform the duties of the peace officer or the community mental health and developmental disabilities program director required by this section and ORS 426.233 if the peace officer or the director has not already done so.



(8) An individual authorized under ORS 426.233 (3) may transfer a person in custody under this section to the custody of another individual authorized under ORS 426.233 (3) or a peace officer. The authorized individual transferring custody may meet another authorized individual or a peace officer at any location that is in accordance with ORS 426.140 to affect the transfer.

(9)(a) When a peace officer takes a person into custody under this section, and the peace officer reasonably suspects that the person is a foreign national, the peace officer shall inform the person of the person's right to communicate with an official from the consulate of the person's country.

(b) A peace officer is not civilly or criminally liable for failure to provide the information required by this subsection. Failure to provide the information required by this subsection does not in itself constitute grounds for the exclusion of evidence that would otherwise be admissible in a proceeding.

FEDERAL LAW

Excerpts of the Americans with Disabilities Act of 1990:

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings --The Congress finds that--

(1) Some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) Historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) Discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;



- (4) Unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;
- (5) Individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;
- (6) Census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;
- (7) Individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;
- (8) The Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and
- (9) The continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductively.



(b) Purpose--It is the purpose of this Act—

- (1) To provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
- (2) To provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;
- (3) To ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and
- (4) To invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

SEC. 3. DEFINITIONS.

As used in this Act:

- (1) Auxiliary aids and services--The term "auxiliary aids and services" include
 - (A) Qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
 - (B) Qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;
 - (C) Acquisition or modification of equipment or devices; and
 - (D) Other similar services and actions.
- (2) Disability--The term "disability" means, with respect to an individual—
 - (A) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
 - (B) A record of such an impairment; or
 - (C) Being regarded as having such an impairment.



(3) State--The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.



Report of Peace Officer Custody of an Allegedly Mentally Ill Person

TO THE TREATING PHYSICIAN OF AN APPROVED HOSPITAL OR NONHOSPITAL FACILITY:

Re: _____
 a person alleged to be mentally ill

I, _____, a peace officer of _____, Oregon,
 agency
 Badge No. _____ took the above-named person, DOB: _____, whose address is:

_____ into custody at ____ m., on the ____ day of _____, 20__ in
 _____ County, Oregon for the following specific reasons:

_____ pursuant to ORS 426.228(1) because the above factors establish probable cause to believe the above named person is a mentally ill person who is dangerous to self or other and in need of immediate care, custody or treatment for mental illness.

X _____
 Peace officer's signature

The community mental health program director of the above-named county can be reached by telephone at:
 () _____

If more than one hour is required to transport the person to an approved hospital a physician must complete the following section prior to transport:

Physician's Certificate

I certify that I have personally examined the above-named person and believe the person is dangerous to self or other and in need of immediate care, custody or treatment for mental illness and that travel to _____, a hospital or other approved non-hospital facility will not be detrimental to the person's physical health.

Signed at _____ m., on the ____ day of _____, 20__.

X _____ M.D.
 Signature

Deliver This Report to Treating Physician at Receiving Facility. Do Not File This Report With the Court.

Original: Treating physician
 Copy: Peace Officer

Behavioral Health Part 5: De-Escalation

BASIC POLICE ACADEMY





Behavioral Health 5- De-Escalation

Instructional Goal:

This course is designed to develop a new officer's understanding of a behavioral health crisis and crisis de-escalation techniques.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify characteristics of a behavioral health crisis.
2. Describe considerations when responding to a behavioral health crisis.
3. Demonstrate an ability to interact with someone in a behavioral health crisis safely.
4. Practice de-escalation techniques that can be used in a crisis.
5. Identify options for resolving behavioral health crisis situations.

Content Outline:

Crisis Cycle

Crisis Communication

Active Listening

Universal Strategies for Communication

The Crisis Call



De-escalation: “to decrease the scope, volume, or extent of an escalated event.”

Modified from Merriam-Webster dictionary

Assessment is an ongoing, continuous process during a de-escalation. If the level of risk rises and threat assessment indicates officer safety and/or public safety is at risk, officers will need to change tactics to an appropriate level.

What is a crisis?

An event, series of events, or set of circumstances that are experienced by an individual as physically or emotionally harmful or threatening ...

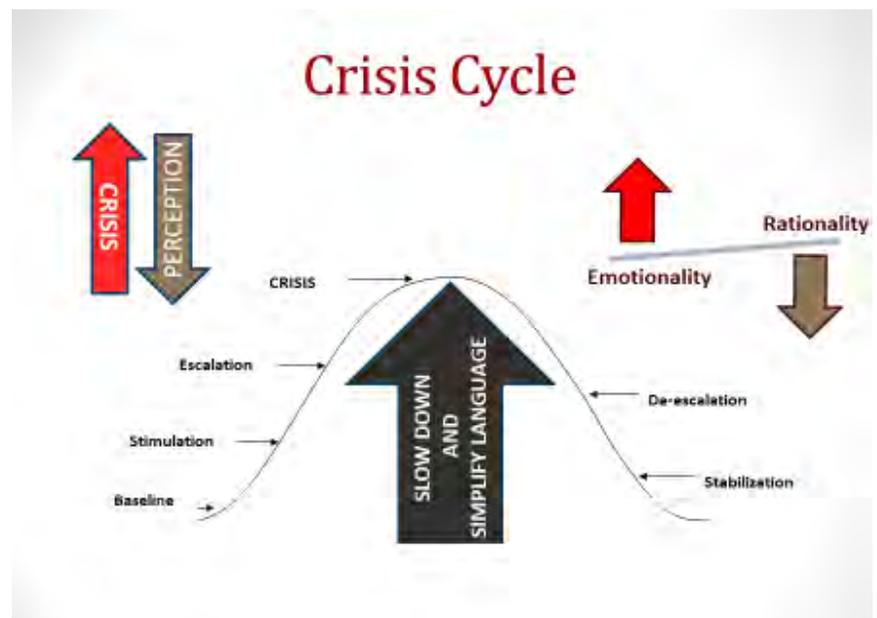
SAMSHA

A crisis is unique to an individual and may or may not be apparent to the observer. De-escalation is about reducing the distress of the person in crisis. The goal of de-escalation is stabilization.

Crisis Cycle

When a person is in crisis, their ability to hear and process information is decreased. A person in crisis will have a more emotional response than a rational response. Their perception of the situation will be impacted. A person’s crisis response will follow a pattern known as the crisis cycle.

Consider this- Where in the crisis cycle is the person when law enforcement arrives? A person contacted in a traffic stop may be at baseline and could escalate into the crisis cycle. Often law enforcement is not called until the person is at the escalation or crisis point in the cycle. Law enforcement





may be walking into a situation where the ability to interact with the person in crisis is already compromised. De-escalation IS a crisis intervention. Law enforcement responding to a person in crisis is intervening in the crisis cycle. The goal is to help the person return to stabilization by reducing distress.

Crisis Communication

Communication is the core of de-escalation. You have already received courses on Communication and Emotional Intelligence. The information from these courses can also be applied to de-escalation communications.

In Behavioral Health Awareness Unit 1, you received Universal Strategies for Communication, which includes both verbal and non-verbal communication. You will add to this list as you continue in your professional career.

Universal Communication Strategies

Verbal	Non-Verbal
Active listening – MORE PIE Maintain a calm, even tone, even if the person in crisis is not doing so Tell them you are there to help Introduce yourself by first name Ask for and use their name Acknowledge their concerns/feelings Don't argue or get positional, remain flexible Grounding Ask them to breathe with you Do not use sarcastic remarks or offensive terms Feedback loop	Slow your breathing Be observant of how your behavior is impacting their behavior If what you are doing causes escalation or agitation, stop doing it and try a different tact Continually reassess Body language (your own), non-threatening Be ready, but relaxed Eye contact – can be good or bad, so watch for reaction Get to eye level (<i>Only do this if you can without compromising officer safety</i>) Keep a good reactionary distance and be mindful of the person's personal space



<p>Laugh with = OK. Laughing at = NOT OK</p> <p>Tell them what you are going to do, and why? <i>(Only do this if you can without compromising officer safety)</i></p> <p>TIME – Slow It Down</p> <p>Don't make promises</p>	<p>Be patient when waiting for a response</p> <p>Guardian mindset (defender, protector)</p> <p>You may close the distance as the situation evolves and you feel safe doing</p> <p>Move slowly and limit sensory stimuli</p>
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You were introduced to active listening skills in the Communications class. Here, we will look at them in more detail, focusing on seven active listening skills. An acronym adapted from the FBI Hostage Negotiator Active Listening Skills Curriculum is **MORE PIE**.

<p>M</p> <p>Minimal Encouragers</p>	<p>The responses need not be lengthy. By giving occasional, brief, and well-timed vocal replies, the officer demonstrates that they are following what the person says. Even relatively simple phrases, such as “yes,” “OK,” or “I see,” can effectively convey that the officer is paying attention to the person in crisis. These responses will encourage the person to continue talking and gradually relinquish more control of the situation to the officer.</p> <p>NOTE: Be careful of using the “OK” response as it may be interpreted that you are agreeing or approving of an inappropriate action.</p> <p>Benefits: Shows the officer is listening. Encourages the person to continue talking.</p>
<p>O</p> <p>Open-Ended Questions</p>	<p>These are designed to encourage a full, meaningful answer using the subject’s own knowledge and feelings.</p> <p>It is the opposite of closed-ended questions, which encourages a short or single-word answer. Use questions that require more than a single word answer.</p> <p>Examples: What, How, Tell me more about... Avoid “Why” questions, as these may sound like an interrogation.</p>



	<p>When the person speaks, the officer gains greater insight into the person’s intent. Effective communication focuses on learning what the person thinks and feels. If the officer does most of the talking, they decrease the opportunities to learn about the person.</p> <p>Benefits: Stimulates the person to talk, gain insight into the person’s intent.</p>
<p>R</p> <p>Reflecting / Mirroring</p>	<p>By reflecting or mirroring, officers repeat only the last words or main idea of the person’s message. It serves as both an attending and listening technique, as it indicates both interest and understanding. For example, a person may declare, “I’m sick and tired of being pushed around,” to which the officer can respond, “Feel pushed, huh?”</p> <p>Mirroring can be especially helpful in the early stages of a crisis, as the officer attempts to establish a non-confrontational presence, gain initial intelligence, and begin to build rapport. This technique allows the officer to follow verbally wherever the person leads the conversation. Consequently, the officer learns valuable information about the circumstances surrounding the incident, while they provide the person an opportunity to vent.</p> <p>This technique also frees the officer from the pressure of constantly directing the conversation. Under stress, the officer may find they are unsure of how to respond to the person. Mirroring enables the officer to be a full partner in the conversational dance without having to lead. Using this skill also helps officers avoid asking questions interrogation-style, which blocks rapport building.</p> <p>Benefits: Non-confrontational; checks for understanding; allows the officer to verbally follow where the person leads; enables the officer to be a full partner in the conversation.</p>
<p>E</p>	<p>Because expressive people operate from an almost purely emotional framework, the officer must address the emotional dimensions of a crisis as the person sees them. Emotion labeling allows the officer to attach a tentative label to the feelings expressed or implied by the person’s words and actions. Such labeling shows that</p>



<p>Emotion Labeling</p>	<p>the officer is paying attention to the emotional aspects of what the person is conveying. When used effectively, emotion labeling becomes one of the most powerful skills available to officers because it helps them identify the issues and feelings that are driving the person’s behavior.</p> <p>Do not be afraid of labeling the emotions incorrectly; the person in crisis will correct you, which furthers their sense that you hear them.</p> <p>Benefits: Shows the officer is paying attention. Checks for understanding. Conveys message that the officer cares.</p>
<p>P</p> <p>Paraphrasing</p>	<p>Paraphrasing consists of the officer repeating, in their own words, the meaning of the person’s messages back to them. This shows that the officer is not only listening but also seeking to understand what the person is conveying.</p> <p>Benefits: Shows the officer is listening and seeking to understand the message the person is conveying.</p>
<p>I</p> <p>“I” Messages</p>	<p>By using “I” messages, the officer ostensibly sheds the “officer” role and acts as any other person might in response to the person’s actions. In an unprovocative way, the officer expresses how they feel when the officer does or says certain things.</p> <p>For instance, the officer might say, “We have been talking for a while now, and I feel frustrated that we haven’t been able to come to an understanding.” This technique also serves as an effective response when the person verbally attacks the officer, who can respond, “I feel frustrated when you scream at me because I am trying to help you.”</p> <p>While employing this skill—and all active listening techniques—the officer must avoid being pulled into an argument or trading personal attacks with a person. An argumentative, sarcastic, or hostile tone could reinforce the person’s already negative view of law enforcement and cause the person to rationalize increased resistance due to a lack of perceived concern on the part of the police. The use of</p>



	<p>“I” messages serves to personalize the officer. This helps to move the officer beyond the role of a police officer trying to manipulate the person into compliance.</p> <p>Benefits: Humanizes the officer; allows the officer to express concern in a non-confrontational way.</p>
<p>E</p> <p>Effective Pauses</p>	<p>By deliberately using pauses, the officer can harness the power of silence for effect at appropriate times. People tend to speak to fill spaces in a conversation. Therefore, officers should, on occasion, consciously create a space or void that will encourage the person to speak. In the process, the person may provide additional information that may help officers resolve the situation.</p> <p>Silence also is an effective response when a person engages in highly charged emotional outbursts. When they fail to elicit a verbal response, the person often calms down to verify that the officer is still listening. Eventually, even the most emotionally overwrought persons will find it difficult to sustain a one-sided argument, and they again will return to meaningful dialogue with the officer. Thus, by remaining silent at the right times, the officer can actually move the overall negotiation process forward.</p> <p>It is important when using effective pauses that the officer still demonstrates that they are engaged in the communication. Effective pauses do not mean you change your focus onto something else or ignore the person.</p> <p>Benefits: People tend to want to speak to fill the silent space. This may create an opportunity for the person to share information they might not have otherwise shared. It may tend to calm an agitated person.</p>



The Crisis Call

Receiving and Responding to the Call

A crisis call begins when the call is received from dispatch and ends when the documentation and any follow up has been completed after the scene is cleared. We will look at each phase of the call: prior to arrival, arrival, engaging the person, stabilizing, and after the call.

Prior to Arriving at the Scene

- What information is available from dispatch? Is it accurate? 9-1-1 does a great job getting information from a caller, but many times the caller will be part of the crisis experience compromising their ability to completely and accurately relay information. You may find that information that was relayed to 9-1-1 may look different once you arrive at the scene.
- Weapons? What information was 911 able to get to determine if weapons are involved or accessible? Is there information on the type, location, and number of weapons? Does this information influence your response, and if so, how?
- Who? Is there information in the system on the person who is in crisis, prior contacts? If yes, what information is available (diagnosis, medication, therapist, family member, or friend support)? What was used to resolve prior contacts (hospitalization, transport to a location, call for family or friend, involuntary hold, an arrest)?
- Monitor your own emotional/physical state. Are you tired, angry, hungry, etc.? If you are aware of an emotional/physical state that is not optimal, what can you do at the moment to increase your effectiveness to respond to this crisis call?
- Be aware of your own biases and how they could impact the interaction. Do not overestimate prior history you may have with the person. Each contact is different, and complacency can threaten officer safety. In the Resiliency 1 class, you learned about tactical thinking errors, i.e., all or nothing, overgeneralizing. Be aware of any tactical thinking errors you may have before arriving at the scene.



Arriving at the scene

- Officer safety is a priority! **Assessment is a continuous process.** Is there any new information about weapons being present or accessible?
- Fact gathering and re-evaluate information - Remember, you do not know what is going on; you only have information that was relayed to 9-1-1, which may be different from what you find. What is the story?
- What information is the person in crisis providing? What preliminary information is the person giving you? Remembering the crisis cycle – the information at your arrival will be at the upper level of the crisis cycle. The emotional response will be high, and rational thought will be lower.
- Are there other people present who can add information? What information is available from the people who may not be present but can be contacted? If it is an emergency, you may be able to get information from the caseworker, treatment provider, county mental health, or primary care doctor.
- What are the behaviors you observe in the person in crisis? Is the person crying? Angry? Shouting? Fearful? Intoxicated? In the Behavioral Health Awareness 1 class, you learned about behaviors that may be associated with a mental illness, i.e., hallucinations, flat affect, rapid and pressured speech are a few.
- Be aware; your presence can escalate the person. The presence of law enforcement can increase the amount of stress and the stress response the person in crisis may have.
- What is your legal standing? What is the governmental interest? Is this a law enforcement call, or would it be a call better suited for a mobile crisis team or another resource?
- What will your goal be for this situation? On arriving at the scene, you will begin to formulate an idea of what will be needed to resolve the situation. Remember, assessment is ongoing, so you may change your goal for resolution as the call progresses, but you will start to formulate a plan at this phase.



- Assessment will be ongoing, and you will adjust as needed until the call is cleared.

Engaging the Person in Crisis

- Leave your notebook in your pocket – person-to-person engagement. You can use your notebook later to record information.
- Develop rapport. Use their name and introduce yourself. Use your first name unless there is a department policy that does not allow it.
- Establish immediate safety for the person – “you are safe right now.” This is a trauma-informed response as the person in crisis may be a trauma survivor.
- **SLOW IT DOWN.** Control your breathing. First responder culture is one of speed and quick response. A person in crisis is following the natural curve of the crisis cycle. The cycle cannot be rushed, and time becomes the primary tool to move the person through the cycle to stabilization. If the situation is not getting worse, and it may feel like it is dragging, that is a sign it may be getting better. Work at THEIR pace.
- Establish common ground. “I am here to help you.”
- Have one person act as the primary communicator - avoid multiple people talking. If the person engages with an officer who is not primary, step back and let the officer who is making the connection lead.
- Time and Space. Space = distance. Distance = time. Giving space allows the person to feel less anxious and gives the officer more choices to respond if a tactical response is needed.
- Validate the person. The person should feel heard and seen.
- Empathy. Showing you have empathy for their situation will make a difference in their ability to build trust. Be genuine, and do not fake it or make up an experience to try to relate. If you cannot relate to their experience, it is OK to say so and still be able to have empathy for them.



- If something is not working – try something different. Having a wide range of tools gives you the flexibility you need, as every crisis is different. It will keep you from being stuck in a process, which may not be the right one for the situation.
- De-escalation is a fight for time. More time gives more opportunities to develop a plan with the person towards resolution. It allows for opportunities to contact or give resources to the person. In addition, time is a significant consideration for the courts.
- Use verbal and nonverbal communication skills when talking to the person.

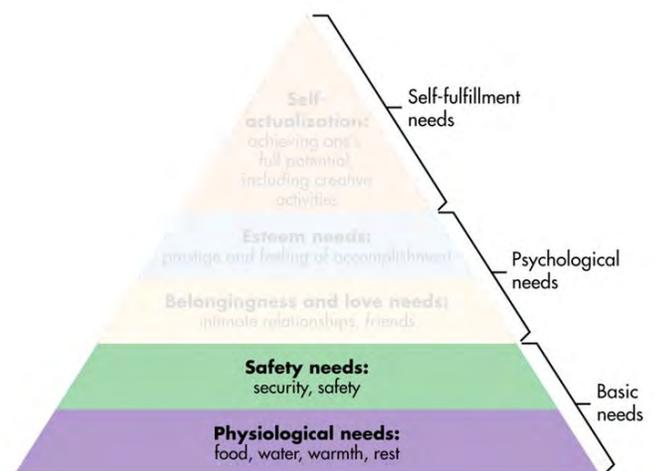
Five universal truths have been identified as important parts of human interactions. Understanding these truths can make a difference in your ability to engage with a person and to help them navigate a crisis.

Five Universal Truths of Human Interaction

- All people want to be treated with **DIGNITY** and **RESPECT**.
- All people want to be **ASKED** rather than being **TOLD** to do something.
- All people want to be told **WHY** they are being asked to do something.
- All people want to be given **OPTIONS** rather than **THREAT**.
- All people want a **SECOND CHANCE**.

Adapted from ICAT Module 4 Tactical Communications

The Five Universal Truths are part of basic human needs. These are our survival needs. The first two on the triangle are immediate needs. Being able to address these needs with the person in crisis will be vital for them to feel safe and develop rapport and trust to work with you.





In the Behavioral Health Legal Unit, you reviewed Graham V. Connor and Discretionary Peace Officer Custody.

Graham v. Connor:

- We measure the objective reasonableness of force applied by weighing the “governmental interest in the need for force” against the “nature and quality of force used” or “quantum of force.”
- “Governmental interest” is analyzed by assessing the “Graham factors”: Severity of the crime, whether the suspect/person poses an immediate threat to the officer or others (the Ninth Circuit has emphasized this is the most important factor) and whether the suspect was actively resisting arrest or attempting to evade arrest by flight.
- The “Graham factors” were not intended to be exclusive. The federal appellate courts were free to interpret Graham in such a way as to “add additional factors.”

Graham v. Connor provides a framework for your role when responding to a mental health crisis call.

Is it against the law to be mentally ill? No.

When responding to a mental health crisis, the officer is not always responding to a potential crime. In a mental health crisis, the officer will assess what the immediate threat to the officer or others is. If there is no crime and no immediate threat to the officer or others (to include the person in crisis), then an officer may determine there is no governmental interest.



Custody of Persons in Need of Emergency Care and Treatment – ORS 426.228

(1) Discretionary peace officer custody- “A peace officer may take into custody a person who the officer has probable cause to believe is dangerous to self or to any other person and is in need of immediate care, custody or treatment for mental illness.” “May” establishes that while actions are authorized, they are not required. Scovill v. City of Astoria, 324 Or 159 (1996).

The person must be taken to a designated facility approved by the OHA.

Form: “Report of Peace Officer Custody of an Allegedly Mentally Ill Person” (See example in student handout for BH Legal class). The peace officer must present this report to the treating physician.

If *more than one hour* is required to transport the person to the facility from the location where the person was taken into custody, the peace officer shall obtain, *if possible*, a certificate from a physician licensed by the Oregon Medical Board. The certificate must state that the travel will not be detrimental to the person’s physical health and that the person is dangerous to self or any other person and needs immediate care or treatment for mental illness. The physician shall have personally examined the person within 24 hours prior to signing the certificate.

If the officer decides that a person is dangerous to self or others, and in need of immediate care, they may choose to take the person into custody using a Peace Office Custody. The officer needs to be able to articulate the elements that they use to reach the 51% mark that the person was more likely than not to be a threat to self or others. This can be based on a single element or a combination of elements when reviewed in totality reaches the determination that the person is a danger to self or others.



Diffusing

Calm approach and presence- Maintain awareness of your non-verbal and verbal messages. Keep a calm, steady voice. Stand in a relaxed posture (for example, hands not on your weapon or your duty belt but in front of you in a non-threatening position).

Establishing safety- A feeling of being unsafe is part of being in a crisis. The person may feel unsafe because of their environment, the situation, or the intensity of the emotions they are experiencing. The sooner you can establish that the person is safe right now, the sooner they will be able to lower their anxiety and begin to engage with you.

Reducing stimuli- Can you turn off patrol car lights? Remove people from the scene? Reduce extra noise and visual stimuli.

Giving space- If it is possible and safe, allow the person to move around. Many people will pace when they are agitated and when they are telling their story. Always keep officer safety intact.

Clear, one-step instructions- Remember the crisis cycle. The person's ability to fully hear information may be compromised, and it may take longer for them to process information. You may need to repeat an instruction several times.

What is the immediate need for the person (basic human need)? The person may not be able to tell you, so fact-gathering and hearing their story will be important. What is the immediate need for the situation?

What has worked in the past for the person? The chances are this is not their first experience with a crisis, and they may have information on how they resolved a crisis in the past.

Grounding/breathing- Are you able to do some 4x4 tactical breathing with the person? Asking the person to take some deep breaths with you is a quick way to help them slow down and to lower their anxiety. Remember, the five senses grounding is a way you can get them to focus on something that they can see, touch, hear, smell, or taste. Using just three of the senses can be very effective. Some officers have found that having bottled water in their cars, they can offer the person or a protein bar



helps. What other grounding techniques have you used that you can share with the person? The more the person can focus on the here and now, the better able they will be to engage with you.

TIME- The crisis cycle shows the progression we go through when in a crisis. We can only be at the top of the crisis cycle for a limited time before we enter into the de-escalation phase. Time is the key to helping someone to get through the crisis cycle so you can work with them.

Suicide- In Behavioral Health Awareness Units 1 and 2, you reviewed suicide. The suggested approach with someone who is expressing suicidal thoughts is to ask them the question directly:

- Ask the question, “Are you thinking of killing yourself?” or “Do you want to die by suicide?”
- If yes:
 - Do they have means (weapons, pills, etc.)?
 - Do they have a plan?
 - Have they made prior attempts?
 - What protective factors do they have? Family, friend(s), animals, work.
 - Is there someone you can contact and have them respond to the scene for the person?

Stabilizing the Call

Resources- What resources can be accessed immediately for the person in crisis?

- Does the person have family that could be helpful to them? Sometimes family can be an escalating factor, so this may not be an option in every situation.
- Does the person have friends, neighbors, work peers, a faith community that they can get support from? Is it possible to make contact with any of them to help get the person connected to them right away?
- Does the person have a mental health provider? Is it possible for the person to get in contact with the mental health provider and either arrange to see them immediately or get an appointment made?
- Is a Mobile Crisis Team available to make contact with the person at the scene or follow up with them? Officer notifies the Mobile Crisis Team to respond and stabilizes the scene until Mobile Crisis responds.



- Is the person willing to voluntarily go to the hospital if that level of care is needed? Is an involuntary custody indicated?

Referral/Resource Information

- Disengagement with a plan- there is no crime and no governmental interest. Officer will provide available resources at the time of call termination. There is a list of resources attached at the end of this unit, and you will get local resources from your agency to add. It is suggested that you always leave the suicide prevention line number 1-800-273-8255.
- An officer may contact a support person identified by the person in crisis (family member, friend, therapist, case manager) and notify them the person is requesting their assistance.
- Is it helpful for you to offer to check back with them later by phone? If you do make that offer, it is important to make sure that you follow up with the contact.
- A mental health crisis call can be resolved in several ways. These calls can be difficult with many factors, and it is the officer's assessment of the situation that gives them the discretion to determine the best resolution.



After Call

Documenting

It is important that the officer clearly articulates all information regarding the call in their report. In the Report Writing Unit, you received information on using Factual Observations, which are very important in a call involving a mental health crisis. You were provided general information around mental illness diagnosis' however; it is never the intent that you be asked or expected to diagnose a mental illness. The officer should clearly document their observations (disheveled appearance, dirty, odorous, crying, pacing, shouting, etc.). Frequently persons with mental illness can have numerous contacts with law enforcement. The clear documentation of the observable signs and symptoms of the mental illness, the context of the crisis, and the resolution of the call can help future contacts. A Mental Status Observations checklist is attached for your review.

Additionally, articulate the skills you used for de-escalation. This could include active listening, identifying immediate needs, establishing safety, giving time, focus on breathing, using grounding techniques. Many agencies provide the opportunity to refer your report to any agencies or mental health providers that you would like to inform of the contact.

Self-Care

Be aware of your physical, mental, and emotional status after a crisis call. In Resiliency, you learned about the impact that exposure to highly stressful situations can have on your well-being. Do a quick scan of yourself. You can do some breathing or grounding immediately after a call, which will have a direct impact on reducing your sympathetic nervous system response.

Not every contact will have a successful, positive de-escalation outcome. After the call, focus on what you can learn from the experience. Remember the information that you received on tactical thinking errors. Avoid second-guessing and suspend negative judgment. Debrief with co-workers or your supervisor. Be aware of any stress reactions you are having and address them quickly; do not put them aside.



Summary

When responding to a crisis, be information-driven. Be aware of your biases and potential tactical thinking errors. The more information you have about the crisis and the person's story, the more informed your approach will be. Information gathering starts on the way to the call and seeks out any sources of information that may be available. Active listening is critical. Your assessment of the situation will be ongoing until you clear the call. Be resource-oriented and know the resources in your area. Have the information accessible to you so you can provide it to the person in crisis. If possible, a warm handoff is most effective and safe.



Conclusion

This was an introduction to crisis de-escalation. We explored techniques and strategies that can be applied to engage with persons in crisis effectively. After the academy, you will have opportunities for additional training in mental health. These may include:

- **Mental Health First Aid for Public Safety-** An eight-hour course that provides basic information on mental illness and how to provide help and support. Participants receive a Mental Health First Aid responder card valid for two years and which can be renewed with a new class. This is part of the One Mind campaign that all officers receive this training. More information is available on the Mental Health First Aid website www.mentalhealthfirstaid.org
- **CIT-** The Crisis Intervention Team Program was developed in Memphis in 1988 and is now a part of mental health training nationally and internationally. Crisis Intervention Team (CIT) is a community partnership with law enforcement, behavioral health professionals (mental health and addiction), and mental health consumers. As part of the CIT Program, a 40-hour CIT training is provided, which is based on core elements identified as the Memphis Model. The primary goals of CIT training are:
 1. Improve Officer and Consumer Safety
 2. To help persons with mental disorders and/or addictions access to medical treatment rather than place them in the criminal justice system due to illness-related behaviors.

During your career, you should have an opportunity to attend CIT training, which will build on the foundational mental health training you received at the academy.

More information is available on the CIT International website www.citinternational.org

- **CCIS (Advanced CIT)-** A three-day class that teaches an advanced verbal de-escalation protocol. Participants received a lifetime certification through the National Anger Management Association. Requires successfully completing a 40-hour CIT and three years working in the profession.



Report of Peace Officer Custody of an Allegedly Mentally Ill Person

TO THE TREATING PHYSICIAN OF AN APPROVED HOSPITAL OR NONHOSPITAL FACILITY:

Re: _____
 a person alleged to be mentally ill

I, _____, a peace officer of _____, Oregon,
 agency
 Badge No. _____ took the above-named person, DOB: _____, whose address is:

_____ into custody at _____ m., on the _____ day of _____, 20____ in _____
 _____ County, Oregon for the following specific reasons: _____

_____ pursuant to ORS 426.228(1) because the above factors establish probable cause to believe the above named person is a mentally ill person who is dangerous to self or other and in need of immediate care, custody or treatment for mental illness.

X _____
 Peace officer's signature

The community mental health program director of the above-named county can reached by telephone at
 (____) _____-

If more than one hour is required to transport the person to an approved hospital a physician must complete the following section prior to transport:

Physician's Certificate

I certify that I have personally examined the above-named person and believe the person is dangerous to self or other and in need of immediate care, custody or treatment for mental illness and that travel to _____, a hospital or other approved non-hospital facility will not be detrimental to the person's physical health.

Signed at _____ m., on the _____ day of _____, 20____.

X _____ M.D.
 Signature

Deliver This Report to Treating Physician at Receiving Facility. Do Not File This Report With the Court.

Original: Treating physician
 Copy: Peace Officer



Sources and Resources

- National Alliance on Mental Illness
 - www.nami.org
 - www.namioregon.org (Oregon specific)
- Substance Abuse and Mental Health Services Administration
 - www.samhsa.gov
- National Institute of Mental Health
 - <https://www.nimh.nih.gov/index.shtml>
- 211 (Resource information by zip code)
 - 211info.org
 - 211 App
- Alzheimer's Association (Oregon)
 - www.alz.org/oregon
- Autism Society of Oregon
 - Autismsocietyoregon.org
- Crisis Intervention Teams International
 - Citinternational.org
- Lines for Life
 - www.linesforlife.org
- National Suicide Lifeline
 - 800-273-8255
 - Military press "1"
- Military Helpline
 - 888-457-4838
- Youth Line
 - 877-968-8491
- Alcohol & Drug Helpline
 - 800-923-4357



Mental Status Observations

Appearance

- Good/poor hygiene
- Weather appropriate clothing
- Disheveled

Level of attention

- Sleepy
- Distractible
- Alert
- Hyper-vigilant

Orientation

- Person
- Place
- Time/Date
- Situation/Circumstances

Memory

- Immediate
- Short-term
- Long-term

Speech

- Volume ↑ or ↓
- Rate ↑ or ↓
- Non-stop
- Minimal
- Impaired (e.g., stutter, slurred)

Mood

- Normal
- Anxious
- Agitated
- Apathetic
- Depressed
- Irritable
- Angry
- Euphoric – mania

Affect (facial expression you see)

- Average range of expression
- Flat

Thought Process

- Coherent/incoherent
- Linear/logically connected
- Tangential (goes on tangents)
- Concrete

Thought Content

- Delusional
 - Paranoid
 - Persecutory
 - Grandiose
 - Somatic

Behavioral Health Part 6: Veterans

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
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Behavioral Health 6 - Veterans Awareness

Instructional Goal:

This course is designed to develop a new officer's ability to recognize actions and behaviors, which could indicate that an individual is a Veteran and may be experiencing a mental health crisis and effectively de-escalate the individual from the crisis state.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Describe behaviors commonly associated with Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI)
2. Describe Readjustment Challenges a Veteran may experience when leaving the military.
3. Articulate strategies to consider when interacting with Veterans.
4. Describe veteran-specific community resources.

Content Outline:

- General Information on Military
- Deployment
- Post-Traumatic Stress Disorder and Traumatic Brain Injury
- Strategies



General Information

Active Duty	Guard/Reserve
Full-time military obligation	Weekend military obligation + 2 weeks in summer
Military housing	Civilian housing
Military benefits	Partial military benefits
Access to military bases	Limited access to military bases
Military support	Limited military support; almost no civilian support

All six military branches have active, as well as reserve components. Additionally, the Air Force and the Army also have National Guard components. Oregon's National Guard is one of the most deployed in the nation, deploying to many different areas. The United States has a presence in 120 countries around the world. The largest deployment since WWII was in 2010, when 2700 people returned from Iraq.

Who are some of these people?

Today the military has become a more diverse and complex population than ever in its history. Ethnic minorities make up significant portions of the Armed Forces, ranging from 24% in the Air Force to 40% in the Army (Source: Defense Department's Defense Link). Since the American Revolution, about 2,000,000 women have served in the military. Today, about 16% of the active US Armed Forces are women.

Women	Contractors
Women have a more substantial presence in the military than ever before. In Vietnam, there were approximately 11,000 women who served in-country. There have been over 300,000 women who have served in Iraq and Afghanistan. Women now serve in all areas of the military, even combat duties.	Contractors are used more than ever before. Contractors are also at risk for injuries, PTSD, and TBI. Resources available to contractors are not the same as Veterans. Also, there is a tension between military and contractors and contractors may be less likely to seek help.



Challenges Returning from Deployment

Military personnel have often faced challenges upon returning from combat zones. Today's military members serve in an unprecedented era of repeated combat exposure. The Global War on Terrorism is the most extended period we have been at war. Longer than WWI and WWII together, it has earned the name of "The Long War."

Afghanistan, Operation Enduring Freedom (OEF) started in 2001.

Iraq, Operation Iraqi Freedom (OIF) started in 2003.

Challenges faced by combat veterans include (but are not limited to):

- Increased rates of Post-Traumatic Stress Disorders (PTSD)
- Traumatic Brain Injuries (TBIs)
- Increased suicide rates
- Increased substance abuse
- Family and community reintegration
- Employment issues
- Long-term health effects
- Barriers to seeking mental health care assistance.

The majority of returning service members integrate into their communities **WITHOUT** problems and become active, positive members of their community. Veterans are no more likely to be arrested than the general population, according to the Bureau of Justice Statistics. Still, many end up facing criminal charges because of wartime psychological trauma that has led to mental illness and substance abuse. It is estimated that there is about a six-month honeymoon period between returning home and entering into the criminal justice system. The primary reasons Veterans are arrested is substance abuse and PTSD.



Post-Traumatic Stress Disorder and Traumatic Brain Injury

DSM-5 Trauma Definition

Exposure to actual or threatened death, serious injury, or sexual violence in one (or more) of the following ways: directly experiencing the traumatic event(s); witnessing, in person, the traumatic event(s) as it occurred to others; learning that the traumatic event(s) occurred to a close family member or close friend (in case of actual or threatened death of a family member or friend, the event(s) must have been violent or accidental); or experiencing repeated or extreme exposure to aversive details of the traumatic event(s)

In 1980 the DSM-3 added Post Traumatic Stress Disorder as a diagnosis for the first time. Before 1980, PTSD had various names that included "battle fatigue", "shell shock", "combat exhaustion", "Vietnam combat reaction". The diagnosis has been updated in the current DSM-5 and is in the category of Trauma and Stress-Related Disorders. The diagnosis criterion requires exposure to a traumatic or stressful event. Any trauma survivor can experience PTSD, not just military personnel.

Signs and Symptoms of PTSD

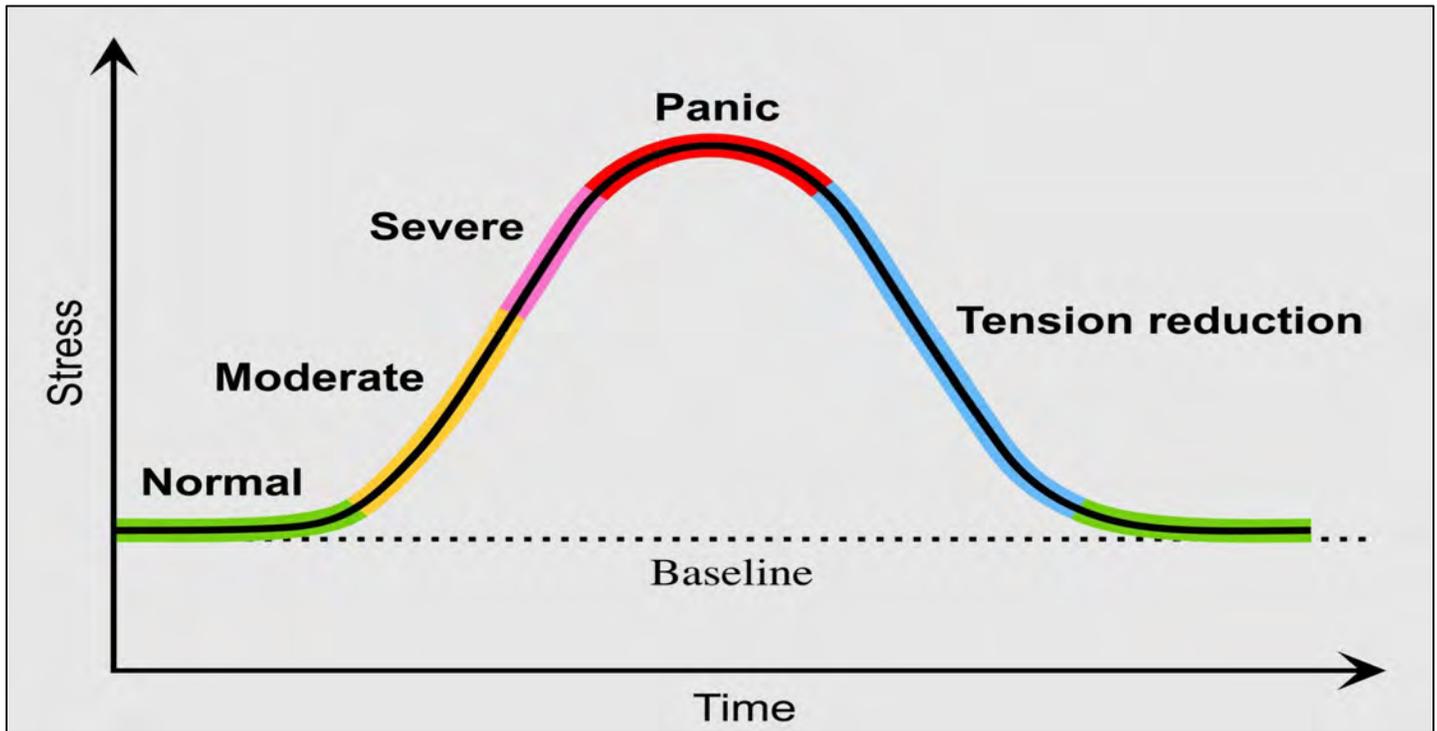
Re-experiencing	Flashbacks, intrusive thoughts, nightmares
Avoidance	Isolation; Staying away from places, events, or people; Numbing feelings;
Arousal and reactivity	Hypervigilance, Hyperarousal, Agitation, Anger, Insomnia,
Cognition and mood	Trouble remembering key details of trauma; Negative thoughts about self or the world; Feelings of guilt or blame; Loss of interest in enjoyable activities

A diagnosis of PTSD includes criteria from each category, which is experienced for more than six months and affect's a person's ability to function.



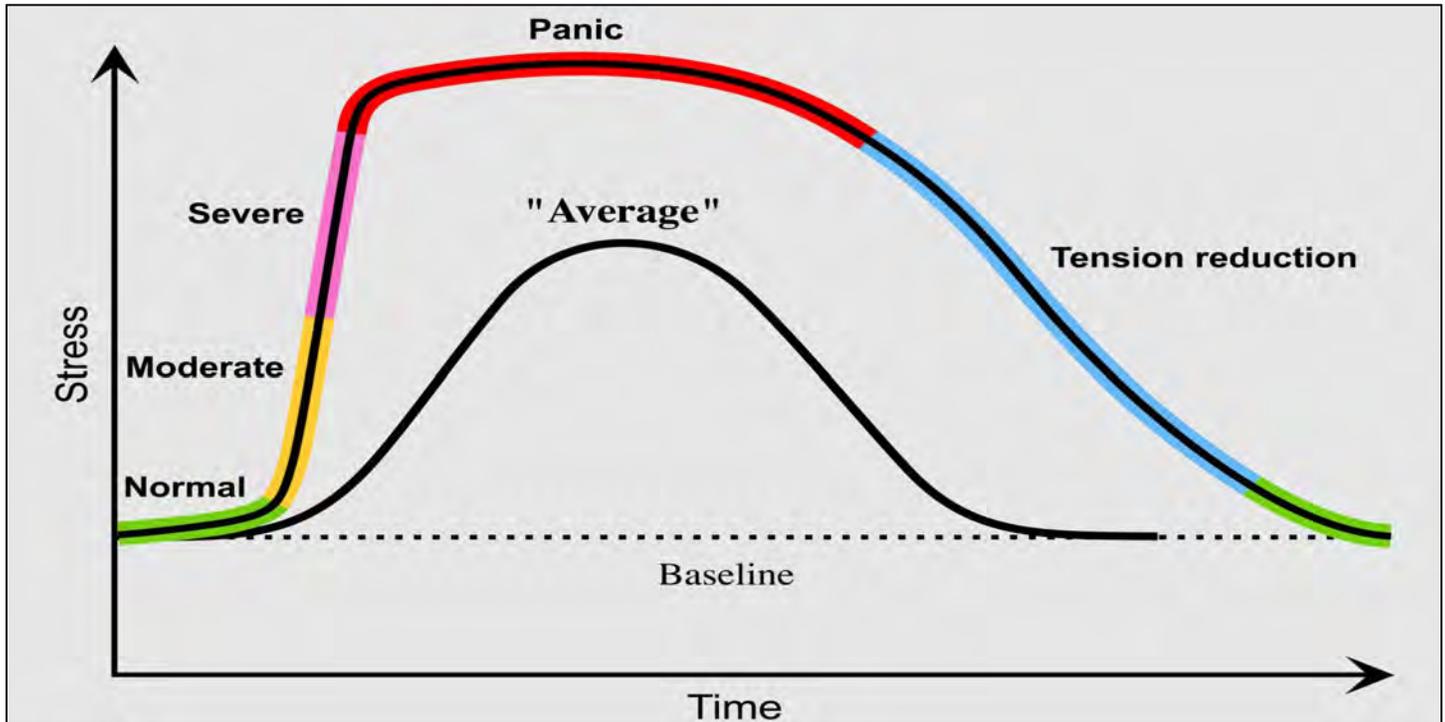
When we are exposed to stress, we have a patterned response. We have a normal baseline, and when exposed to a stressful event, our stress level will increase. Our stress response will peak at "Panic." The "Panic" phase is where we are in a fight or flight response. Your body is reacting to a danger signal. A person's heart may beat faster, blood and oxygen are increased to arms and legs, alertness is increased, and senses become sharper (sight, hearing, smell). The "Panic" state can only biologically last a limited amount of time before entering the "Tension Reduction" phase. During the "Tension Reduction" stage, the body slowly returns to a normal baseline. It is not uncommon for a person to experience exhaustion as they return to their baseline.

Stress Cycle - Normal





Stress Cycle - PTSD



When a person has PTSD, the Stress Cycle is amplified. The symptoms are heightened. A person will reach the "Panic" phase much quicker, stay in the "Panic" phase longer, and the "Tension Reduction" phase is slower. Allowing extra **time** becomes essential when a person with PTSD is in the stress cycle.

Traumatic Brain Injury

Definition: An alteration in brain function, or other evidence of brain pathology, caused by an external force. (Brain Injury Association of America)

Traumatic Brain Injury (TBI) has been called the "signature wound" of the current war. TBI in the military can be caused by blast exposure, head injury from physical forces non-blast related, training exercises, etc. Some symptoms of TBI can include: headaches, difficulty concentrating, confusion, light sensitivity. One symptom of TBI for first responders to be aware of is hearing loss. Sixty percent of persons with blast exposure have **significant** hearing loss.



Strategies to use when working with Veterans

Be aware of clues that may be present in their physical appearance, environmental surroundings, and behaviors:	<ul style="list-style-type: none">• Vehicles/License plates• Stickers• Clothing• Tattoos• Verbiage• Actions in vehicle operations: excessive speed, no turn signals, rapid, sudden lane changes, claustrophobic in traffic
Remain flexible:	<ul style="list-style-type: none">• Can the person be allowed to stand or sit as needed?• Allow time
Withhold judgment:	<ul style="list-style-type: none">• Do not judge based on weight or appearance• Recognize that women are Veterans
Be empathetic-aim to understand their feelings and perspectives:	<ul style="list-style-type: none">• Demonstrate you are listening by paraphrasing, summarizing or otherwise conveying understanding• Do not say, "I understand."
Take extra safety precautions	<ul style="list-style-type: none">• Veterans may be armed. Ask them if they have weapons and the weapon location.
Reduce sensory inputs	<ul style="list-style-type: none">• Reduce stimuli to decrease hypervigilance
Grounding	<ul style="list-style-type: none">• Bring them to the present (here and now)
Gift of Time	<ul style="list-style-type: none">• Allow time for the person to be able to enter the "Tension Reduction" phase of the stress cycle
Inform of Steps	<ul style="list-style-type: none">• Provide information on what the next step/action will be for the person. This will help reduce hypervigilance and hyperarousal.
Body Language	<ul style="list-style-type: none">• Awareness of your body language to be non-threatening



Additional Strategies for TBI:

Listen to the Veteran's account of the problem/situation. Interrupting may cause frustration to the Veteran and they may have to start their information from the beginning.

Simple, one step instruction. Information needs to be clear and concrete.

If a situation is high risk follow policy and procedures.

Always Officer Safety and Community Safety first.

If a situation is low risk utilize de-escalation skills.

Application to Policing:

- Physical – Veterans may have physical injuries (i.e., shoulder, back, knee, prosthetics, hearing loss), and you may need to adjust the procedure for arrest if possible (i.e., can you handcuff in front?)
- Camaraderie – Are you a Veteran or have a connection to a Veteran that you can share if appropriate? "What branch did you serve in?" May help make a connection. Know who the Veteran officers are in your agency as they may be a resource when working with Veterans.
- Respect: Show respect as much as possible, even if the person has to be arrested. If appropriate, "thank you for your service."
- They are not broken: Veterans with PTSD, Anxiety, Depression, etc. are not broken. They have an injury and can receive help.
- Know some available resources: Are there resources available to them that could be an alternative to arrest?
 - VA
 - Oregon National Guard
 - Vet Centers



Grounding Exercise

There are many forms of grounding. Some examples include breathing exercises, naming items of a certain type or beginning with a certain letter, reciting information that contains both words and numbers. One of the most effective and rapid grounding methods is Five Senses grounding:

Sight: describe something in the room that is not a person. Describe it as though you are on the phone and the person on the other side is drawing the item. The person that is hearing the description can ask questions.

Touch: Have the person describe something they are touching. If they are not touching anything, have them describe the feel of their feet on the floor (i.e., even pressure along bottom of foot, feel socks, scratchy fabric, shoes tight with pressure on big toe)

Hear: Have the person describe what they hear.

Smell: Have the person describe what they smell.

Taste: Have the person describe what they taste.

When you are doing this exercise, you are connected to the present. You cannot be in the part of the brain that is activated in crisis (limbic system) when you are grounded in the present. This exercise can be done with only three senses, can be repeated as many times as needed. Be creative with it.



Resources for Veterans

VA Crisis Line 24/7
1-800-273-8255 (TALK)

Oregon Department of Veterans Affairs
800-692-9666

Oregon National Guard Family Programs
(503) 584-2391

Bombs and Explosives

BASIC POLICE ACADEMY



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Introduction to Bombs and Explosives

Instructional Goal:

This course is designed to develop a new officer's understanding of safe and effective tactics when responding to incidents involving or potentially involving bombs or explosive devices.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Articulate characteristics of a suspicious device or package.
2. Explain the role of an officer in responding to a bomb threat.
3. Identify procedures to take when a suspicious item is located.

Content Outline:

- Safety Rules
- Law Enforcement Response
- Effects of an Explosion
- Types of Explosions
- Types of Explosives
- Improvised Explosives
- Bomb Threats



Bombs and Explosives in the United States

Explosive-

A chemical substance or mixture capable of producing an explosion.

Bomb-

A device containing an explosive, incendiary, or chemical material designed to explode.

According to the United States Bomb Data Center Explosives Incidents Report, in 2018, there were 17,968 explosives related incidents in the United States. Of these incidents, 289 were bombings. There were 7,305 recoveries reported in 2018, with the majority being non-improvised explosive devices (IEDs). Reports of suspicious/unattended packages increased, with 7,408 incidents reported in 2018. Education, office/business, residential, and assembly remain the top four targets of bomb threats during 2018. The number of reported incidents targeting offices/businesses has doubled since 2017.

What do police need to know about the threat of bombs and explosive devices? Most police agencies will have policies and procedures specific to responding to bombs and explosives. These policies often outline the responsibilities of patrol, including provide an initial response to the scene, provide a first assessment of the bomb threat, make a decision regarding evacuation, and provide a safe approach and work area for the Explosives Disposal Unit (EDU).

Policy and good practice are first and foremost about safety. The remainder of this course will provide information about bombs and explosives to help you make decisions in the field that offer you and the community safety.



Three Rules of Safety

1

If a suspected device is encountered it should not be handled and the area should be secured.

2

Always assume that there is more than one device present, whether it is a bombing, a threat, or a device that has been located.

3

Never pick up or disassemble a pipe bomb or any other IED, even if someone else has.

General Response for Law Enforcement

Familiarize yourself with your agency policy on responding to bomb threats or explosions. Following are some guidelines from the U.S. Department of Justice:

- **Preliminary Evaluation of the Scene**- First responders must assess the scene quickly yet thoroughly to determine the course of action to be taken. This assessment should include the scope of the incident, emergency services required, safety concerns, and evidentiary considerations.
- **Exercise Scene Safety**- Safety overrides all other concerns. First responders must take steps to identify and remove or mitigate safety hazards that may further threaten victims, bystanders, and public safety personnel. They must exercise due caution while performing emergency operations to avoid injuries to themselves and others.
- **Administer Lifesaving Efforts**- First responders' primary responsibility is to rescue living victims and provide treatment for life-threatening injuries. While performing emergency operations, they are to preserve evidence and avoid disturbing areas not directly involved in the rescue activities, including those areas containing fatalities.
- **Establish Security and Control**- First responders will establish control and restrict scene access to essential personnel, thereby aiding rescue efforts and scene preservation. First responders will initiate documentation.



Effects of an Explosion

Blast Pressure	Fragmentation	Collapse of Building	Tertiary	Incendiary or Thermal
<p>The air blast shock wave is the primary damage mechanism in an explosion.</p> <p>The sudden increase in pressure that occurs as a blast wave passes includes two phases:</p> <p>Positive Phase- Rise from atmospheric pressure to a peak overpressure.</p> <p>Negative Phase- As the shock front expands pressure decays back to ambient pressure, a negative pressure phase occurs that is usually longer in duration than the positive phase</p> <p>It can cause injury to pressure-sensitive human organs, such as the ears and lungs.</p>	<p>The impact of fragments and debris from sources not originating from the explosion source are secondary effects.</p> <p>Airborne glass fragments typically cause penetration or laceration-type injuries. Larger fragments may cause non-penetrating, or blunt trauma, injuries.</p> <p><i>*Most common cause of death</i></p>	<p>Humans inside collapsing buildings are subjected to the impact of heavy structural parts. Pictures taken after earthquakes or bomb attacks reveal that vertical members usually fail, leaving a stack of floors on top of another.</p>	<p>Air particles in a blast wave have a certain velocity which, in general, flow in the same direction as the propagation of the blast wave.</p> <p>This explosion wind can sweep people away, carry them for some distance, and throw them against obstacles.</p>	<p>The blast may also produce high heat and a fireball that could start secondary fires or explosions.</p>

Source: FEMA



There are three basic types of explosions:

Mechanical	Chemical	Nuclear
<p>Over pressurization of a container causes it to fail.</p> <p><i>Examples: pressure cooker, dry ice bomb, etc.</i></p>	<p>Chemical reaction resulting in a substantially instantaneous release of heat and gas (high explosives).</p>	<p>Energy released at the atomic level.</p>

Explosives are classified according to the speed at which they react.

Low Explosives	High Explosives
<p>Pyrotechnics- Create smoke, light, and heat.</p> <p><i>Examples:</i> <i>Black powder, smokeless powder, flash powder</i></p> <p>Propellants- Designed to produce the controlled release of gases to propel objects.</p>	<p>Designed to produce an almost immediate release of super-heated gases, which rapidly expand into a greater volume.</p> <p><i>Examples:</i> <i>Dynamite, Trinitrotoluene (TNT) and C-4</i></p>

The first commercially successful high explosive product was dynamite. Alfred Nobel found that nitroglycerin could be made safer to handle by mixing it with an absorbent substance, thus creating dynamite. Most dynamite contains some amount of nitroglycerine with oxidizers and binder material in a cylindrical form with a buff or white-colored wax paper wrapper. Common sizes in Oregon range from 1 ¼” x 8” to 2” x 16”. Over time, the dynamite will “sweat” or crystallize its nitroglycerine, which can then pool in the bottom of the box. You can also encounter dynamite that has formed sensitive salts.

Do not move or handle.

FYI



Detonating explosives are usually subdivided into two categories, primary and secondary:

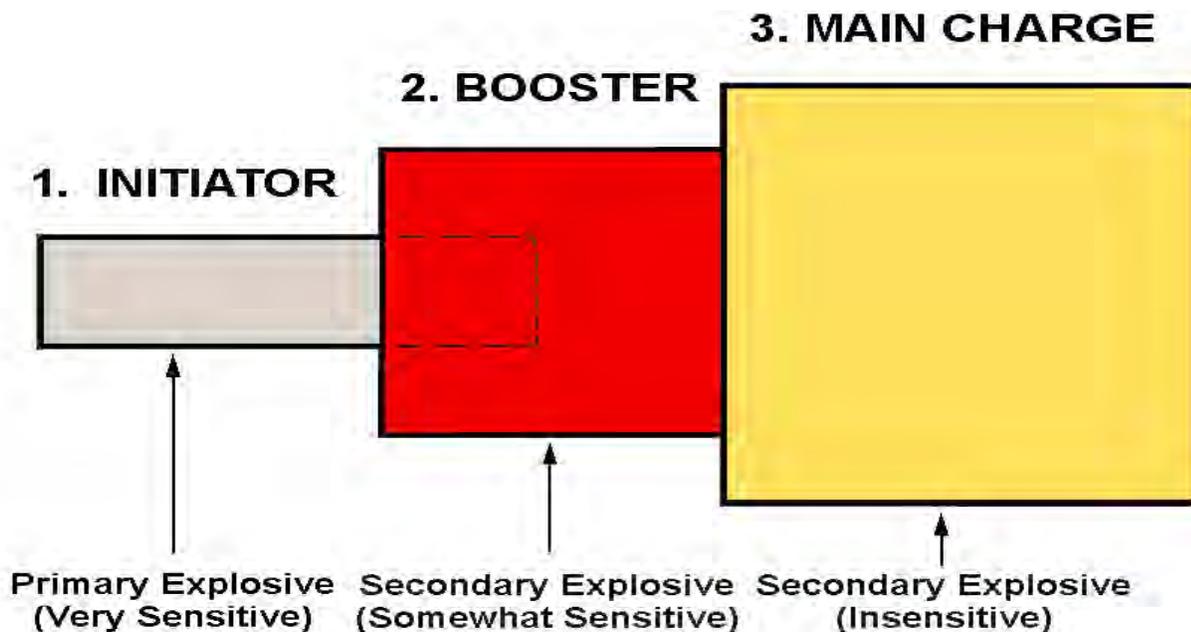
Primary explosives detonate by ignition from some source such as flame, spark, impact, or other means that will produce heat of sufficient magnitude.

Secondary explosives require a detonator and, in some cases, an additional booster.

A few explosives can be both primary and secondary, depending on the conditions of use.

A low explosive material, such as gunpowder, smokeless powder, or fireworks, burns much slower. Low explosives are often used as a propellant. A low explosive must be confined to explode. Note: for low explosives, this is referred to as a deflagration, not detonation, since the reaction occurs at a rate below the speed of sound.

Explosive Train





Improvised Explosives

An improvised explosive device (IED) needs:

An Explosive
(main charge)

Initiator
(initiates the
main charge)

Fuzing System
(switch)

Power Source

Types of IED's

- Victim Activated
- Timed
- Command/ Remote Controlled
- Suicide Bomber

Pipe Bombs

- Most common IED
- Generally constructed of PVC or metal pipe
- Often fused with cannon or hobby fuse
- Most common fillers are Black powder or Smokeless powder



Crickets- CO2 cartridges filled with powder.





Chemical Devices- Improvised Incendiary Device

- Molotov Cocktail
- Hypergolic Molotov Cocktail
- Bottle Bombs

Fireworks

- More deaths each year than other explosives;
- Illegal fireworks are manufactured without standardization;
- “M” devices are illegal explosive devices;
- If you suspect fireworks are being produced, **DO NOT ENTER & CALL THE BOMB SQUAD!!!**
- The energetic material inside fireworks is unstable, and **EXCEPTIONALLY DANGEROUS!**





Bomb Threats

Bomb Threat-

A situation where an explosive device has been reported or is suspected to be at a given location.

Explosive Device Located-

When a suspected or actual explosive device has been located or has been detonated.

Source: International Association of Chiefs of Police

Statistically, in the U.S., there is a minimal chance of an actual improvised explosive device being found after a bomb threat is received. If someone wants to injure people, no warnings will be given, but bomb threats are effective in disrupting normal activities. Other than unique IRA situations, bomb threats are historically not given if there is a real device.

Reasons for a Bomb Threat:

- To prevent death or injury
- To disrupt normal activities
- Extortion

Despite this, bomb threats:

- Can never be disregarded
- Must be evaluated
- Must take appropriate action
- Must be taken seriously

Threats come in a variety of forms, including:

- Phone
- VOIP
- Fax
- E-Mail
- Voicemail
- Written Notes
- Social Media
- Graffiti



Evaluating the Threat

Carefully evaluate all threats. One must consider the facts and the context, and then conclude whether there is a possible threat.

There are two types of threats:

Non-Specific	Specific
<p data-bbox="349 611 555 646">Most common</p> <p data-bbox="248 716 656 751">Includes limited or no detail.</p>	<p data-bbox="1062 611 1268 646">Least common</p> <p data-bbox="846 716 1490 856">Includes greater detail: a reason for the bombing, warning to evacuate to avoid injury, type of bomb, the time set to go off, where the bomb is located</p>



The FBI and DHS Office for Bombing Prevention offers the following threat assessment:

Low Risk	Medium Risk	High Risk
<p>Lacks realism: A threat that poses minimal risk to the victim and public safety. The probable motive is to cause disruption.</p>	<p>Increased level of realism: Threat that could be carried out, although it may not appear entirely realistic.</p>	<p>Specific and realistic: Threat appears to pose an immediate and severe danger to the safety of others.</p>
<p>The threat is vague and indirect.</p> <p>Information contained within the threat is inconsistent, implausible, or lacks detail.</p> <p>The threat was discovered instead of delivered (e.g., a threat written on a wall).</p>	<p>The threat is direct and feasible.</p> <p>The wording in the threat suggests the perpetrator has given some thought on how the act will be carried out.</p> <p>May include indications of a possible place and time.</p> <p>No strong indication the perpetrator has taken preparatory steps, although there may be some indirect reference pointing to that possibility.</p> <p>Indication, the perpetrator, has details regarding the availability of components needed to construct a bomb.</p> <p>Increased specificity to the threat (e.g. "I'm serious!" or "I mean this!")</p>	<p>The threat is direct, specific, and realistic; it may include names of possible victims, specific time, and location of the device.</p> <p>Perpetrator provides his/her identity.</p> <p>Threat suggests concrete steps have been taken toward carrying out the threat.</p> <p>Perpetrator indicates they have practiced with a weapon or have had the intended victim(s) under surveillance.</p>



The options available include:

- Take no action
- Search without evacuation
- Initiate a partial evacuation and search
- Initiate a complete evacuation and search

Searching

Source: The following information on searching is from the Office of Homeland Security

If the decision is made to conduct a search, it is advisable to use more than one individual to search any area or room, no matter how small. Searches can be performed by supervisory personnel, area occupants, or trained search teams. There are advantages and disadvantages to each method. Using supervisors to search causes fewer disturbances. However, using only supervisors to search may not be as thorough because of their unfamiliarity with many areas. Using area occupants to search their areas is the best method for a rapid search. The occupants are familiar with what does or does not belong. The drawback is that this method is disruptive, requires the training of an entire workforce, and, ideally, several practical training exercises. A search conducted by a trained team is the best for safety, morale, and thoroughness.

Search Techniques

Any room to be searched should be divided into two virtually equal parts. This equal division should be based on the number and type of objects in the room and not on the actual size of the room. The room should be searched in systematic 'sweeps.' The first sweep should cover all items resting on the floor up to the selected height (for example – waist height). The second, third, and fourth sweep should work progressively higher until the entire room has been searched, including any drop ceilings and overhead fixtures. It is imperative that personnel involved in a search be instructed that their only mission is to search for and report suspicious objects. Under no circumstances should anyone move, jar, or touch a suspicious object or anything attached to it.

Divide a Room by Height:
Initial- Floor to Hip
Secondary- Hip to Chin
Tertiary- Chin to Ceiling
Final- False Ceilings



In general:

- Search assigned areas
- Overlap for better coverage
- Start from the bottom and work up
- Start back to back and work toward each other
- Go around the walls and then to the center
- If a suspicious object is found, don't touch it!

Unattended versus Suspicious Packages

A package is suspicious if it is **HOT**:

- The package is **H**idden
- The package is **O**btainably suspicious (pipe parts, compressed gas cylinder with something attached, items with dead animals around it, radioactive, biological, wires, leaking, making noise.
- The package is not in a **T**ypical area.

If the package meets criteria or there is any doubt, notify the bomb team.

R
Recognize

A
Avoid

I
Isolate

N
Notify



Procedures

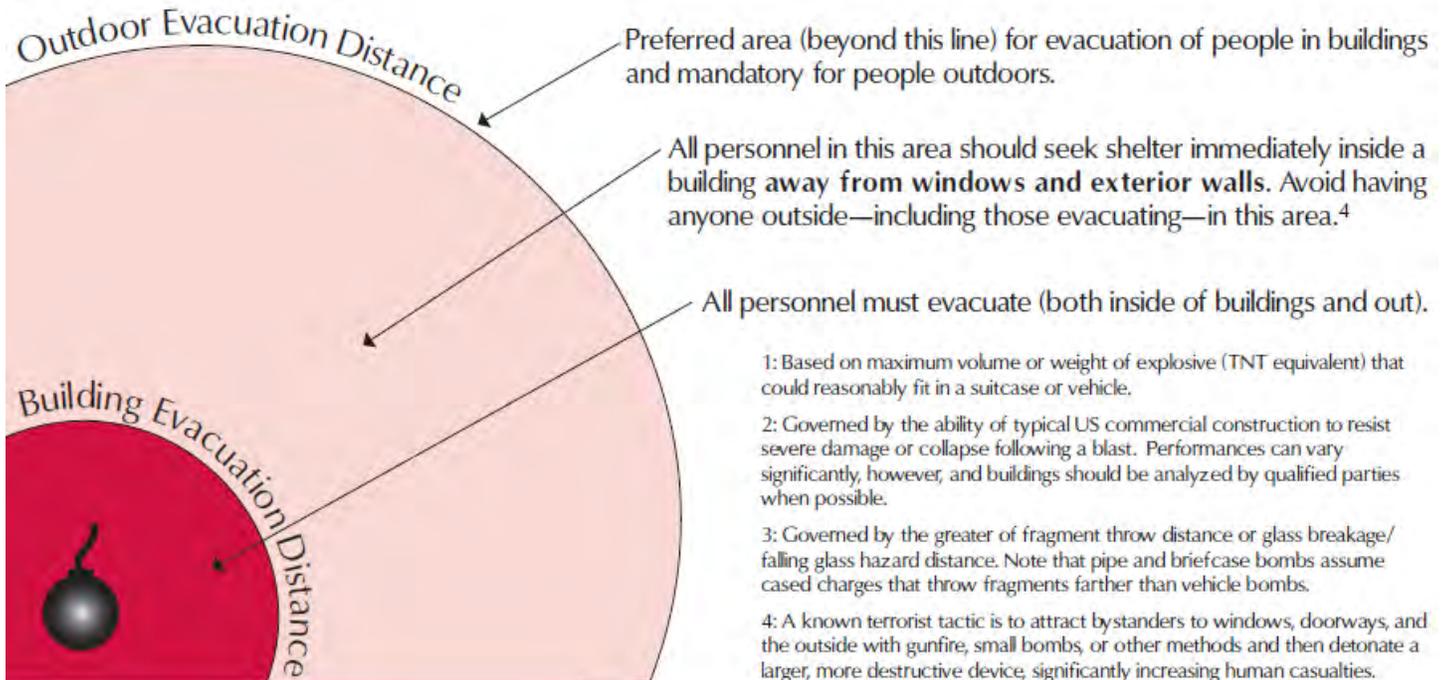
- Do not touch the item.
- Get a good description of the item and its location.
- Mark the item without touching it.
- Do not place anything on top of the item.
- Always be alert for secondary devices.
- Place protective material near sensitive equipment
- Open doors and windows to vent blast
- Don't introduce unnecessary RF into the area.
- Do not transmit the radio near it.
- Start evacuation if not already done and have everyone take their items (i.e., purse, backpack, etc.)
- People should be moved to a safe area, and that area searched for secondary devices.
 - A minimum distance of 300 feet for a safe area
- Allow no re-entry into the building until it has been deemed safe to return



Bomb Threat Stand-Off Distances

Threat Description	Explosives Capacity ¹ (TNT Equivalent)	Building Evacuation Distance ²	Outdoor Evacuation Distance ³
 Pipe Bomb	5 LBS/ 2.3 KG	70 FT/ 21 M	850 FT/ 259 M
 Briefcase/ Suitcase Bomb	50 LBS/ 23 KG	150 FT/ 46 M	1,850 FT/ 564 M
 Compact Sedan	500 LBS/ 227 KG	320 FT/ 98 M	1,500 FT/ 457 M
 Sedan	1,000 LBS/ 454 KG	400 FT/ 122 M	1,750 FT/ 533 M
 Passenger/ Cargo Van	4,000 LBS/ 1,814 KG	600 FT/ 183 M	2,750 FT/ 838 M
 Small Moving Van/ Delivery Truck	10,000 LBS/ 4,536 KG	860 FT/ 262 M	3,750 FT/ 1,143 M
 Moving Van/ Water Truck	30,000 LBS/ 13,608 KG	1,240 FT/ 378 M	6,500 FT/ 1,981 M
 Semi-Trailer	60,000 LBS/ 27,216 KG	1,500 FT/ 457 M	7,000 FT/ 2,134 M

This table is for general emergency planning only. A given building's vulnerability to explosions depends on its construction and composition. The data in these tables may not accurately reflect these variables. Some risk will remain for any persons closer than the Outdoor Evacuation Distance.



Source: The National Counterterrorism Center



Subject-Object Threat Assessment

- Attempt to verify the recipient
 - Is the package expected?
 - What are the contents?
- Attempt to verify the sender
 - Did indicated party send the package?
- If unsuccessful, consider package suspicious (RAIN)
 - Do not move.
 - Isolate and Evacuate area.
 - Notify Bomb Techs.
 - Limit radio traffic near the object

Building Search & Tactical Movement

BASIC POLICE ACADEMY





Building Search and Tactical Movement

Instructional Goal:

This series is designed to develop a new officer's understanding of tactics and movements related to safe and effective building approaches and searches.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Articulate authority to search a given structure
2. Demonstrate safe building and room entry
3. Identify a structure by a labeling system
4. Demonstrate safe weapon handling while moving
5. Identify appropriate search speed for a given situation

Content Outline:

- Principles of Searching
- Building Identification
- Speed of Movement
- Structural Challenges
- Room Entries
- Low Light



Searching a structure or area is not something that can be fully understood by reading text. This section serves as both a pre-read and follow up to the practical portion of the class. Movement to and through a structure must be practiced like any other physical skill.

Principles

Why are you there –	Angles & Spacing –	Communication –
You must have a clear understanding of why you are where you are and what you are looking for. Do you have the legal authority to enter the area you are about to search?	Searching structures is largely dependent on understanding angles and spacing. As you move around an object, your lines of sight shift along with you, as does your exposure to potential danger.	The importance of communication cannot be overstated. If you are working with one or more officers, your ability to communicate concisely under stress is vital.

If at all possible, AVOID searching a structure alone.

The act of searching a structure is mainly to gather information, such as information about a person's location or evidence of criminal activity. It may also serve to render aid to a victim or to rescue a downed officer. Sometimes it is to intervene during an active threat situation or other "immediate need" event. Searching buildings is inherently dangerous, and may not be necessary if you can gather the same information another way.

We will focus on two main search reasons:

1. Attempting to locate a dangerous person
2. Rendering aid to an injured person

The principals of these two search types will translate easily into other scenarios, but these will likely be the most common and share many of the same principals.

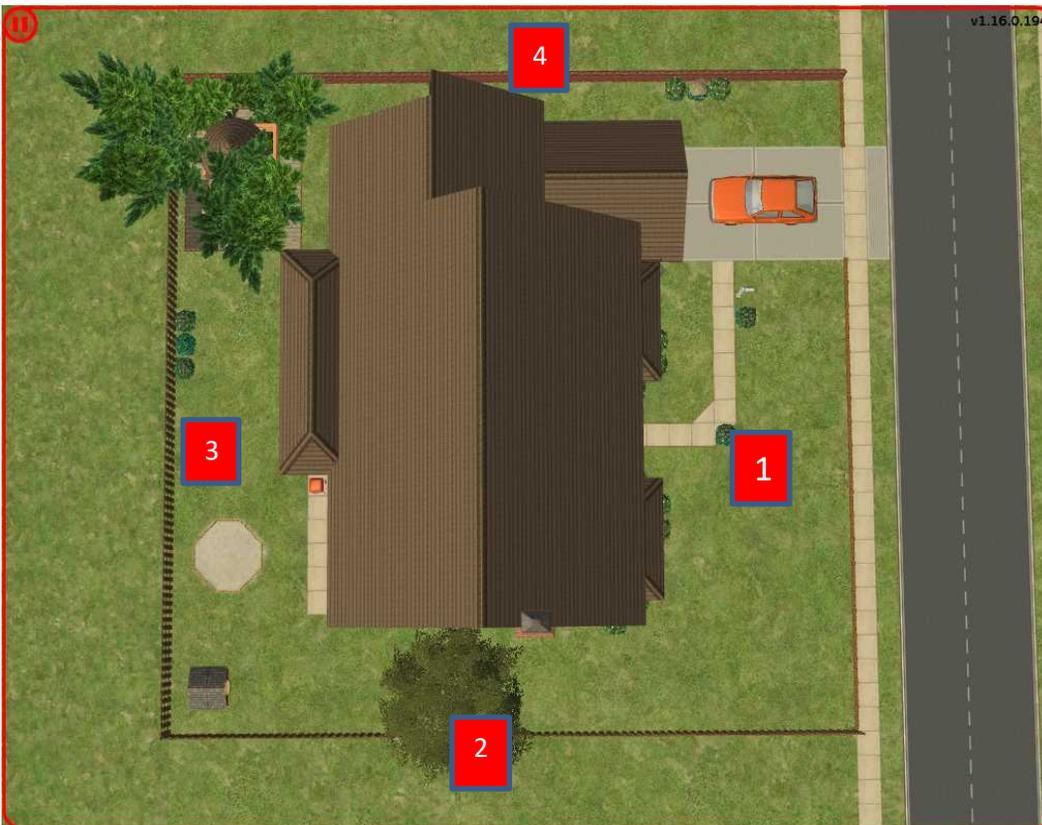


Another consideration we must be aware of is how many officers will be moving together. There is a difference between clearing a structure as a single officer and working with a partner or team. We will go over these differences in detail during the practical portion of the class, as this is the most likely circumstance you will encounter on patrol.

BUILDING IDENTIFICATION

Across the state, there are variations on how to identify different points of a target building. We will go over how to indicate the different sides of a building to officers arriving on the scene, and leave individual window and door designations to your agency.

Generally, the sides of a building to be searched will be given a numerical value, beginning with the main entrance side and working clockwise around the building.





Speed of movement – There are two primary speeds with which an officer or team will enter a room or structure.

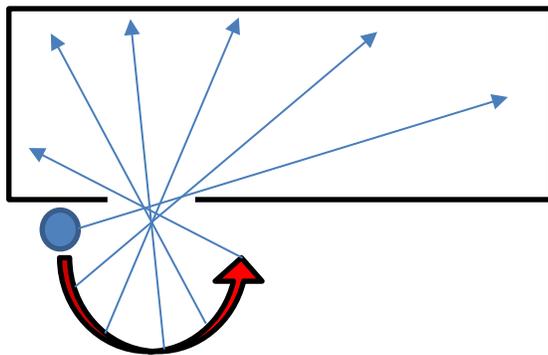
The first and most Hollywood friendly is **Dynamic entry**. The benefits of a dynamic entry when done correctly include overwhelming the threat and limiting the time available for the threat to engage officers effectively. The downside of dynamic entries is that it also limits the officers' ability to evaluate the room or structure, and takes a significant amount of practice learning to move as a team, communicate as a team, shoot while moving, acquire targets and discriminate between threat and non-threat subjects.

Controlled entry is the second and currently most popular method of movement in and around a structure. Controlled movement is done at a walking pace and with a purpose. Movements are controlled and deliberate, allowing officers to THINK about what they are doing and about to do. Nowhere in this description do we suggest movement to be slow, instead it should be done with thought and communication but without needless delay. Dynamic entries and movement have their place, and it may become necessary to shift gears during a search, but walking speed should be the default option in most cases.

Structural problems to solve – Every structure is different and will present its' own unique set of challenges, but there are similarities for which we can train. Some of the most common include doorways, hallways, intersections, and stairwells.



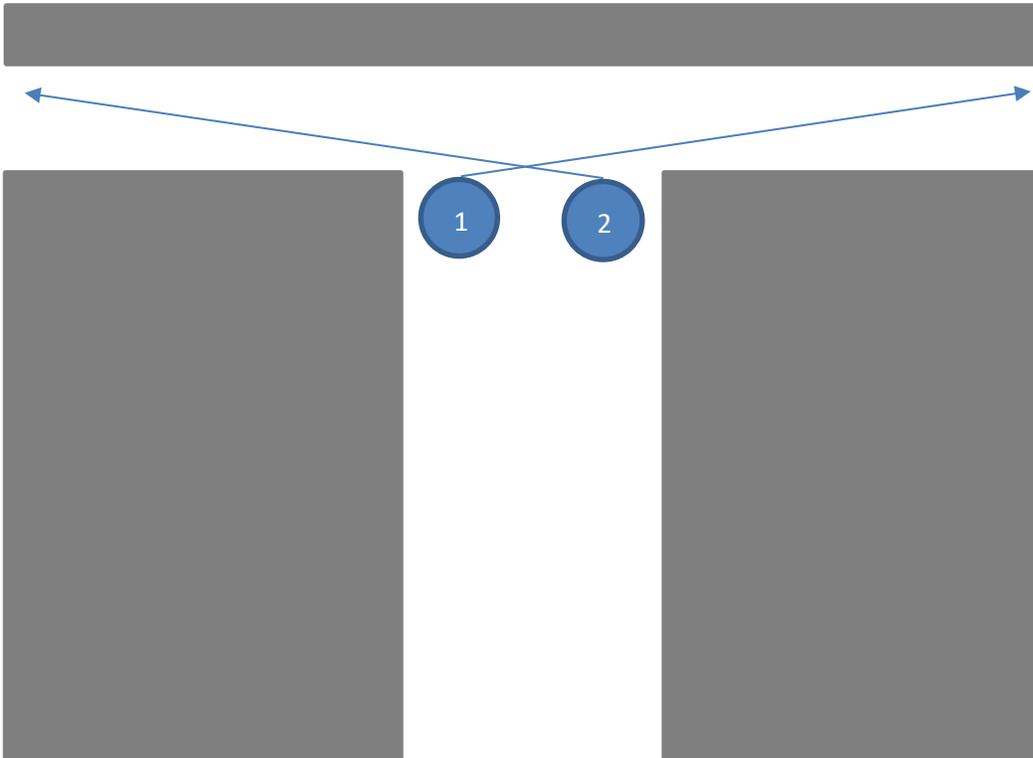
Doorways – Doorways have often been called "fatal funnels." That term is sometimes misunderstood and misused. Doorways become problems when we pause in them. If doorways are used as intended, to pass through or pass by, then the danger is limited (limited but not eliminated). What way the door opens is essential to know as well. Just remember, if you can see the hinges, the door swings out or towards you. If you cannot see the hinges, the door will open in, or away from you. When dealt with properly, doorways can give the officer lines of sight into most of the room and eliminate many potential danger spots before making entry. This process can be done by slowly moving in an arc across the doorway to the far side of the opening without passing through the opening. This technique is often called "slicing the pie."



Hallways – Hallways by themselves aren't difficult to navigate, but usually offer little to no cover. The main issue with hallways is they almost always come with additional problems to solve like doorways or intersections. If you come to a doorway, you will almost always need to clear that room before moving on, an exception being an active threat situation where the threat's location is known. If the hallway has a 90-degree angle, the corner can be cleared, much like clearing a doorway; deliberately working in an arc out from the corner until you can see the majority of the adjacent hallway while being careful not to expose yourself to potential incoming fire. If you are moving in a pair, one of you should focus on upcoming doorways or angles, while the other focuses on long cover or, maintaining awareness of the far end of the hallway.



T Intersections - Solo	T Intersections - Team
<p>T intersections in a hallway can be complicated to manage as a solo officer. If you have to work this problem alone, start on one side of the hallway you are in, and primarily focus on the corner across from you. Move along your hallway as far as you can towards the near corner without entering the intersection, getting as good a look as you can down the opposite end of the adjoining hallway. Once complete, move back away from the intersection, cross your hallway to the opposite side while watching the opposite corner of the one you just cleared. Repeat your actions on this side of the hallway to gain the best picture of the other end of the adjacent hallway. Once complete, you will have to decide which way you want to move. This decision will depend on several factors at the time. Avoid exposing yourself to multiple lines of sight as much as possible.</p>	<p>Having one additional officer makes a significant difference when working at a T intersection. The preferred method is for each to work along separate sides of the hallway and maintain cover towards the opposite side of the approaching intersection. You must be very aware of your partners' position, and avoid sweeping them with your firearm. As you both move closer to the intersection, you will gain better lines of sight down the opposite ends of the adjacent hallway. Once you both reach the end of your hallway, pause about one full stride back from the corner. On signal, both pivot or "snap" around your corner. Now, you are looking down the same side of the adjacent hallway you are closest too or the opposite side of the one you had just been monitoring.</p>





Stairwells – Stairwells present several issues, and none of them are good. When moving through a hallway or around a corner, you will usually be breaking a single visual plane at a time; with stairwells, you are likely breaking multiple planes at once, given the vertical nature of the stairs. When clearing up, you and your partner must be aware of not only what is in front of you, (landings, corners, doorways) but also what is above you. When clearing down, your feet and legs will be the first things to break the visual plane, especially if the stairs have open backs like basement stairs. Consider proning out at the top of the stairs or using a pole mirror if available to get a better line of sight before moving down the stairs.

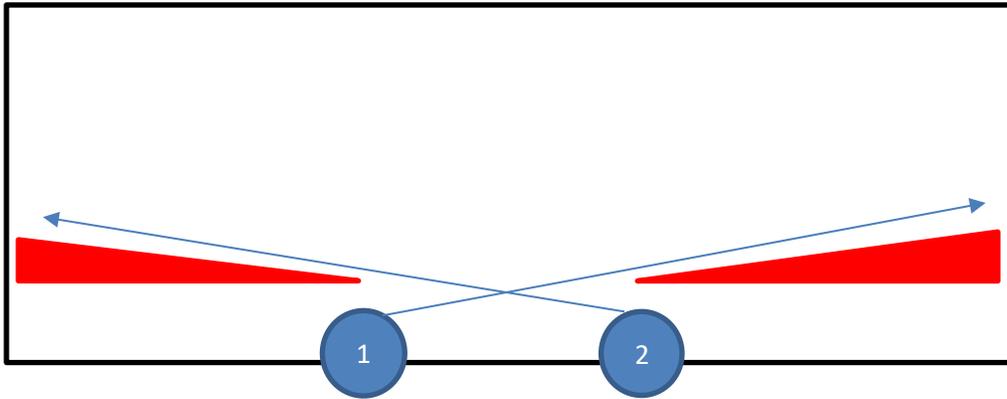
ROOM ENTRIES

The more information you can gather before making entry into a room, the better. This can be done by arcing across the doorway from one side to the other as we spoke about earlier (slicing the pie.) This technique will let you see much of the room before stepping through the doorway and limiting the areas that haven't been cleared. Until you are making entry into the room, you must also be aware of the hallway you are standing in, monitoring for potential threats. If you have additional team members, these duties can be split between you.

There are two main theories for entering a room for the first officer, driving to the **known** vs. driving to the **unknown**. Driving the known means the first person through the door moves to the area they can see the best, and the second officer goes the opposite direction through the doorway, or to the unknown area. Driving to the unknown means the first officer moves directly to the unknown portion of the room or the area with the highest probability of danger. Skilled entry teams tend to drive to the known first. This takes near-perfect timing and significant practice to avoid leaving the first person into the room exposed. When working with other individual officers or those from other agencies, driving to the unknown still requires timing and teamwork. Yet, it can be accomplished by officers who may not have worked together before. This also helps with consistency from officer to officer.

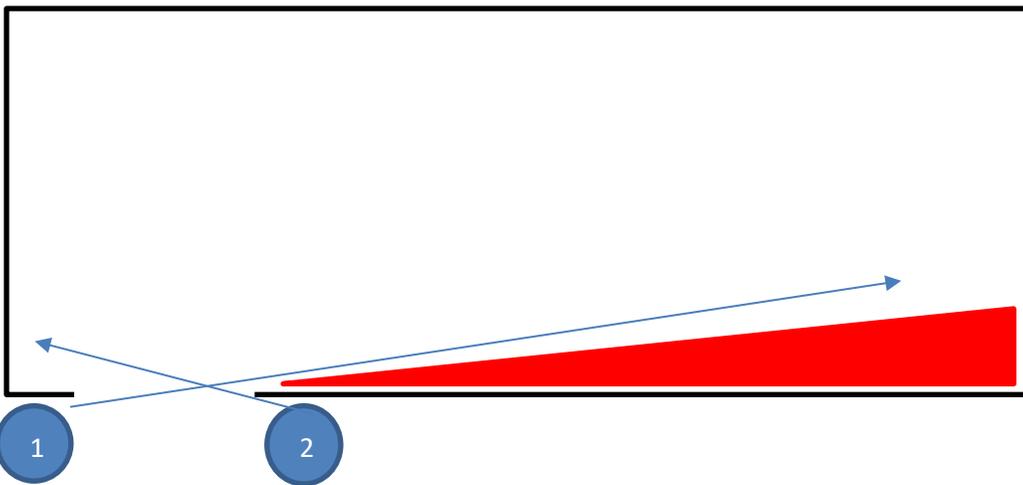


Center fed rooms – This type of room has the doorway roughly in the middle of one wall, and has a portion of the room to either the right or left of the doorway. This presents additional challenges to the officers attempting to make entry as there is more opportunity for suspects to be at either end of the room.



There will be areas of the room (the area covered by the triangles) you are unable to see from outside, but the majority of the room should be cleared with good teamwork before entering. These areas should be your first area of focus when entering the room.

Corner fed rooms – The advantage of entering a corner fed room is the majority of the room is off to one side of the door, limiting potential dead spots that you can't clear before entering.





LOW LIGHT

If you are moving through a structure that has less than perfect lighting conditions, there are several additional considerations to be aware of. Your eyes' ability to adjust to reduced lighting is a significant factor that can affect how well you see and assess threats. The same can be true when moving from dark to bright light. Before your eyes dilate, the white light can overwhelm them temporarily, causing blind spots.

Backlighting – When you use your flashlight, avoid backlighting yourself or your partner. Meaning do not shine your light into an area with your partner standing in front of your light source. This silhouettes them to a potential threat. The same effect will happen if you move from a lit room into a darker room. Consider turning the lights off in the room you are in, or if possible, turn the lights on in the room you are entering. If you have to move from a lighted room into a dark area, use your flashlights to dominate the darkened space with as much light as possible.



Light as a control device – If you locate a subject while searching, use your light source to help control their position and to maintain visual contact with them. Keep the light up in their eyes until you have determined whether they are a threat or not. This will most likely be your handheld light, but depending on the circumstances may be your weapon-mounted light. If using your weapon-mounted light, you must be aware you are also pointing your firearm at the subject.





When you are approaching a structure to search, be sure that you can answer the following questions:

P	Is what we are doing P roportionate?
L	Is it L egal?
A	Can we A ccount for our behavior / justifiable?
N	Is it N ecessary?

Child Abuse and Neglect Investigations

BASIC POLICE ACADEMY





Investigations: Child Abuse

Instructional Goal:

This course is designed to introduce a new police officer to factors related to child abuse investigations.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Describe police officer duties under Karly's Law.
2. Articulate the meaning of suspicious physical injury.
3. Analyze a situation and determine if there is an applicable ORS offense represented

Content Outline:

- Child Abuse Defined
- Oregon Revised Statutes
- Karly's Law
- Suspicious Physical Injuries
- Department of Human Services
- Mandatory Reporting
- Risk Factors
- Types of Child Abuse
- Distinguishing Between Accidental and Abusive Physical Injuries



This course will focus on a vulnerable population, children. According to the Oregon Department of Human Services, there were 84,233 reports of child abuse and neglect in 2018. Twenty-six children died in Oregon as a result of abuse and/or neglect in 2018.

You will apply the information previously covered in your criminal and procedural law series, criminal investigation, and report writing series. Topics include elements of a crime, interviewing (exception-interviewing children), photography, and evidence identification and collection.

This course will introduce you to different types of child abuse, investigation techniques unique to child abuse, and resources available to assist you.

Oregon Law- Definitions under ORS 419B.005

Oregon law defines a child as an unmarried person under 18 years of age. Abuse includes the following:

Assault and Physical Injury	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.
Mental Injury	Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.
Sexual Abuse & Exploitation	Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration, and incest, as those acts are described in ORS chapter 163. Sexual abuse, as described in ORS chapter 163. Sexual exploitation, including but not limited to: Contributing to the sexual delinquency of a minor, using a child in a display of sexually explicit conduct, prostitution, trafficking, etc.



Neglect	Treatment or maltreatment of a child, including but not limited to failure to provide adequate food, clothing, shelter, or medical care that is likely to endanger the health or welfare of the child.
Threatened Harm to a Child	Subjecting a child to a substantial risk of harm to the child's health or welfare.
Buying or Selling	Buying or selling a person under 18 years of age as described in ORS 163.537
Manufacture of Methamphetamine	Permitting a person under 18 years of age to enter or remain in a place where methamphetamines are manufactured.
Exposure to controlled substances	Unlawful exposure to a controlled substance that subjects a child to a substantial risk of harm to the child's health or safety.

Note, abuse does not include reasonable discipline unless the discipline results in one of the conditions described above.

Laws Related to Child Abuse and Neglect

In addition to the assault and sexual abuse statutes you covered in Criminal Law, statutes focus on children and vulnerable populations.

Endangering Welfare of Minor ORS 163.575

Knowingly:

- Induces, causes, or permits unmarried person under 18 to witness or remain in a place:
 - Sexual activity
 - Drugs
 - Gambling
 - Paraphernalia



Criminal Mistreatment I ORS 163.205

Parent or caretaker:

- Withholds necessary and adequate food, physical care, or medical attention, OR
- Intentionally or KNOWINGLY
 - Causes physical injury/injuries
 - Deserts with the intent to abandon
 - Leaves unattended –likely to endanger
 - Leaves in place Manufacture of a Controlled Substance

Criminal Nonsupport ORS 163.555

Parent or caretaker charged with support of a child under 18:

- Fails to provide *support*.
 - *Support* is defined as necessary and proper shelter, food, clothing, medical attention, and education.

Causing Another to Ingest ORS 475.908

Intentionally or knowingly:

- Causes a person to ingest controlled substance, marijuana, or controlled substance analog without consent
- Includes breastfeeding

Child Neglect I ORS 163.547

A person having custody/control of a child under 16:

- In a vehicle with DCS/MCS of controlled substances or cannabinoid extracts
- In or upon premises with DCS/MCS of a controlled substance or cannabinoid extracts for profit
- In/upon premises where chemical reaction involving one or more precursor substances



Child Neglect II ORS 163.545

A person having custody/control of a child under 10:

- With criminal negligence, leaves a child unattended in any place for such period of time likely to endanger the health or welfare of the child

Criminal Law Review

Assault I	Assault III	Assault IV
Intentionally or knowingly Serious physical injury Child under 6	Intentionally or knowingly Causes physical injury Child 10 or younger	Felony if domestic violence and: A child is present "seeing or hearing"; or Previous assault to the same victim

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

The most significant statute related to child abuse investigations in Oregon is Karly's Law. Following the murder of Karla (Karly) Sheehan in 2005, a collaborative task force, including law enforcement, medical, and the legal community, developed standard protocols for investigating physical abuse cases involving children.

Karly's Law requires investigations of suspicious physical injuries on a child to be addressed in a coordinated and comprehensive way.



Three Essential Requirements of Karly's Law

<p>Any person conducting an investigation who observes a child who has suffered a <u>suspicious physical injury</u> must <u>immediately photograph the injuries</u> or cause to have photographs of the injuries taken.</p>	<p>Each MDT must identify a designated medical professional (DMP) who is trained and regularly available to conduct medical assessments, as described in ORS 418.782(2).</p>	<p>Any person conducting an investigation who observes a child who has suffered a <u>suspicious physical injury</u> must ensure a <u>DMP</u> conducts a <u>medical assessment within 48 hours</u>.</p>
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Note- MDT stands for Multi-Disciplinary Team. Each county is required to have a collaborative team consisting of law enforcement, DHS, legal, and other community stakeholders who review all reports of child abuse.

Suspicious Physical Injuries

The legislation gives a detailed definition of suspicious injury, which includes, but is not limited to:

- Burns or scalds
- Extensive bruising or abrasions on any part of the body
- Bruising, swelling, or abrasions on the head, neck, or face
- Fractures of any bone in a child under the age of three
- Multiple fractures in a child of any age
- Dislocations, soft tissue swelling, or moderate to severe cuts
- Loss of the ability to walk or move normally according to the child's developmental ability
- Unconsciousness or difficulty maintaining consciousness
- Multiple injuries of different types
- Injuries causing serious or protracted disfigurement or loss of impairment of the function of any bodily organ
- Any other injury that threatens the well-being of a child



Department of Human Services (DHS)

The Department of Human Services Office of Child Protective Services (CPS) responds to child abuse reports. CPS-trained caseworkers across the state listen to abuse reports, assess the situations, and prepare safety plans to assist children and families.

Each county has a CPS office that will serve as a resource and collaborative partner in child abuse cases. CPS and law enforcement agencies have a shared legal responsibility for taking child abuse reports and responding to them.

What is a DHS Referral?

When individuals are concerned about a child's welfare, they call a CPS hotline, which generates a report (DHS referral). Not all referrals are criminal concerns and do not require law enforcement intervention. In possible criminal cases, this report is sent to the appropriate investigating agency.

Mandatory Reporting

In Juvenile Law, you covered mandatory reporting. There is a 24/7 legal obligation for certain private and public officials to report child abuse. Remember as soon as possible to make a report to DHS via telephone or in writing. Mandatory reports make nearly 80% of abuse reports in Oregon.

According to the Oregon State Bar, reports and records compiled under the mandatory child abuse reporting law are confidential. The name, address, or other identifying information about the reporter cannot be disclosed except by court order. Recipients of records under the DHS's mandatory or permissive disclosure authority are also required to maintain the records' confidentiality. However, confidentiality is not absolute, as a reporter may be required to testify in court proceedings relating to the report.

A person who acts in good faith in making a report of child abuse and who has reasonable grounds for doing so is immune from civil or criminal liability for making the report and the report's content.



However, this immunity provision will not shield a reporter from civil or criminal liability if they knowingly made a false report. It is a Class A violation to knowingly make a false child abuse report to influence custody, parenting time, visitation, or child support decision. Note, if a false report is made to a law enforcement agency, consider ORS 162.375 Initiating a False Report, which is a Class A Misdemeanor.

Child Abuse Risk Factors

Perpetrators of abuse are most often family members at 93%. After mothers and fathers at 76%, the next largest perpetrator is a parent's live-in companion at 10%, followed by other relatives at 7%. Other perpetrators include foster parents and other legal guardians, neighbors, friends, and daycare providers. Unknown perpetrators make up 1.4% of founded cases in Oregon.

According to the Centers for Disease Control and Prevention, risk factors are those characteristics linked with child abuse and neglect, but they may or may not be direct causes. A combination of individual, relational, community and societal factors contribute to the risk of child abuse and neglect. Although children are not responsible for the harm inflicted upon them, certain factors have been found to increase their risk of being abused and neglected.



Role of the Investigating Officer

There are three critical investigative questions following a report of abuse: Is the injury natural or caused by a medical condition? Is the injury accidental? Is the injury inflicted?

Natural/Medical?

Accidental?

Inflicted?

The following content is from the U.S. Department of Justice Publication titled Recognizing When a Child's Injury or Illness is Caused by Abuse.

Ruling Out Natural Phenomena or Medical Conditions

There are medical and genetic practices that can appear to be abusive injuries but are not.

- Mongolian spots and some birthmarks that occur in dark-skinned individuals can be mistaken for bruises.
- Impetigo can imitate cigarette burns.
- Excessive bruising, or petechiae, may result from low platelet counts or clotting disorders, such as hemophilia or Von Willebrand disease.
- Some infections, such as Fifth Disease, can cause rashes that appear to be slap marks on the face.
- Rarely, a young infant may have an abnormality of bone or collagen (e.g., osteogenesis imperfecta) that causes bone fractures.

Obtaining a medical history from the child's pediatrician or family practitioner can help determine if the child has any medical conditions with symptoms that may look like injuries and if abuse can be ruled out.



Distinguishing Between Accidental and Abusive Injuries

Accidental injuries usually occur along areas commonly known as bony prominences (elbows, knees, hands, nose, chin, and forehead). They generally involve less force than nonaccidental injuries, except in some well-described circumstances such as falls or motor vehicle collisions. Nonaccidental injuries are typically found in an area called the primary target zone (an area for inflicted injury, such as corporal punishment, that extends from the back of a child's neck to the area behind his or her knees). Injuries in the primary target zone should be viewed with suspicion and investigated to determine whether the punishment force was criminal.

Physical Abuse

The most common forms of child abuse involve skin lesions (such as bruises and burns) and bone fractures; they are also the most common accidental injuries. Because of variations in the appearance of bruises and burns and the time it takes for healing to occur, it can be challenging to determine whether the injury was caused by accident or abuse and when it occurred.

Examples of physical abuse include:

- Bruises
- Fractures
- Head Injuries
- Abdominal Trauma
- Burns



Physical Injuries- Bruises

Contusions result from trauma to the skin, which causes ruptures in underlying blood vessels that leak blood into the surrounding tissues. The appearance of the bruise depends on many factors.

No one can precisely assess the age of bruises based on their color. Even physicians disagree on how to determine the age of a bruise by its color. Their age predictions are no more accurate than chance because the color changes that occur as a bruise heals are not predictable and may not provide an accurate timeline of injury. In fact, color changes are quite variable. The earliest color (yellow) is seen about 18 hours after onset; red, blue, purple, and black can be seen at any time from onset to resolution. Bruises sustained simultaneously on different parts of a person's body may also change color at different rates. Thus, the investigation should not rely on opinions that assign an age to bruises.

How do we know if a bruise was caused by normal accidental means or as a result of abuse? Factors to consider:

- Child's age and development- consider the child's mobility
 - Infants who are not mobile rarely have bruises.
 - However, once they are ambulating, babies' bruises occur mainly on the legs, shins, and forehead.
 - Bruises on the head, face, and ears of a young infant are very suspicious

Activity	Age
Rolling Over	About 4 months
Sitting Up	About 6 months
Crawling	About 9 months
Cruising	About 10 months
Walking	About 12 months
Running	About 18 months



- **Location**
 - Falls are the most common cause of childhood injury, and the corresponding bruises occur where bones are closest to the skin and on the front of the body (e.g., knees, shins, forearms, chin, and the forehead in toddlers).
 - Bruises on the body's soft parts (e.g., cheeks, neck, buttocks, thighs, calves) are uncommon in accidental injury.
- **Distribution**
 - Bruises that are symmetric, located on both sides of the body, or located on multiple body surface planes suggest that abuse occurred.
 - Groups or clusters of bruises often seen on the upper arms, outside of the thighs, the trunk, and adjacent extremities should be considered suspicious.
- **Size and Number**
 - Accidental bruises are characteristically few in number and small in size (1 to 2 cm).
 - Abusive bruises are typically greater in number (averaging 5 to 10) and larger (>10 cm).
- **Patterned Bruises**
 - Patterned bruises often indicate abuse and may show the imprint of an object.
 - For example, common patterned bruises include a handprint caused by slapping; linear marks caused by blows with belts, cords, or sticks; imprints caused by a household item, such as a wooden spoon or flyswatter; bite marks; ligature marks from ropes, cords, or other bindings; and fingertip bruises caused by forceful grabbing or squeezing.

Bruises Suggesting Abuse

Any bruise on an infant younger than about nine months old or a non-cruising child.

Bruises in areas other than bony prominences.

Bruises on the ears, face, abdomen, buttocks, back, arms, thighs, hands, and feet.

Multiple bruises in clusters or large bruises.

Patterned, symmetric, or bilaterally located bruises.



Written Documentation of Bruises

- Describe the injury you observe, not the suspected cause.
- Do not attempt to date it, just describe what you see.

Physical Injuries- Fractures

Accidental fractures can occur in children who are mobile and active. Household accidents and falls produce the most common accidental fractures: linear skull, clavicle, forearm, and lower leg "toddler's" fractures. Most abusive fractures occur in infants and young toddlers. Like bruises, accidental fractures are rare in infants because they do not have the strength or mobility to cause them. Infants' bones, which are more flexible than older children and adults, can bend significantly before breaking.

When assessing the likelihood of abuse, the most critical component is a detailed history of how the injury occurred. The history should include:

- The child's age and developmental abilities (e.g., some babies are learning to stand at 12 months, while others are running)
- The presence of possible contributing medical conditions (e.g., vitamin D deficiency or osteogenesis imperfecta, also known as "brittle bones").
- The timeline of events from the initial injury to when the caregiver sought medical treatment.

Investigators should obtain as much information as possible about the child's position and motion just before, during, and immediately after the injury. The questions should focus on details of the surroundings, including the height of the fall, nearby objects' location, and type of landing surface (e.g., carpet or tile). Confirm whether the child was alone when they fell, if the child was dropped, or if the child was being held and fell along with another person. Injuries can be more severe when a baby falls while being carried; the adult's mass falling along with the child creates significantly more force than when a baby falls alone from the same height. Ask how the child acted and behaved immediately after the injury and later during daily activities (such as diaper changes). When a fracture is suspected, children younger than age two should have x rays of all bones to look for older healing fractures from



previously undetected injury or abuse. A complete survey of the skeleton (full body scan) should be conducted; this includes separate exposures of each of the long bones, spine, head, hands, and feet.

Location	Type of Fracture	Type of Force	Examples of Accidental Injury	Examples of Abusive Injury
Shaft of long bone (e.g., femur, humerus)	Spiral, oblique	Twisting (rotating)	Child falls while running, twists leg	Caregiver grabs or twists an arm
Shaft of long bone (e.g., femur, humerus)	Transverse	Direct blow, bending	Child runs into edge of coffee table	Femur is struck with baseball bat
Shaft of long bone (e.g., femur, humerus)	Buckle, impaction	Compression	Child falls onto outstretched arm	Child is slammed onto knees on a table
Shaft of long bone (e.g., femur, humerus)	Greenstick	Bending	Child's arm hits edge of step with a fall	Child's arm is grabbed and yanked upward
Metaphysis of long bone (near growth plate)	Metaphyseal "corner" fractures (classic metaphyseal lesions)	Tension, shearing	Traction on limb during physical therapy (unusual)	Violent shaking of infant
Skull	Simple, linear	Direct blow	Infant rolls off the changing table onto the floor	Caretaker throws infant onto the floor
Skull	Complex, depressed	Direct blow	Child falls off bunk bed, hitting head on corner of wooden toybox	Child is hit in the head with a hammer
Ribs	Transverse	Bending during compression of chest; direct blow (uncommon)	Infant is resuscitated by two-handed CPR	Infant's chest is squeezed during violent shaking



Features Strongly Suggesting Fractures are the Result of Abuse

Fractures in infants who are not independently mobile.

Unexplained fractures.

Inconsistency between the movement necessary to cause a fracture and the description of how the injury occurred.

Severity of the injury out of proportion to the event described.

Fracture accompanied by other evidence of abuse or neglect.

Significant delay in seeking medical care.

Multiple fractures of different ages.

Metaphyseal fractures.

Rib fractures.

Complex, depressed skull fractures.

Physical Injuries- Head and Eye Injuries

The most common signs of head injury are vomiting, seizures, stupor, and coma. However, sometimes the signs and symptoms of abusive head trauma are nonspecific, such as irritability, lethargy, or poor appetite.

Investigators should determine whether a head injury is consistent with the reported injury and whether the events surrounding the incident explain the severity. Severe or life-threatening injuries generally do not occur from short falls, falls down stairs, or minor accidents when children are playing. These injuries usually require more force, such as a high-speed auto collision or a fall from several stories in height. An evaluation of a severe head injury usually requires blood tests and imaging, and it may involve surgeons, neurologists, neurosurgeons, and other specialists.



Abuse or Accident: Falls & Childhood Deaths

Is an allegation a result of abuse or an accidental fall? There are decades of studies examining the relationship between falls and injuries in children. This research body gives us information about the practicality of injury or deaths resulting from a fall, as may be reported by a caregiver.

Helfer, Scovis, & Black (1977)	Chadwick (1991)	Williams (1991)	Chadwick & Salerno (1993)
Study: 266 children under 5 years of age Witnessed falls from bed in a hospital or home	Study: 523 falls 188 fell 10' or more Longest fall 40'	Study: 106 children All multi-witnessed falls	Study: 35,000 children over seven years Multi-witnessed falls in daycare centers
<u>Results:</u> 1 single linear skull fracture Zero deaths	<u>Results:</u> 6 severe injuries (all fell 8+ feet) Zero deaths	<u>Results:</u> Zero deaths falling 1' to 40' 1 death (70' fall)	<u>Results:</u> 1 loss of consciousness Zero fractures Zero deaths

Most fatalities from child abuse involve serious head injuries. The depth of the injury within the skull has been correlated to the amount of force used (i.e., deeper injury means more force). Bruising to the face, ears, eyes, and neck is often associated with abuse in children who are not walking or younger than age 3.



The following are some common types of head injuries:

Injury	Possible Cause
Hair loss or baldness (alopecia) or bleeding into the scalp or eyes	May be caused by hair pulling as a means of discipline.
A subdural, subarachnoid, or epidural hemorrhage under a skull fracture	Is caused by direct impact to the head and often features overlying bruising or swelling of the scalp. May be associated with an intentional blow to the head, such as when a child is struck or thrown against a hard object, or with an accidental injury.
Subdural hematomas without external injury	Correlates with whiplash or shaking.

Abusive head trauma may present as retinal hemorrhages or trauma to the eye and its surrounding structures. Abuse should always be considered in children younger than age three who have these symptoms without an adequate accidental injury history.

It is also important to observe the child's living situation for cues of abuse. For example, increased rates of abusive head trauma have been associated with a crying infant who lives in a home with adults who are not related to each other.

Isolated external eye injuries are so common in children that they seldom show clear evidence of abuse. Investigators should use their best judgment based on the caregiver's explanation and the nature of the injury. For example, two black eyes seldom occur together accidentally unless the nose is broken. Also, internal eye injuries (such as retinal hemorrhages in multiple layers of the retina that are diffuse and numerous) strongly suggest whiplash or shaking as the means of injury. An ophthalmologist should examine the child to determine if internal eye injuries, such as retinal hemorrhages, have occurred.



Physical Injury- Abdominal Trauma

Abdominal trauma is the 2nd leading cause of death by abuse. Pain and poor appetite may be the only symptoms of abdominal trauma because there is often no external bruising. Severe symptoms resulting from damage to internal organs (liver, spleen, pancreas, stomach, and intestines) can be delayed. This, in conjunction with a false or misleading history, often causes delayed recognition and treatment, leading to high rates of serious complications (internal bleeding, organ death, infection) and death.

Accidental abdominal injuries are usually caused by a long fall to a flat surface or a motor vehicle accident. A contact sport or bicycle accident may cause an abdominal injury in an older child in rare circumstances. These patients usually seek medical attention immediately. Abusive abdominal injuries occur more often in younger children with a delayed presentation for medical care. Punching, kicking, and striking with objects can cause internal organ damage. Sometimes an external bruise can help to identify the means of injury.



Physical Injuries- Burns

Burns are classified as:

Superficial (first-degree)	Affects only the outer layer of skin, the epidermis.	The burn site is red, painful, dry, and with no blisters.
Partial-thickness (second-degree)	Involves the epidermis and part of the lower layer, the dermis.	The burn site looks red, blistered, and may be swollen and painful.
Full-thickness (third-degree)	Destroys the epidermis and the dermis. May go into the innermost layer of skin, the subcutaneous tissue.	The burn site may look white or blackened and charred.
Fourth-degree	Goes through both layers of skin and the underlying tissue.	Possibly involving muscle and bone.

The most common burns in young children are contact burns and scalds. An overview of burn types (above) is helpful in determining how this type of injury may have occurred and whether it was accidental or abusive.



Contact Burns

Cause: Contact with a hot object

Note: Prolonged contact with a hot object may reflect the size and shape of the part of the object that contacted the skin.

Examples: flames/fire, open oven doors, stovetop burner, curling iron, clothes iron, lighter, cigarettes

Risk: Children younger than age 6 (especially 2- to 4-year-olds) are the most frequent victims of abusive burns.

Accidental Indicators: Usually have indistinct or smeared edges because the child quickly pulls away from the hot object.

Inflicted Indicators: Due to prolonged exposure to heat, there is more uniformity of depth, sharply demarcated edges, and distinct patterns. Contact burns are unlikely to occur on clothed parts of the body.

Example: "Running into a cigarette" produces an indistinct, superficial burn that is oval or comet-shaped; this is in contrast to an inflicted cigarette burn, which is typically a deep partial-thickness, round to oval-shaped lesion with well-defined edges.



Scalds

Cause: Contact with hot liquids.

Note: Burns caused by hot liquids are some of the most difficult cases to assess.

Example: Most scald burns in children result from household accidents involving spills or splashes by hot coffee, soup, or cooking oil.

Accidental Indicators: Typically, accidental burns have indistinct margins, are usually located on one side of the body, exhibit a trailing-off pattern (the hot liquid cools as it runs down the body), and have areas that are spared or relatively spared because of the presence of clothing.

Inflicted Indicators: Most abusive scald burns are caused by hot tap water, typically by immersing the child in standing hot water (e.g., in a sink or bathtub) or holding the child under running hot water. When feet and hands are submerged, the scald creates a "stocking or glove distribution" pattern.

Characteristics of forced-immersion scalding include:

- Burns that are of uniform depth and sharply demarcated (indicating the child was restrained).
- Bilateral, symmetric burns.
- Sparing of the flexion creases, indicating the body's position at the time of the injury (drawing up the arms and legs will minimize burning in the area behind the knees and where the thighs touch the abdomen).
- Areas of relative sparing where the body is in contact with a cooler surface (e.g., soles of the feet pressing against the bottom of the bathtub).



General Indicators of Abusive Skin Injuries

- Many injuries are present.
- Injuries occur in unusual locations.
- Injuries cover a large area.
- Medical care is delayed.
- Injuries are inconsistent with family history and the child's developmental abilities.
- Injuries show a pattern.

Summary

Karly's Law requires investigations of suspicious physical injuries on a child to be addressed in a coordinated and comprehensive way. The three requirements for Karly's Law include:

<p>Any person conducting an investigation who observes a child who has suffered a <u>suspicious physical injury</u> must <u>immediately photograph the injuries</u> or cause to have photographs of the injuries taken.</p>	<p>Each MDT must identify a designated medical professional (DMP) who is trained and regularly available to conduct medical assessments, as described in ORS 418.782(2).</p>	<p>Any person conducting an investigation who observes a child who has suffered a <u>suspicious physical injury</u> must ensure a <u>DMP</u> conducts a <u>medical assessment within 48 hours</u>.</p>
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Examples of physical abuse include:

Bruises	Fractures	Head and Eye Injuries	Abdominal Trauma	Burns
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Child Neglect

The Centers for Disease Control and Prevention (CDC) defines neglect as failure to meet a child's basic physical and emotional needs. In Oregon, neglect is the negligent treatment of a child, by the parent/caregiver, including but not limited to the failure to provide adequate food, clothing, shelter, supervision, protection, nurturing, or medical care that is likely to endanger the health or welfare of the child.

The Oregon Department of Human Services (DHS) describes "welfare" as well-being or quality of life. Neglect can occur in a single circumstance or over a period of time (circumstantial vs. chronic neglect). Circumstantial neglect can be an action or passive inaction, an act, or omission. Chronic neglect is a persistent pattern of family functioning in which the parent/caregiver does not sustain or meet the child's basic needs, resulting in an accumulation of harm that can have long-term negative effects on the child.

The DHS Child Welfare Manual identifies the following factors for consideration:

- Neglect would be the appropriate allegation when the child either tests positive or is experiencing signs of being a substance affected infant (withdrawal signs).
- Inadequate Food: The child is not provided with the necessary quantity and quality of food to sustain physical health and development. The simple absence of food in the home does not, in and of itself, rise to the level of neglect. Reports of "no food" need to be thoroughly assessed for availability, frequency, duration, other contributing factors, other means of sustenance (eating at school, with family, etc.) before deciding that inadequate food is creating or likely to soon create a significant threat to child safety.



- **Inadequate Clothing:** The parent/caregiver periodically or consistently fails to provide clothing required for physical comfort and protection from the environmental elements, or the child is not given sufficient clothing in the context of their cultural and social norms. This does not include the parent/caregiver lacking the financial ability to do so. This is not a measure of style, fashion, or quantity but is meant to ensure that a child has sufficient clothing for their health and well-being.
- **Inadequate Shelter:** The child's living conditions are unsanitary, hazardous, or dangerous to the point they have already, or reasonably could, compromise the child's safety or health, as the result of the parent/caregiver's failure to act to correct the conditions.
- **Inadequate Supervision:** The parent/caregiver does not provide and/or arrange for supervision appropriate to the child's age, mental ability, and physical condition. The child has been placed in circumstances that are likely to require judgment or actions greater than the child's level of maturity, physical condition, and/or mental abilities would reasonably dictate.
- **Inadequate Protection:** The parent/caregiver fails to protect a child from abuse or exploitation caused by the acts of another when there is information to support that the parent/caregiver had the ability to prevent the abuse. This may include situations in which, but not limited to, a parent/caregiver who allows a child to have contact with someone known to the parent/caregiver to be unsafe, someone known to have previously abused a child, someone impaired by substances, or someone court-ordered not to have contact with children. This does not apply in domestic violence cases for which the adult victim's ability to act would likely compromise safety. Not all children who live in a home where domestic violence (DV) is present are subject to neglect. The impact on the child and the danger posed to the child must be considered. If there is an allegation of abuse directly related to the DV, the alleged perpetrator is the parent/caregiver who is the DV's alleged batterer/perpetrator. The DV adult victim should not be given an allegation of neglect related to inadequate protection/failure to



protect solely due to the child being exposed to DV. There are significant reasons adult victims do not leave a relationship in which there is power and control; staying may be a protective measure if leaving puts the adult victim and their child in more danger.

- **Inadequate Nurturing:** The parent/caregiver fails to provide affection, interaction, and stimulation necessary for bonding/attachment and development. This includes supporting, consoling, and being responsive to the physical and emotional needs of the child.
- **Inadequate Medical care:** "Medical care" may include physical health, dental health, or mental health care. This lack of care is categorized as Medical Neglect. Inadequate medical care is the failure to obtain or follow through with medical treatment for a health problem or condition which, if untreated, could endanger the child's life or become severe enough to constitute serious or long-term harm to the child. Consider the child's anticipated impact if the medication or treatment is withheld regardless of the parent/caregiver's reason for withholding medical care. Failure to provide the child with immunizations or routine well-child care alone does not constitute medical neglect.
- **Unlawful Exposure to a Controlled Substance:** By law, a parent/caregiver cannot allow access to controlled substances unless prescribed by a physician or under the direction of a physician. Note, substances may have a safety impact on a child, whether they are legal or illegal, such as alcohol or cannabis. Access may include not being locked or secured, being within reach, or providing the substances. While exposure to state-legalized cannabis is not "Unlawful Exposure to a Substance," exposure to cannabis may be another form of neglect.

Absent a pattern, regularity, or an allegation of abuse; neglect does not include a situation in which the only concern is that the parent/caregiver is late picking up the child from school, daycare, or a parental custody exchange.



Risk Factors

A Portland State University (PSU) study identified ten risk factors associated with child neglect and mistreatment in Oregon:

1. Poverty (children 0-17)
2. Unemployment
3. Food stamp usage
4. Single parenthood
5. Low maternal/paternal education (less than high school)
6. Teen pregnancy
7. Low infant birth weight
8. Domestic violence
9. Violent crime
10. Drug arrest rates

While similarly, the CDC finds children living in poverty experience more abuse and neglect (rates are five times higher); the investigative issue for law enforcement is to separate poverty or lifestyle factors from those conditions that will adversely affect the child's health and safety.





Investigating Abuse and Neglect



You have already covered the basics of a criminal investigation. Unique to a child abuse investigation, you will need to contact the DHS CPS worker to conduct a co-investigation.

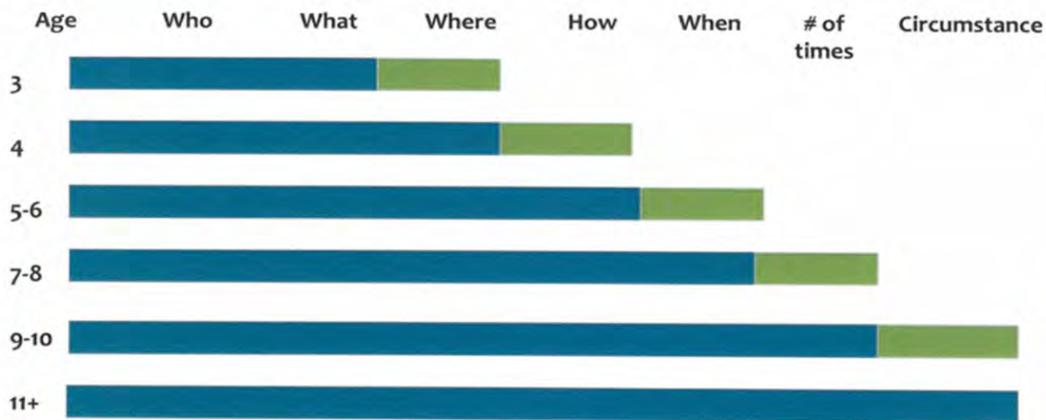
Once a suspicious injury has been reported, it is critical that law enforcement conduct an immediate assessment of the situation, ensure that the child receives medical care, identify witnesses, and collect evidence from the incident scene.

Interviews in Child Abuse Investigations

The most significant difference with a child abuse investigation is how you contact and interview the child. Under these circumstances, police can be scary to a child, and therefore making the child feel at ease is essential. The nature of the abuse is also a factor. Interviewing a child about physical abuse is different than interviewing about sexual abuse. There is a state protocol regarding interviewing child victims of sexual abuse, called the *Oregon Interviewing Guidelines*. These guidelines indicate that children under the age of 12 should be forensically interviewed at a child abuse intervention center (more on these later).



Guidelines for Age-Appropriate Interview Questions



Each child's capacity will vary depending on his or her unique circumstances and developmental level

Helpful Hints for Interviewing Children:

- Kneel to eye level
- Children are suggestible, use open-ended and not leading questions
- If a child unexpectedly discloses sexual abuse to you, allow a natural finish to their disclosure and do not ask probing questions. When they are done, tell the child you want to help them and will work with their non-offending parent to talk with someone who talks with kids all the time about this type of issue.



Additional considerations include the location/setting for interviewing children. ORS 419B.045 sets parameters regarding child abuse investigations at school. The statute includes:

- The school administrator shall first be notified that the investigation is to occur unless the school administrator is a subject of the investigation.
- The Department of Human Services or the law enforcement agency conducting the investigation is not required to reveal information about the investigation to the school as a condition of conducting the investigation.
- The school administrator or a school staff member designated by the administrator may be present at the investigator's discretion to facilitate the investigation.
- The investigator shall be advised by a school administrator or a school staff member of a child's disabling conditions, if any, prior to any interview with the child.
- A school administrator or school staff member may not notify any person, including a child's parents or guardian, other than the department or law enforcement agency of an investigation described in this section and may not disclose any information obtained during an investigation, nor shall the information become part of the child's school records.
- The school administrator or school staff member may testify at any subsequent court proceeding relating to the investigation and may be interviewed by the respective litigants prior to any court proceeding.



Interviewing Potential Suspects

When conducting interviews in child abuse investigations, what special lines of questioning might be valuable? It is helpful to be aware of common excuses and explanations from suspects. These include statements like the child's injuries were accidental, or another person caused the injuries. Your role is to eliminate excuses and benign explanations for the abuse through a thorough interview.

A statement from the parent or guardian and any witnesses regarding how the child sustained the injury will help determine whether the injury is accidental or abusive. A statement from the parent or guardian explaining why he or she delayed seeking medical treatment is important to the investigation because caretakers often postpone medical treatment or fail to provide treatment for an injured child to hide physical abuse. You must determine whether the explanation of how an injury occurred and the reason for the delay in seeking treatment are plausible or if a discrepancy exists.

A credible explanation of how an injury occurred should be

1. Reasonable and supported by fact
2. Consistent with the type, location, and severity of the child's injury.

The absence of details, failure to mention the injury, and/or presence of any contradictory or unconvincing explanations may provide clues about whether an injury was accidental or the result of abuse or neglect. Investigators should thoroughly report and investigate any explanations that seem contrary to the injury observed.



Questions to Consider:

- Who was caring for the child at the time of the injury?
- When?
- Where?
- Were they alone?
- What were they doing?
 - Feeding child?
 - Diaper change?
 - Traveling?
- What developmental milestones has the child achieved?
 - Crawling?
 - Walking?
- What steps were taken to provide medical care?



Investigation Red Flags

- Lack of memory
 - The inability to pinpoint details about major injuries should raise eyebrows.

- A delay in reporting
 - Possibly an attempt to cover behavior
 - Possibly waiting for the injury to heal
 - Possibly hiding evidence
 - Possibly waiting out any signs of injury

- Attempts to treat injuries without formal medical intervention

- The injury does not match the explanation given

- Different explanations are given over time

- The child has a different explanation

- The "clumsy" child doesn't have accidents when the suspect is not around

- The child is repeatedly injured in the care of one person/one group of people



Evidence in Child Abuse Investigations

Careful examination and documentation of a child's injuries is a critical part of evidence collection in child abuse investigations. Collect evidence even if an accident or natural cause is possible. In addition to taking photos of visible injuries, if the report indicates an injury and you do not see one, still document by taking photos.

Evidence considerations:

- Is there a constellation of injuries?
- What are the injuries?
 - Broken ribs/brain injuries
 - Subdural hematoma/retinal hemorrhages
- Are there old, healing, and new injuries?

Observation considerations:

- You are not always looking for a traditional weapon
- Check washer, dryer, clothes hamper
- Check trash
- Is there food for adults, but a starving child?
- Are there locks on the fridge?
- Are there a means to lock children in?
- Is there isolation of one child?



Some Additional Abuse Investigation Considerations

There are numerous considerations to work through in abuse investigations. The following sections provide some insight into various issues that could be considered in a child abuse investigation.

Abuse or Discipline?

Is an allegation abuse, or is it a parent appropriately disciplining their child? How does an officer determine the difference? Oregon law (ORS 161.205(1)) permits spanking as long as it is reasonable and necessary to "maintain discipline or to promote the welfare of the minor."

What is reasonable?

- No injury or bruising
- No dangerous instrument
- Not protracted period of time
- Applied to a safe place (area padded from bones and delicate organs)

Abuse or Medical: SIDS?

According to the Centers for Disease Control and Prevention, sudden unexpected infant death (SUID) is a term used to describe the sudden and unexpected death of a baby less than one-year-old in which the cause was not apparent before investigation. These deaths often happen during sleep or in the baby's sleep area. Sudden unexpected infant deaths include sudden infant death syndrome (SIDS), accidental suffocation in a sleeping environment, and other deaths from unknown causes.

The items in a baby's crib and his or her sleeping position can combine with a baby's physical problems to increase SIDS risk. Examples include:

- Sleeping on the stomach or side- Babies placed in these positions to sleep might have more difficulty breathing than those placed on their backs.



- Sleeping on a soft surface- Lying face down on a fluffy comforter, a soft mattress, or a waterbed can block an infant's airway.
- Sharing a bed- While the risk of SIDS is lowered if an infant sleeps in the same room as his or her parents, the risk increases if the baby sleeps in the same bed with parents, siblings, or pets.
- Overheating- Being too warm while sleeping can increase a baby's risk of SIDS.

Abuse or Medical: Factitious Disorder?

Factitious Disorder by Proxy

A mental disorder when a person acts as if a person in their care has an illness when they do not.

The term "by proxy" means "through a substitute."

One category of factitious disorder is Munchausen Syndrome by Proxy. This is a mental health disorder most often occurring with mothers and usually involves a child under six. Munchausen Syndrome by Proxy is considered a form of abuse. This is a rare disorder. With Munchausen Syndrome by Proxy, the suspect intentionally harms their children or describes non-existent symptoms to receive attention. This may include lying about symptoms, altering or falsifying tests, and falsifying medical records.

Munchausen Syndrome by Proxy is serious. The suspect may induce symptoms through various means, such as poisoning, suffocating, starving, and causing infection. Additionally, the suspect is willing to have the child undergo painful or risky tests and operations to gain the sympathy and special attention given to genuinely ill people and their families. This can lead to continued abuse, multiple hospitalizations, and the death of the victim.



Child Warning Signs:

- Child has a history of hospitalizations (possibly in different hospitals), often with a strange set of symptoms.
- Worsening of symptoms generally is reported by the mother and is not witnessed by hospital staff.
- The child's reported condition and symptoms do not agree with the results of diagnostic tests.
- There might be more than one unusual illness or death of children in the family.
- The child's condition improves in the hospital, but symptoms recur when the child returns home.
- Blood in lab samples might not match the blood of the child.
- There might be chemicals in the child's blood, stool, or urine.

Concluding the Investigation

Removing a Child from the Home- Protective Custody

As the initial investigation concludes it may be appropriate to remove a child from their home and place them into protective custody. Be aware that law enforcement's legal authority to interview and/or remove a child from their home exists, but this is not without careful action. Substantial case law exists, which may put additional parameters around investigations and removals.

ORS 419B.150 states a child may be taken into protective custody by a peace officer, counselor, employee of the Department of Human Services or any other person authorized by the juvenile court of the county in which the child is found, in the following circumstances:

- When the child's condition or surroundings reasonably appear to be such as to jeopardize the child's welfare.

Case Law Considerations for

Warrantless Removal:

- Reasonable cause that the child is in imminent danger of serious bodily injury.
- Even where there is reasonable cause to believe that a child is in imminent danger, the scope and degree of state interference must be justified by the alleged exigency.



Case Dispositions

Child abuse and neglect investigations have some different dispositions than standard criminal cases.

The Department of Human Services lists the following:

- **Founded- Substantiated.** There is reasonable cause to believe the abuse occurred.
- **Unfounded- Unsubstantiated.** There is no evidence the abuse occurred.
- **Unable to determine- Inconclusive.** There is some indication the abuse occurred. However, there is insufficient evidence to conclude there is reasonable cause to believe that abuse occurred.

Law enforcement conclusions may include the following:

- Discontinue, insufficient evidence
- Suspect is arrested
- Grand jury and indictment
- Service contract with DHS

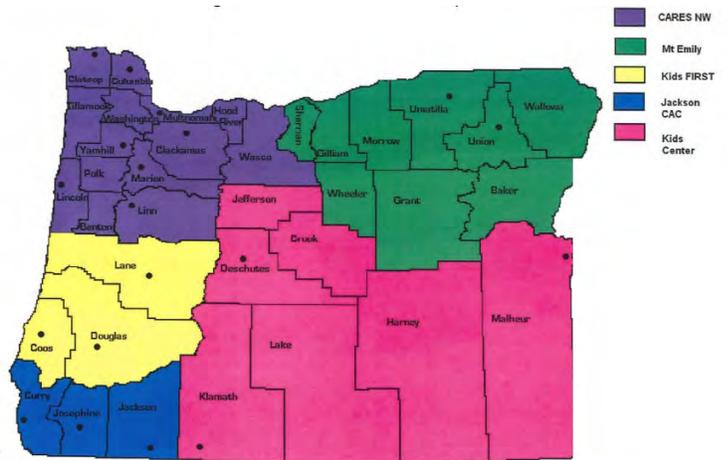


Child Abuse Intervention Centers (CAIC)

This course will conclude with an introduction to a key child abuse and neglect resource, the Child Abuse Intervention Centers (CAIC).

A child abuse intervention center is a neutral, child-sensitive community-based facility to which a child may be referred to receive a thorough child abuse medical assessment to determine whether the child has been abused or neglected. Services also include forensic interviewing, treatment, and support services for child victims. Children are referred to an assessment center through DHS, law enforcement, or medical providers.

A CAIC medical exam is conducted by physicians specializing in the recognition and treatment of child abuse. This head-to-toe check-up includes a complete social and medical history. Any physical signs of abuse are documented and may be used as evidence in the abuse investigation. Equally important, children have the opportunity to ask questions about how the abuse may have affected their bodies and development and to receive reassurance from trained staff.



Civil Rights and Liabilities

BASIC POLICE ACADEMY





Civil Rights and Liabilities

Instructional Goals:

This course is designed to develop a new officer's understanding of the Constitution, duty to protect the rights of all citizens, and how to reduce civil liability risks.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Explain the role of an officer in protecting the rights of citizens.
2. Identify types of encounters that could expose an officer to potential criminal or civil action.
3. Articulate steps that law enforcement officers/agencies can take to reduce exposure to civil liability.

Content Outline:

- Constitutional Rights
- Significance of Civil Liability
- Legal Authority for Civil Liability / Civil Rights Violations Claims
- Consequences and Costs
- Qualified Immunity
- Preventing/Reducing Exposure to Civil Liability



Introduction – “To uphold the constitution”

Constitutional rights are the cornerstone of our free society, and for obvious reasons, the law imposes special responsibilities for the preservation and protection of those rights on law enforcement officers. Every law enforcement officer, federal, state, and local, has the sworn duty to uphold the Constitution and to protect the rights of all citizens. That duty imposes on law enforcement officers the corresponding obligations of knowing the fundamental rights which the Constitution protects and secures.

Constitutional Rights

The Supreme Court of the United States has held that the protections of the Bill of Rights run only against the federal, city, state, and county governments and their agents, not against private individuals. Similarly, the protections of the Fourteenth Amendment run only against the States and their agents, not against private individuals.

Why is Civil Liability Important?

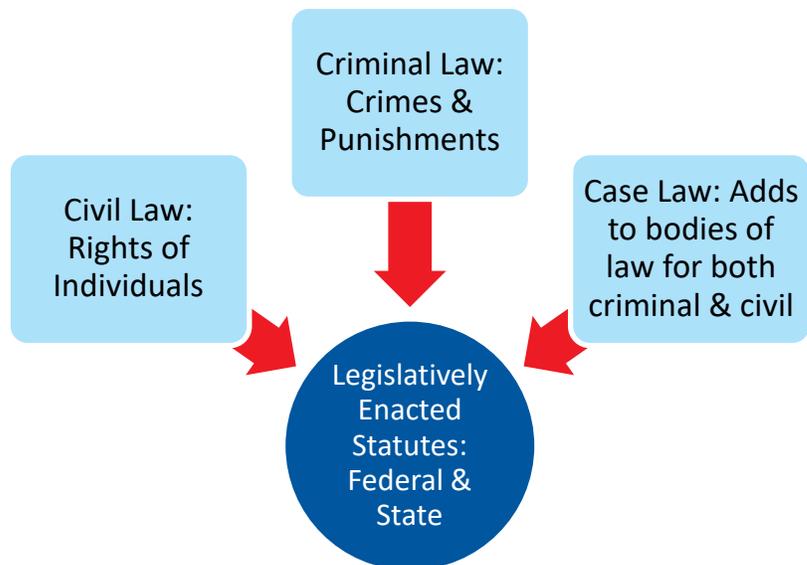
Actions of law enforcement officers are being scrutinized more and more every day. There is an increasing number of lawsuits filed against police, and an accompanying increase in the number of distinct areas in which officers are being held liable.



Differences between Civil and Criminal Law

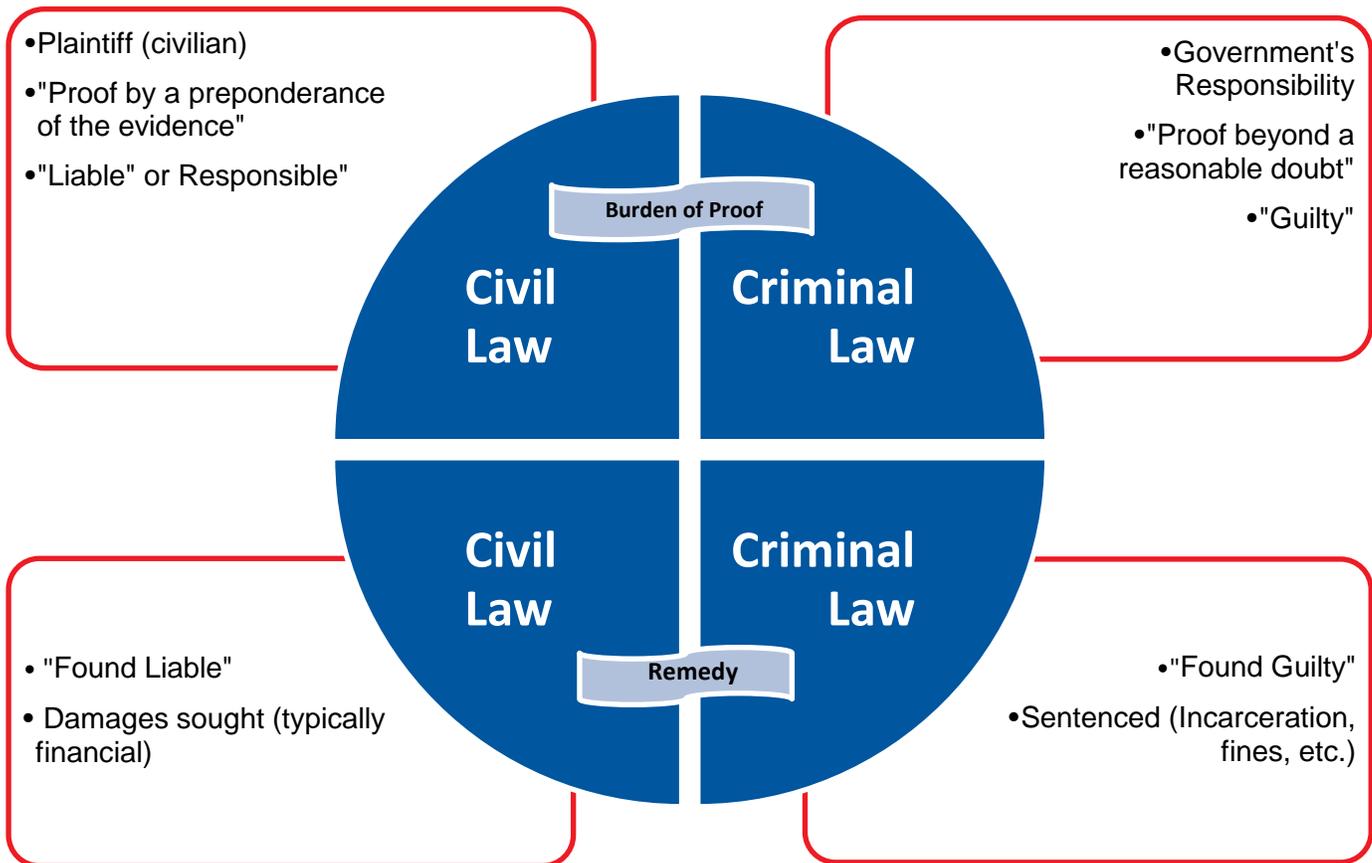
Any discussion of civil liability benefits from a basic understanding of the differences between civil and criminal law. In the United States' legal system, criminal law is generally understood as that body of legislatively enacted statutes that define crimes and their punishments. These laws are enacted by state legislatures and by Congress as well. Therefore, criminal law is both state and federal. Criminal law is also quite obviously connected to the provisions of the state and federal constitutions. These documents are the source of those "constitutional rights" frequently referred to in the context of criminal prosecution. The court made law, or "case law" interprets statutes and constitutional provisions, and further adds to the body of law known as "criminal law."

By contrast, civil law is generally understood as that body of law more concerned with the rights of individuals, both concerning one's relationship with and to the government (state and federal) and with and to one's fellow citizens. As is the case with criminal law, civil law is also outlined in legislatively enacted statutes at both the state and federal level. And, like criminal law, civil law is understood by reference to constitutional provisions. Lastly, the court made "case law" continually grows the body of law we know as "civil law."





One way by which civil law and criminal law differs is concerning what we call the “burden of proof.” In a criminal case, where a crime has been charged against a “criminal defendant,” the government’s burden of proof, which must be met for the defendant to be found “guilty” of the crime, is “proof beyond a reasonable doubt.” This burden is explained by reference to a need for jurors to find “to a moral certainty” the guilt of the defendant. Further, jurors are advised that this certainty is such as they would apply to the most serious of their personal affairs. By contrast, the burden of proof in a civil case, where a “plaintiff” has sued a “defendant,” is “proof by a preponderance of the evidence.” The plaintiff, who is represented by his or her attorney usually, must meet this burden before the defendant may be held “liable” or “responsible,” according to the plaintiff’s claim or claims. Proof to a preponderance of the evidence is a “more likely than not,” standard. Many refer to this as a “51%” standard, though this reference is not found in the legal instructions given to civil juries.





A significant difference between civil and criminal law concerns what we call the “remedy.” In a criminal case, if a criminal defendant is “found guilty,” the potential remedy for the government, who is the “party” bringing the case, is the imposition of a sentence of incarceration. Additionally, the defendant may be fined, he may be ordered to forfeit property, he may be ordered to pay compensatory restitution to his victim, and he may be placed on some sort of supervision, with conditions related to his crime of conviction. Conversely, when a civil defendant is “found liable” for the plaintiff’s claim/s, the plaintiff’s remedy is typically financial. When a civil plaintiff sues, the plaintiff will seek “damages” for their harm or injury, or deprivation of rights. However, even if the plaintiff prevails, they may not necessarily be awarded the amount of damages they seek.

Civil Liability

Applying the principles discussed above, “civil liability” describes the potential responsibility for payment of damages, and sometimes for other court-enforced conditions, in a civil “lawsuit.” Fundamentally, civil liability is established on the concept of a “tortuous” act or conduct, resulting in damages.

So, what is a “tort?” The Oregon Tort Claims Act, which we will discuss later in greater detail, defines a tort as, “the breach of a legal duty that is imposed by law, other than a duty imposed from contract or quasi-contract, the breach of which results in injury to a specific person or persons for which the law provides a civil right of action for damages or protective remedies.” More generally speaking, a tort is a civil wrong or wrongful act, recognized by law, from which injury occurs to another. Keep in mind that “injury” here does not necessarily mean “bodily injury.” One can suffer financial injury, reputational injury, etc.



Torts include negligence actions as well as intentional wrongs. It is important to note that not all unfortunate outcomes result in “tort liability.” “Negligence” is the failure to exercise that degree of care, which a person of ordinary reasonable prudence would exercise under the same or similar circumstances. Practically speaking, if the injury in question does not result from conduct which at least rises to the level of negligence, it is unlikely that the conduct would be recognized as a tort.

An example of a tort of negligence might be the personal injury that results from an automobile crash, where the “at fault” driver was negligent for texting while driving, and consequently collided with a vehicle in an intersection who had the right of way.

An example of an intentional tort would be “assault” and/or “battery.” Here things get interesting; “assault” is also the name of a crime. There are actually many torts, the names of which also describe crimes.

A civil lawsuit will be initiated by an aggrieved party, who we refer to as the plaintiff. The plaintiff will either allege the commission of a tort or torts, as discussed above, or that an alleged injury was caused by some other act, or omission, in violation of a statutory or constitutional right. The civil defendant may be a private person or persons, such as in the example of the automobile crash above. Or, it may be a person who works for a governmental entity, such as an officer. The “status” of the defendant in a civil lawsuit, will directly affect the plaintiff’s options, in terms of which claims they bring, and under which authority.

The most likely claim an officer might face from a would-be plaintiff is “failure to perform a duty owed another.” This claim would most likely be alleged as a tort claim. There are four requirements for a successful tort claim. Remember, the plaintiff bringing the civil lawsuit has the burden of proving all of these requirements by a preponderance of the evidence. Failing to prove any one of them would mean the plaintiff cannot prevail.



Four Requirements for a Successful Tort Claim

Plaintiff is responsible for proving all of these, by a preponderance of the evidence.

The first requirement is the establishment of a legal duty owed to the plaintiff. How might this be demonstrated as regards to an officer? “Dial 9-1-1” is everywhere. It is in the phone book, online, in public service announcements, etc. It is taught to our children in grade school. It is painted on police patrol vehicles. Arguably, this admonition assures the public of help if that number is called. This implied practice of “Call 9-1-1 for help” is bolstered by readily available evidence that the public has been helped before by doing so. The plaintiff, however, would have the burden of proving that these realities equate to a legal duty to the plaintiff him or herself.

Legal Duty
Owed

Breach of Duty

Damage
Resulting in
Injury

Proof of Cause
& Effect

The next requirement assumes that a legal duty has been sufficiently proved and that there has been a breach of that duty. In other words, there has been a failure to perform a duty owed another. For example, the plaintiff might argue that telling a caller that help is on the way when help has not been dispatched, might be interpreted as a failure by commission or omission of an act of duty.

The next requirement for a successful tort claim is evidence of damage resulting in an injury. Again, we must broadly interpret the term “injury” here. Possible examples would be loss of life, physical injury, loss of property, emotional damage, or loss of wages or earning capacity. And lastly, the plaintiff has the burden of proving “cause and effect.” There must be a causation relationship between the alleged breach of duty and the claimed damage. A successful tort claim requires proof of all four elements. A defendant would successfully disprove the plaintiff’s claim by disproving even only one element.



Sources of Legal Authority for Civil Liability Claims

The Oregon Tort Claims Act (ORS 30.260 to 30.300)

The Oregon Tort Claims Act (ORS 30.260 to 30.300) allows persons to assert claims and to sue public bodies, and in some instances, their officers, employees, and agents – for torts, subject to certain conditions and limitations. Because some form of governmental entity will always employ officers, the Oregon Tort Claims Act will be the vehicle by which a would-be plaintiff would sue an officer for a tort alleged to have occurred on the job. (We will not be discussing here the potential torts which an officer could face in their private life.)

The Oregon Tort Claims Act is found at ORS 30.260 to 30.300. Subject to certain damage limitations, “every public body is subject to a civil action for its torts and those of its officers, employees, and agents acting within the scope of their employment or duties, whether arising out of a governmental or proprietary function....” A “public body” for purposes of the act would include the officer’s employer. For example, “Metcom 911” would be a public body. The act further provides that “the *sole cause of action* for a tort committed by officers, employees or agents of a public body acting within the scope of their employment or duties ... is an action under ORS 30.260 to 30.300.

The remedy provided by ORS 30.260 to 30.300 is exclusive of any other action against any such officer, employee, or agent of a public body whose act or omission within the scope of the officer’s, employee’s or agent’s employment or duties gives rise to the action. No other form of civil action is permitted.” This has the potential to be confusing because we have discussed above the possibility of a plaintiff suing an officer not for a tort, but rather for a violation of statutory or constitutional rights. That is an entirely different sort of legal action and may be pursued in addition to an Oregon Tort Claims Act lawsuit.

What the Oregon Tort Claims Act makes clear is that it is the only means by which a plaintiff may sue an officer, for example, employed by a public body, for a **tort**.



The Office of the Oregon State Court Administrator calculates the annual adjustment to the liability limits for actions against public bodies pursuant to the act. New liability limits for injury, death, and property damage claims brought against state and local public bodies are adjusted annually on July 1st and apply to all causes of action arising between that date and the following July 1st.

Lastly, the Oregon Tort Claims Act provides that employees of public bodies enjoy “indemnity protection.” The act states, “The governing body of any public body shall defend, save harmless and indemnify any of its officers, employees, and agents, whether elective or appointive, against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of duty.” However, the act also states that the above provisions “do not apply in case of malfeasance in office or willful or wanton neglect of duty.”

The Oregon Tort Claims Act provides employees of public bodies with “Indemnity Protection.”

Federal Civil Rights Violations

Title 42, U.S.C., Section 1983

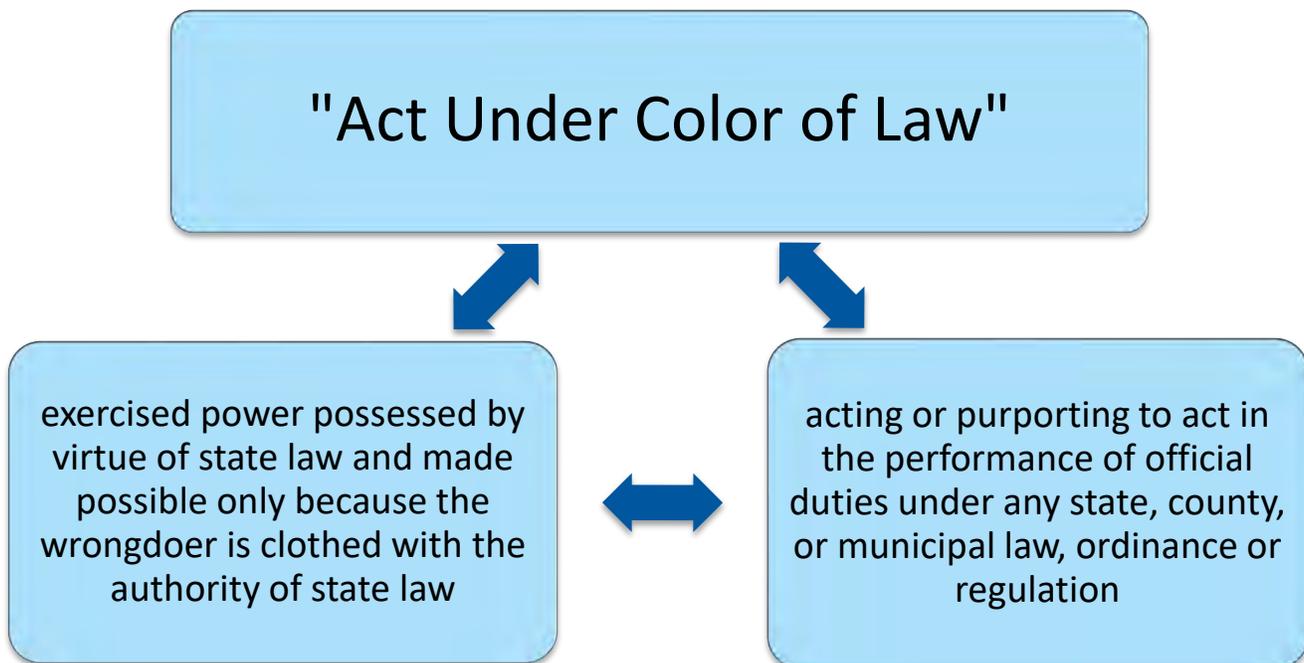
The Civil Rights Act of 1871 was an Act of the United States Congress, which empowered then President Grant to suspend the writ of habeas corpus to combat the Ku Klux Klan and to bring to justice those who were violating the civil rights of newly freed African Americans. Several of the act’s original provisions still exist today in codified statutes, but arguably the most known, and most significant still-existing provision is Title 42, United States Code, (U.S.C.) Section 1983: Civil action for deprivation of rights.

It provides, “Every person who, under color of any statute, ordinance, regulation, custom or usage of any State or Territory, or the District of Columbia, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proceedings for redress.”



Title 42, Section 1983, serves as one of the most significant legal authorities by which the courts may protect those whose rights are deprived. This statute provides a way for persons to sue when their federally protected rights are violated. The requirements one seeking relief under this statute must prove are: (1) the defendant/s acting under color of state law (2) deprived plaintiff/s of rights secured by the Constitution or federal statutes.

So, what does it mean to “act under color of law?” A civil defendant has acted under color of state law where he or she has “exercised power possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law.” This has also been explained as “acting or purporting to act in the performance of official duties under any state, county, or municipal law, ordinance or regulation.” A person deprives another of a federally protected right, within the meaning of Section 1983, “if he does an affirmative act, participates in another’s affirmative act, or omits to perform an act which he is legally required to do that causes the deprivation of which complaint is made.”





Title 42, Section 1983, made money damages relief available to those whose federally protected rights had been violated by a person acting under “color of law.” Without Section 1983, a potential plaintiff could make out an actionable claim for a constitutional violation or violation of a federally created statutory right. Still, there would be no meaningful remedy for the violation. Negligence is NOT a violation of a person’s federally protected civil rights.

While these civil liability claims are usually filed in federal courts, a claim may be brought against a color of law actor in state or federal court. An essential feature in Section 1983 lawsuits is that if the plaintiff wins, they are often awarded their attorney fees, which may be as much as or even exceed the money damage award.

Title 18, U.S.C., Section 242

“Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.”

- a. This provision makes it a crime for someone acting under color of law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States.
 - The offense doesn't need to be motivated by racial bias or by any other animus.



- b. Defendants act under color of law when they wield power vested by a government entity.
 - Those prosecuted under the statute typically include police officers, sheriff's deputies, and correctional officers.
 - However, other government actors, such as judges, district attorneys, and other public officials, can also act under the color of law and can be prosecuted under this statute.

- c. Section 242 does not criminalize any particular type of abusive conduct. Instead, it incorporates by reference rights defined by the Constitution, federal statutes, and interpretive case law.
 - Cases charged by federal prosecutors most often involve physical or sexual assaults.
 - The Department of Justice has also prosecuted public officials for thefts, false arrests, evidence-planting, and failing to protect someone in custody from constitutional violations committed by others.

- d. The F.B.I investigates these federal crimes, and are triable only in a federal court.

- e. Federal prosecutors working in the Criminal Section of the Civil Rights Division of the United States Department of Justice will try these cases.

The US DOJ website provides the following history of the Criminal Section:

One of the oldest of the Civil Rights Division's units, the Criminal Section, enforces laws that date to the post-Civil War Reconstruction Era.

The Criminal Section is unique within the Division, prosecuting criminal cases while the remainder of the Division handles civil matters. Some of the Criminal Section's earliest prosecutions involved the murder of minorities and civil rights workers in the South during the 1960s prior to desegregation. In 1968, Congress broadened the scope of protection afforded by civil rights statutes by passing a law that made it a crime to interfere by force or threat of force with certain rights (such as employment, housing, use of public facilities, etc.) because of someone's race, religion, color or national origin...



Another section of the US DOJ Civil Rights Division of particular interest to public safety professionals is that of the Special Litigation Section:

The Special Litigation Section is one of several Sections in the Civil Rights Division. We work to protect civil rights in the following areas: 1) the rights of people in state or local institutions, including jails, prisons, juvenile detention facilities, and health care facilities for persons with disabilities; 2) the rights of individuals with disabilities to receive services in their communities, rather than in institutions; 3) the rights of people who interact with state or local police or sheriffs' departments; 4) the rights of youth involved in the juvenile justice system; 5) the rights of people to have safe access to reproductive health care clinics, and 6) the rights of people to practice their religion while confined to state and local institutions. We can also act on behalf of people at risk of harm in these areas.

More information about this section and cases specifically involving this section can be found at <https://www.justice.gov/crt/special-litigation-section>

The Americans with Disabilities Act (A.D.A.)

We have been discussing the remedy of seeking money damages for violation of a “federally protected right.” We have seen that these rights may be found in the federal Constitution, or may be created by federal statute. One such statute which creates rights enforceable under Title 42, Section 1983, would be the Americans with Disabilities Act, or the A.D.A. This act was signed by President George H.W. Bush in 1990 and made it illegal to discriminate against a person based on visual, speech and hearing impairments, AIDS, alcoholism and drug addiction, and serious medical conditions.

The A.D.A. is a federal civil rights law. It gives federal civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in state and local government services and public accommodations, among other guarantees. An individual is considered to have a “disability” if he or she has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.



Title II of the A.D.A. prohibits discrimination against people with disabilities in state and local governments' services and programs. Law enforcement agencies are covered because they are programs of state or local governments. The A.D.A. affects virtually everything that officers, deputies, and troopers do, for example:

- Receiving citizen complaints
- Interrogating witnesses
- Arresting, booking and holding suspects
- Operating 911 emergency centers
- Providing emergency medical services,
- Enforcing laws

HIPAA - Health Insurance Portability and Accountability Act of 1996

Another example of a federal statute that creates rights enforceable under Title 42, Section 1983 is HIPAA. HIPAA is federal legislation that provides data privacy and security provisions for safeguarding medical information. The language of the act was mainly concerned with controlling the electronic transfer of health information. While Congress passed the act itself in 1996, its stringent medical privacy regulations are known as the "privacy rule" did not go into effect until 2003. "Health care organizations," were required to comply with the privacy rule beginning in April 2003. The goal of the privacy rule, according to drafters of the rule, was to give patients more control over the release of their medical information.

HIPAA applies to "health care organizations." If the organization electronically bills for health care or **transmits health information**, HIPAA applies. Most HIPAA disputes which would be of interest to officers' focus upon the "required by law" exception for "protected health information." That provision allows HIPAA-covered entities to disclose such information to the extent that it is "required by law." Otherwise, "protected health information" is NOT to be disclosed. The history of HIPAA suggests it was not intended to preempt state disclosure/public records laws.

If officers provide "health care" in a given circumstance, the medical information in a record generated appears likely to be protected from disclosure, that is, "exempt" under Oregon's public records laws. Therefore, it is likely protected under HIPAA, and disclosure could subject the involved persons to civil liability.



What are our Agencies doing about Civil Liability?

- Department administrators are changing their expectations of law enforcement officers employed in their agencies.
 - Examples: A higher level of professionalism, proactive liability reduction, etc.
- To ensure officers know what they can and cannot legally do, agencies are providing more training for their officers.
 - Officers would feel more comfortable in exercising their authority and powers if they know what the courts are saying.
 - This should reduce potential exposure to lawsuits as well.
- Educating the public
 - Examples: Citizens' academies, ride-a-longs, computer-simulated demonstrations, neighborhood meetings, and community-based policing all enhance the public's understanding of our job as police officers.
 - If the public better understands the challenges officers face, shouldn't that reduce the potential for a successful lawsuit?
 - Promoting a sense that the safety of the community is a responsibility shared by the police and the members of the community.



Why Police Get Sued – Some examples (*this list is not exclusive*)

General Liability – These examples involving general activities you do on the job

- False arrest
- Excessive force
 - Property handling
 - Personnel and employment practices
 - Medical care
 - Search and seizure
- Investigation
- Constitutional/federal statutory rights violated
- Contacts with mentally ill persons

Vehicle Liability – These examples arise out of the operation of a vehicle in an official capacity. Few of these cases result from pursuits – most arise from routine or emergency responses. However, pursuits ending in death have the potential for a large monetary wrongful death settlement. Further, even cases resulting in serious physical injury may result in considerable verdicts for the plaintiff. Negligence is the most common theory of liability for lawsuits related to vehicle operation. Examples of vehicle operations alleged in lawsuits:

- Rear-ending vehicle in front while using MDT
- Moving object struck
- Lane change/merge
- Emergency vehicle operation
- Fixed object struck

Possible Consequences and Costs of Litigation

1. Damages
2. Attorney Fees
3. Criminal penalties, state and federal
4. Employment, disciplinary issues
5. Deadly force resulting in death?



Qualified Immunity

Public officials are immune from suit under 42 U.S.C. Sec. 1983, unless they have “violated a statutory or constitutional right that was ‘clearly established’ at the time of the challenged conduct.” This is an exacting standard that “gives government officials breathing room to make reasonable but mistaken judgments.”

“Qualified immunity” is what is known as an affirmative defense, which means that a civil defendant must raise it, or else it is lost. If successful, qualified immunity is immunity from civil suit rather than a mere defense to liability and entitles an officer to avoid standing trial. As a practical matter, qualified immunity is rarely granted before the discovery process is complete.

Qualified immunity permits officers to perform their duties without fear of constantly defending themselves against insubstantial claims for damages. At the same time, it still allows the public to recover damages where officers unreasonably violate a person’s constitutional or federally protected rights. The doctrine of qualified immunity is designed to protect all but “the plainly incompetent or those who knowingly violate the law.”

In 2001, in Saucier v. Katz, the U.S. Supreme Court announced a two-part test for analyzing claims made in federal civil rights lawsuits. First, the lower court must consider whether there was a violation of the plaintiff’s constitutional or federally protected rights. If the lower court decides the plaintiff’s rights were violated, the officer still may not have liability if the appellate courts had not given prior direction. Therefore, for the second part of the test, the lower court must determine whether the right was “clearly established” at the time of the alleged violation. The court is free to consider either part of the test first. It is common for courts to determine that qualified immunity applies because the right was not clearly established, and to grant qualified immunity without making a determination of whether a constitutional right was violated.



Two-Part Test for Analyzing Qualified Immunity (as determined by the Courts)

In 2017, in White v. Pauly, the Supreme Court observed that over the last five years, it had overturned numerous denials of qualified immunity by the lower courts. The court admonished the lower court in Pauly for “misunderstanding” the “clearly established analysis.” The court noted that “qualified immunity is important to society as a whole,” and it “is effectively lost if a case is erroneously permitted to go to trial.” While the court’s case law “does not require a case directly on point” for a right to be clearly established, “existing precedent must have placed the statutory or constitutional question beyond debate.” The court found it “necessary to reiterate” the longstanding principle that “clearly established law” should not be defined “at a high level of generality.” While the court acknowledged that “general statements of the law are not inherently incapable of giving a fair and clear warning” to officers, it held that “in light of the pre-existing law, the unlawfulness must be apparent.”

Qualified immunity is an affirmative defense **ONLY** available in federal civil rights *lawsuits*, filed under Title 42, Sec. 1983. It has no application to federal civil rights violation *prosecutions*. Further, this doctrine of qualified immunity does not shield civil defendants from state law tort claims. Therefore, it is not an affirmative defense to a claim filed under the Oregon Tort Claims Act.



What can I do to reduce my “exposure” to Civil Liability?

Officers should always be aware of their exposure to tort or civil rights violation lawsuits. Awareness is not hypersensitivity or paranoia. Simple strategies will go a long way towards reducing unnecessary exposure to these claims.

1. Members of our community serve on juries. We need to educate them, to promote understanding of police procedures and challenges.
2. Understand that an individual officer’s attitude and approach can positively or negatively affect citizen and community perception of the police.
3. Take time to explain your actions, particularly if asked.
4. Establish a positive relationship with members of your community. Know, respect, and talk with them.
5. One of the reasons for your department’s policies and procedures is to reduce your exposure to liability. Know them and follow them. Failing to follow policy or performing incompletely or inadequately not only increases your exposure to liability, but it also makes it more likely your agency will not be required to indemnify you. Indemnification of an employee is only required if the employee is performing within the “course and scope of employment.” An employee “acting out of policy” should presume they will not be indemnified.
6. Training is **CRITICAL** to reducing your exposure to liability.
7. Examples of proactive actions you can take, which are not only the right thing to do; they are the smart thing to do:
 - Monitor your custodies at all times, especially after a use of force.
 - Avoid leaving your custodies unattended.
 - Use appropriate restraint devices and ensure they are properly applied.
 - Do not restrain anyone in a “hog-tie” position.



- Ensure appropriate aftercare and/or medical care after utilizing defensive devices.
- Ensure timely medical care for other obvious significant medical problems.
- Protect your custodies from harmful environmental conditions.
- Avoid engaging in any enforcement actions while a custody is in your vehicle.
- Build a respectful rapport with your custody, if possible.
- Prepare a thorough and complete report. Record pertinent facts. Never plan to rely on your memory. There are many ways to document. Follow policy unless you can show good cause why an alternate method of documentation was used. Use common sense.
- Everyone has a cell phone camera. Always assume you are being recorded while on duty, and conduct yourself accordingly.
- **ALWAYS ACT IN GOOD FAITH.**



SOURCES/RESOURCES

Civil Rights Division (USDOJ) - <https://www.justice.gov/crt>

Criminal section (within Civil Rights Division of USDOJ) - <https://www.justice.gov/crt/criminal-section-overview>

Civil Rights Division Overview -
https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/division_booklet.pdf

Civil Rights Division's Pattern and Practice Police Reform Work: 1994-Present -
<https://www.justice.gov/crt/file/922421/download>

Special Litigation Section (within Civil Rights Division of USDOJ) -
<https://www.justice.gov/crt/special-litigation-section>

Communication for Policing

BASIC POLICE ACADEMY





Communication for Policing

Instructional Goals:

This course is designed to:

1. Develop a new officer's ability to communicate effectively with others.
2. Develop a new officer's ability to recognize communication challenges and apply adaptive approaches toward resolution.

Learning Outcomes:

Upon completion of instruction, students will be able to:

1. Demonstrate effective communication in a variety of circumstances
2. Analyze a situation and choose the appropriate communication approach to result in a positive interaction



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There are various methods of communication, including verbal, non-verbal, and written. As a police officer, you need to have strong skills in all three. This series will introduce verbal and non-verbal communication, which will be carried over into other courses such as Legitimacy and Procedural Justice, Use of Force, Vehicle Stops, and more. The final course in the Communication series will focus on radio communication. Additionally, you will complete a Report Writing series, which will address written communication for policing.

Policing and Communication

Tactical Communications

Today's police officers have better equipment and technology than ever before. Still, the fact remains that nearly every encounter between a police officer and a member of the public starts and ends with words. Officers are more effective—and safer—when they can use communication skills to their tactical advantage. The goal is to obtain voluntary compliance and resolve a situation without force, making the encounter safer for everyone, including the officer. These tactical communication skills are essential in dealing with persons in crisis due to mental illness or other conditions.

Police Executive Research Forum

An effective police officer uses communication skills far more than any other skill. Police use communication to gain voluntary compliance, negotiate a challenging situation, persuade others to take specific actions, gather information, etc. Police need to be fluid and adaptable, making adjustments depending on whom they are communicating with and depending on the outcome they are working toward.



Consider the following:

You conduct a traffic stop and the driver complies.	You participate in a neighborhood watch meeting.	You respond to a call about a suspicious person in a neighborhood, when you ask the person for their ID, they keep walking.
You interview the victim in a sexual assault investigation.	You want to gain consent to search a person's backpack.	You respond to a heated domestic call where everyone in the house is screaming at one another.
You respond to a large fight in a store parking lot, everyone is yelling. Someone pulls their phone out and is recording you.	You respond to a parent calling about their adult child who is suicidal and locked in the bathroom with a knife.	You deliver a death notification to a grieving parent.

What is needed in these different situations? At times, police must be direct and authoritative. Learning to give clear and concise commands is an essential part of this series. However, not every encounter is best handled with the issuance of an order or command. Often circumstances call for listening, an empathetic response, or giving the person a voice.

- Part 1 of this series will focus on some foundational communication skills, including active listening, establishing rapport, and empathy.
- Part 2 will begin to apply these concepts to field interviews, traffic stops, and situations involving high emotions.
- Part 3 introduces assertive communication and dealing with conflict.
- Part 4 addresses clear and concise commands, interactions that require a transition in strategy or an escalated approach such as crisis communication, de-escalation, and use of force.



Part 1

Law enforcement officers must have strong interpersonal skills to effectively communicate with peers, supervisors, community members, other law enforcement, other organizations, and the courts. To complicate matters, effective policing requires a variety of communication skills for a variety of circumstances. Does the task at hand require persuasion? Directing? Obtaining information? Community building? What is needed for effective investigative interviewing compared to de-escalating a crisis? What is needed for a conversation with a frustrated business owner compared to making an arrest?



Officers must not only be good at all of these; they must be able to transition among them fluidly. Law enforcement officers who build their communication skills toolbox are the most effective because they understand how to communicate with people from different backgrounds under a host of different circumstances. They can make transitions at appropriate times. They can leverage their skills toward achieving a positive outcome. They use communication to gain voluntary compliance.

This course begins with a look at the communication process and the elements of effective communication.



Effective Communication

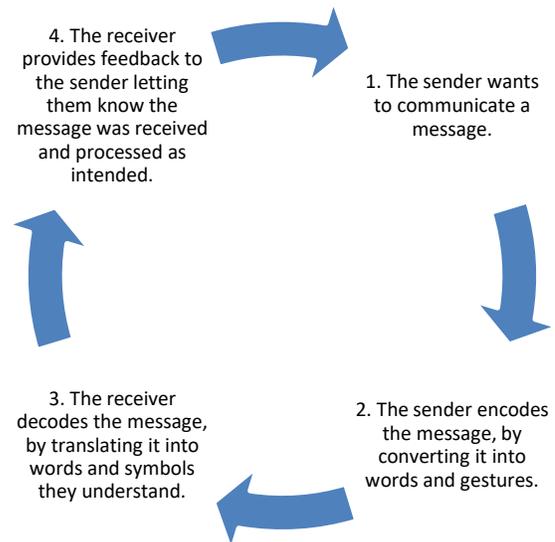
Communication is essentially conveying a message, which results in a shared understanding between parties. There are multiple models in existence that try and explain the human communication process. Most models involve a sender, a message, and a receiver. Many popular models also include processes of encoding and decoding.



The Communication Process

Under optimal circumstances, both the sender and receiver can transmit, receive, and process information. Consider the optimal process:

1. The sender wants to communicate a message.
2. The sender encodes the message by converting it into words and gestures.
3. The receiver decodes the message by translating it into words and symbols they understand.
4. The receiver provides feedback to the sender, letting them know the message was received and processed as intended.



While this seems like a simple process, consider all of the things that can go wrong or disrupt this process. For example, words have different meanings for different people, external factors can disrupt the process, individual life experiences influence understanding or intent, people have biases, etc.



Forms of Communication



Although word choice is important, sending a message is more than the words said. It is also about how words are expressed (para-verbal) and the body language (non-verbal) accompanying the message. Failure to consider how we (as senders) encode a message or failure (as receivers) to decode a message can result in a communication failure. In policing, a communication failure can have significant negative impacts.

Verbal	Para-Verbal	Non-Verbal
<p>What we say.</p> <p>The spoken (and written) word.</p>	<p>How we say it.</p> <p>Tone, pitch, volume, and rate.</p>	<p>The physical means by which we send messages.</p> <p>The facial expressions, eye movements, physical gestures, posture, stance.</p>

Choose your words wisely. Effective verbal communication includes word choice. Choose words that are appropriate for the situation. Avoid the use of inflammatory language. Focus on being clear and concise when asking questions or giving commands. This includes avoiding the use of jargon, acronyms, and legalese.

It's not what you say but how you say it. Para-verbal communication makes what you say easier or harder to understand. It impacts the meaning of your words. Think about this, para-verbal communication is what makes a sarcastic comment sarcastic. Is your voice calm? It's what makes you sound afraid or in-control. It is the difference between coming across as meek, assertive, or aggressive. It can make the difference between sounding empathetic or robotic.

Actions speak louder than words. Our non-verbal communication constitutes a larger fraction of our communication than our verbal communication. Similar to para-verbals, our non-verbal communication contributes to the (ill-defined) concept of officer presence. Understanding non-verbal communication is an essential skill for policing. Consider this, where do you rest your hands while talking to someone? Is it resting near your gun? Are your thumbs hooked in your vest? What might these different stances communicate?



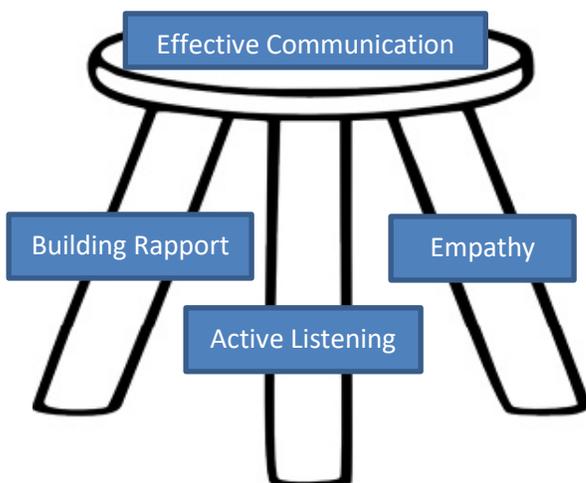


It is essential that officers do not just consider their own verbal, para-verbal, and non-verbal communication but are also attuned to what is being communicated by others. Observing and making a note of a subject's non-verbal behaviors may give you insight into their intent. Are they about to run? To assault you? Verbal, para-verbal, and non-verbal observations can give you insight into a subject's truthfulness. Does what they are saying align with how they are saying it? Observing these cues help us assess whether a person is in crisis, whether a person has experienced a trauma, and what the person needs.

These forms of communication serve as a foundation for many topics to be covered in the academy. You will revisit these in Use of Force and Vehicle Stops, to name a few. You will build on these in Legitimacy and Procedural Justice, De-Escalation, and Investigative Interviewing. Most importantly, you will practice these weekly in Fragment Drills and Scenarios.

Tools for Effective Communication

How does one enhance the likelihood of a message resulting in a shared understanding? Countless tools could be considered important. This course will focus on three key elements, each supporting one another: building rapport, active listening, and empathy.



As you work through the three tools, consider how each might contribute to the various goals of an interaction.

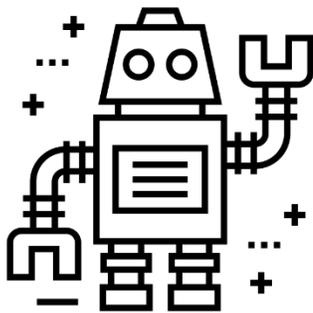


Tool #1 Rapport Building

A critical police communication skill is rapport building. Rapport building is about building a relationship, establishing trust, and making a connection with someone. In policing, rapport building is important for developing and maintaining community relations, and the first several weeks of the academy will further highlight this. However, rapport building is not limited to coffee shop or town hall-type interactions. Rapport building is also the foundation for successful de-escalation and investigative interviewing, which will be covered later in the academy.

Rapport is the feeling of commonality.
People like people like themselves or
whom they would like to be.

How does one create a sense of commonality as a police officer? While it might be easier to imagine this with a neighborhood business owner, or even a crime victim, it can be hard to picture commonality with a suspect in a child abuse case. First, regardless of who the individual is, just be



human. While this seems obvious, building rapport can be difficult for some people, and adding a uniform and a badge can make this suddenly feel unfamiliar.

Depending on the situation, consider asking questions about the person's work, life, or interests. Try to relate or express interest. While a more superficial topic (sports teams, video games, music) may be sufficient in day-to-day interactions, a successful suspect interview may require connecting over something more in-depth, for example, something you both value (family, children, friends, the future).

Another tool for building rapport is to remember an individual's name and use it. Similarly, introduce yourself!

Later you will learn about the concepts of legitimacy and procedural justice and how these can help improve police/community relationships.



Tool # 2 Active Listening

Active listening is about staying engaged with the person who is speaking; it is listening attentively. Active listening contributes to both rapport building (establishing trust) and empathy. Listening is a critical component of de-escalation. Allowing the person to vent may be enough to de-escalate, or it may provide the officer an opportunity to understand what is going on and respond appropriately. Active listening is often considered the most important skill for crisis negotiators.



Consider another benefit of active listening during a suspect interview; you are so focused on your response to what the person is saying that you forget to listen to the critical information they tell you! Active listening allows us to obtain and retain critical information.

Common mistakes we make when listening include:

- Thinking about something else while the person is speaking (I need to write that report before I go home).
- Thinking of what to say next (I'm going to ask him whose car he was driving on Saturday)
- Judging what the other person is saying (He is lying)
- Listening with a specific goal/outcome in mind (I am arresting this guy)

Does the sender feel like you are not listening to them? How might that impact this interaction? What information have you missed while you were not listening?

Effective listening includes taking in the verbal, para-verbal, and non-verbal behaviors and any other contextual or situational factors to understand what the other person wishes to get from the interaction. Paying attention to all of the words and behaviors can give you a better indication of the person's intent. Are they verbally expressing compliance but demonstrating non-compliance? When you understand what a person is trying to accomplish, it is easier to gain voluntary compliance.

Come into an interaction with the goal of understanding.

To understand, the listener (receiver) may need to utilize some additional methods such as asking questions or paraphrasing what the person (sender) has said.



Asking Questions. While this seems simple enough, there are numerous ways to think about asking questions. Different questions lead to different outcomes, so it is essential to ask questions in accordance with the situation. Consider the following question types and when you might use each:

- Fact-finding Questions: Asks for specific data (*who, what, when, where, why, and how*)
- General Questions: Open-ended (*What happened here today?*)
- Opinion-Seeking Questions: Asks for an opinion and allows latitude (*Is there some way we can solve this problem?*)
- Direct Questions: yes/no questions (*Did you set fire to the dumpster?*)
- Leading Questions: Use with caution! (*Isn't it true that...?*)

When might you use an open-ended question versus a direct or closed-ended question?

Type	General or Open-Ended Questions	Direct or Closed-Ended Question
Description	Requires more than a "yes" or "no" Likely to receive a long answer Allows for an unlimited response	Requires a simple "yes" or "no" answer or short statement of fact Limits the amount or scope of information
Characteristics	Asks the respondent to think and reflect Will give you opinions and feelings	Gives you facts Are easy to answer Are quick to answer
Usage	To follow up on closed questions To develop a conversation and open up someone quiet To find out more about a person, their wants, needs, problems, and so on To get people to realize the extent of their problems To develop rapport by demonstrating concern or interest in them	As opening questions in a conversation, makes it easy for the other person to answer, and doesn't force them to reveal too much about themselves. Testing their understanding (asking yes/no questions). This is also a great way to break into a long ramble. Achieving closure of a persuasion.
Words	What How When Why Describe	Is Can How many Does
Examples	What can you tell me about the car?	What color was the car?



Tool # 3 Express Empathy

You will cover empathy in greater detail in the Emotional Intelligence series. Empathy is about understanding another person. It is understanding their feelings or at least their emotional reaction to something. To empathize is to recognize there are feelings and emotions attached to a situation. Note empathy does not mean you agree with the individual, share in their emotions, or even understand because you have had a similar circumstance.



Empathy is a powerful communication tool, especially in difficult encounters, because it builds trust and absorbs tension.

Being empathetic requires a good sense of our self-awareness and awareness of others (social-awareness). To be an empathetic communicator, one must first listen intently (review tool #2). While there is no script for empathy, consider the following:

- Acknowledge how the other person is feeling
 - "That must be hard."
 - "I can see how that would be difficult."
 - "I am sorry you are going through this"
- Admit that you don't know what to say
 - "I can't imagine what you must be going through."
 - "It makes me really sad to hear this happened."
- Acknowledge their vulnerability
 - "Thank you for sharing that with me."
 - "This must be hard to talk about."
- Connect by listening
 - "I want to make sure I understand."
 - "What I am hearing is that you are feeling ____."
- Encourage without fixing or looking to the "bright side."
 - "You are brave."



Putting the Tools Together - The LEAPS Approach

<p>Listen to what the person has to say</p>	<ul style="list-style-type: none">• Starts rapport building• Be open, receptive, unbiased,• Listen to the whole message: verbal, para-verbal, non-verbal• Look at the person• Provide encouragers (nod)
<p>Empathize with what is being said by trying to understand their feelings</p>	<ul style="list-style-type: none">• Demonstrates an understanding of their emotional reaction• Builds trust• Absorbs tension
<p>Ask questions to get more information</p>	<ul style="list-style-type: none">• Fact-finding Questions• *General Questions (open-ended)• *Opinion-Seeking Questions• Direct Questions (closed-ended)• Leading Questions • Use pauses to allow response <p><i>Note- General and opinion-seeking questions generate more voluntary compliance.</i></p>
<p>Paraphrase into your own words</p>	<ul style="list-style-type: none">• Put another person's meaning into your own words and deliver it back to them.• Check your understanding (<i>Let me be sure I heard what you just said</i>)• Allows the person to clarify
<p>Summarize by giving a possible solution</p>	<ul style="list-style-type: none">• Condensing all that has been said into a simple and concise statement• Reconnects communication when it's been interrupted• Be brief, concise, and inarguable (sets the conclusion)



Communication Breakdown

Communication breakdowns can lead to an escalation in emotions and even lead to conflict. Many different factors can cause a breakdown in communication.

Overload	Caused when a person receives too many messages at the same time. <i>Examples: multiple officers giving commands</i>
Complexity	Caused when messages are too complex for the recipient. <i>Examples: technical language, jargon, acronyms, ambiguous words or phrases</i>
Physiological Barriers	Caused by personal distress or discomfort <i>Examples: health, wellness, eyesight, hearing, fatigue, drugs, alcohol</i>
Physical Barriers	Caused by distractions in the surrounding environment. <i>Examples: background noise, lighting, temperature, physical items such as vehicles, desks, counters</i>
Attitudinal Barriers	Caused by perceptions and beliefs. <i>Examples: stereotypes, bias, discrimination, racism</i>
Non-Matching Behavior	Conflict between what is said and how it is said.
System Errors	Lack of role clarity and/or expectations
Culture	Caused by a lack of understanding between the participants Note- Even when both parties want the same outcome, these differences can lead to conflict. What you say (verbal communication) and how you say it (para-verbal communication) can be misunderstood.



Part 2

Communication during "Common" Encounters

There are some types of interactions that are more common than others in policing. Before moving on to more complex interactions, we will focus on two of these: field interviews and traffic stops.

Field Interview Reports

A Field Interview Report (FIR) is a record of an officer's contact with an individual or vehicle. The officer uses the FIR to gather information about an individual, who is acting suspiciously, may have had the potential of committing a crime, or is being checked while passing through a jurisdiction's boundary. It is the informal questioning of a subject at the location of the contact. You will cover the legal parameters of field interviews in your Procedural Law series, but a field interview is generally considered a non-coercive interaction where the subject is free to leave, although it can also be a stop.

A field interview will involve verbal, para-verbal, and non-verbal communication. It will require rapport building, active listening (including asking various types of questions), and/or expressing empathy.

The purpose of a field interview is to gather basic information. It is not the same as a full interview or an interrogation. In a FI, you want to identify the person you are communicating with so that you can re-contact them later if needed. They may provide identification such as a driver's license, military ID, or other photo identification. If these are not available, any document could help but would not positively identify the person.





Information for the FIR:

- **Contact information**
 - Date, time, and duration of contact
 - Location of contact

- **Person information**
 - Contact's full name
 - Contact's date of birth
 - Contact's race, ethnicity, and language
 - Contact's gender
 - Contact's address and phone number
 - Description of the person being contacted (for example, hair and eye color, tattoos, and identifying marks)

- **Type of identification provided (driver's license and number, state-issued ID, etc.)**

- **Vehicle information (if applicable)**
 - License plate number, registration, State, and Expiration
 - Description of vehicle: year, make, model, and color

You will cover more about interviews as well as interrogations later in the academy.



Traffic Stops

The most frequently occurring police-community contact is during a traffic stop for a violation. The most common complaint against police is for perceived verbal disrespect. Years of research indicate that people care as much or more about the process's fairness as they do the outcome (legitimacy and

How they were treated matters as much or more than whether they were issued a ticket.

procedural justice). If people do not believe that they are treated with dignity and respect, they are less likely to believe that any part of the criminal justice system is fair or legitimate. How YOU treat people not only impacts your fellow officers, but it affects police everywhere.

So, what does respectful and appropriate communication look like during a traffic stop? Studies have identified some consistent preferences from citizens:

- Professionalism and empathy are essential during a traffic stop.
- Most citizens prefer that the officer introduce him or herself and state his or her department.
- Most citizens prefer that the officer allow them to explain their reason for committing the violation and that the officer empathizes with their excuse even if a ticket is still issued.
- Most citizens prefer that the officer smile and use a friendly tone (although they are not offended by a professional yet unemotional demeanor).
- Most citizens prefer that the officer explain their options for how to handle their traffic ticket best.
- Most citizens do not appreciate an officer who calls them by their first name.
- Most citizens do not appreciate an officer who speaks in a harsh, angry tone.
- Most citizens do not appreciate awkward silence or small talk while an officer writes a ticket (but there is no clear indication of what is preferred here).
- How an officer behaves is more important than the official enforcement outcome of the stop.





Communication and Tactical Considerations

You will cover the tactical considerations for field interviews, vehicle stops, and other interactions later in the academy. For now, just imagine how these added complexities affect the interaction, both for you and the subject. How does thinking about where you are standing impact your ability to listen? How does actively listening impact your attention to your surroundings? How does focusing on the subject's hands impact your strategic use of questions? Because all of these details impact the interaction, it is essential to practice even what seems like simple interactions.

Contact Models

So, what should you practice? In addition to the tenants of procedural justice (*voice, respect, neutrality, trustworthiness*), a commonly used contact model in policing is Verbal Judo. While Verbal Judo (which came out in the 1980s) is significantly different from procedural justice (which gained popularity after the President's Task Force on 21st Century Policing Report was released in 2015), the two share some commonalities relating to their role in enhancing voluntary compliance and cooperation.

Verbal Judo (Thompson, 1983)	Procedural Justice
Verbal Judo is meant to provide officers with the tools necessary to resolve situations without the need for coercive force wherever possible to achieve voluntary compliance through the gentle art of persuasion.	The procedural justice model is built around developing consensus and cooperation with the community. Research suggests that procedural justice policing can build legitimacy and heighten willing deference and cooperation.

Let's compare and contrast the two models. Both models share the following characteristics:

- Improving outcomes in situations where there is no immediate jeopardy to police or others.
- Ensuring that citizens, even criminal suspects, are able to retain their dignity in interactions with police.
- Removing biased assumptions about citizens and suspects and "slowing down" police decision making.
- Encouraging empathy towards citizen well-being.



Source: Giacomantonio, C., Goodwin, S., & Carmichael, G. (2020). Learning to de-escalate: Evaluating the behavioural impact of Verbal Judo training on police constables, Police Practice and Research, 21(4), 401-417.

How are the models different? How might their application vary? Where might they overlap?

	Verbal Judo	Procedural Justice
What is It	A scripted model including an 8-step contact model (below) for non-confrontational individuals and a 5-step intervention model for individuals who are not moving towards compliance.	A model that emphasizes listening and responding to people in the community, explaining police policies and practices in interactions with civilians, and treating the public with dignity, courtesy, and respect.
Actions	Greeting statement Identify self and department Explain the reason for contact Justifiable reason? Ask for identification Request additional information Make a decision Close the encounter	Give people a voice , let them tell their side of the story, listen Make impartial decisions and explain how they were reached Demonstrate trustworthiness by being open and honest Treat people with dignity and respect
Focus	Here and Now: "Winning" the encounter by gaining compliance.	Now and Future: The individual's perception of the event affects current and future interactions.
Pros/Cons	Straightforward and easier for officers to apply, but narrowly focused on the encounter at hand.	More conceptual and challenging to apply, but holistically focused on enhancing relationships.
Outcomes	It's polite. It is more likely to lead to voluntary compliance. The structure creates a presence for you. It deflects verbal abuse.	It's polite. It is more likely to lead to voluntary compliance. Builds legitimacy



The Verbal Judo 8-Step Contact Model

1	Give an appropriate greeting statement	"Good evening, sir/ma'am."	<ul style="list-style-type: none"> Note this is a statement and not a question. Be sincere Smile
2	Identify yourself and your department	"I'm Officer _____, from _____"	<ul style="list-style-type: none"> Establishes your authority for the contact. Personalizes the encounter by putting a name to your face.
3	Explain the reason for the contact/stop	"The reason I stopped you today is that _____."	<ul style="list-style-type: none"> Make your justification clear upfront before asking for someone's identification People have a right to know why police are detaining them.
4	Any justifiable reason for their actions?	"Is there some reason for such excessive speed this evening?"	<ul style="list-style-type: none"> Could there be any justifiable reason that they have violated the law?
5	Ask for license, papers, and cooperation	"I will need to see your driver's license please?"	<ul style="list-style-type: none"> Knowledgeable, clear, command presence, and polite.
6	Request additional information	"Is this your current address?" "Is there anything I can help you with?"	<ul style="list-style-type: none"> Anything more you need to know?
7	Decision	Options: <ul style="list-style-type: none"> Warn Cite Optional step: search and seize (contraband, car stolen, person wanted) 	
8	Close	Warn: "Have a nice day." Cite: "Thank you for your cooperation. Do drive carefully."	<ul style="list-style-type: none"> Effectively and appropriately close



Now consider some of the model policies related to procedural justice and traffic stops:

- Officers should incorporate procedural justice principles into their interactions with individuals during investigatory stops and traffic stops in the manner described below.
 - Officers should use their professional judgment in determining when in the course of an interaction to incorporate the following scripts.
- Officers should inform suspects of the need to investigate the suspected commission of criminal offenses and enforce traffic laws.
 - Example script: "It's not our business to hassle you for something minor, but we do have to keep the community safe by investigating serious criminal conduct."
- Officers should explicitly articulate the basis for their reasonable suspicion or probable cause when they make an investigatory or traffic stop.
 - Example script: "I am stopping you because _____."
- Officers should express appreciation for a suspect's cooperation during an investigatory or traffic stop.
 - Example Script: "Thank you for your cooperation," or "I understand that it is an inconvenience to have to take time out of your day to answer our questions."

*Source: Principles of Procedurally Just Policing (2018).
The Justice Collaboratory at Yale Law School.*

While the use of these models may contribute to fewer use of force incidents, it is also important to learn what to do when words fail and be prepared to take action. You will cover assertive communication and commands in the next Communication unit.



Part 3

There are four basic styles of communication: passive, aggressive, passive-aggressive, and assertive. Each influences how you speak and how you act and react in various situations. When individuals have different communication styles, it can lead to misunderstandings and conflict. Understanding the various characteristics can help our interactions with others. Recognizing our style can help us learn to be more effective communicators.

Style	Description	Characteristics
Passive	A style in which individuals have developed a pattern of avoiding expressing their opinions or feelings, protecting their rights, and identifying and meeting their needs	<ul style="list-style-type: none">• Speaks softly or apologetically• Poor eye contact• Poor body posture• Fails to assert self• Allows others to infringe on their rights• Fails to express feelings, needs, opinions
Aggressive	A style in which individuals express their feelings and opinions and advocate for their needs in a way that violates others' rights.	<ul style="list-style-type: none">• Speaks in a loud, demanding, overbearing voice• Has an overbearing or intimidating posture• Tries to dominate others• Has a low frustration tolerance• Uses humiliation to control others• Is impulsive• Criticizes, blames, or attacks others• Acts threateningly and rudely• Does not listen well• Interrupts frequently• Can be seen as lacking control• Generates fear and hatred in others



<p>Passive- Aggressive</p>	<p>A style in which individuals appear passive on the surface but are really acting out anger in a subtle, indirect, or behind-the-scenes way.</p>	<ul style="list-style-type: none">• Mutter to self rather than confront the issue• Have difficulty acknowledging their anger• Communicate with body language• Facial expressions do not match with how they feel• Use sarcasm• Deny there is a problem• Appear cooperative while purposefully doing things to annoy and disrupt• Use subtle sabotage to get even• Silent treatment• Spreading rumors
<p>Assertive</p>	<p>A style in which individuals clearly state their opinions and feelings and firmly advocate for their rights and needs without violating others' rights.</p>	<ul style="list-style-type: none">• Express own needs, ideas, and feelings clearly, appropriately, and respectfully• Considers the needs of others• Communicates respect for others• Listens well without interrupting• Feel in-control of self• Has good eye contact• Has a relaxed body posture• Speaks in a calm, clear voice• Feels competent and in control• Does not allow others to manipulate or abuse them• Stands up for their rights• Feels connected to others

Sources: UK Violence Intervention and Prevention Center, Indeed Career Guide



Assertive communication is considered the most effective communication style, giving you the best chance to deliver your message successfully. Because assertive communication is based on mutual respect, it also lends itself to increased legitimacy.



How to Be Assertive

The assertive person will use all their verbal, para-verbal, and non-verbal communication skills effectively and appropriately.

Do:

- Act confident even if you are not feeling it
- Keep your posture upright
- Know your legal authority at all times
- Use "I" statements
- Keep your requests simple and specific
- Speak with a conversational yet firm tone and volume
- Address the main issue
- Look at the other person
- Keep your emotions in check (emotional intelligence: self-regulation)
- Value yourself equal to others
- Listen to the other person's point of view
- Express empathy for the other person's situation
- Express gratitude for compliance, cooperation, information, patience



There will, of course, be instances when your best assertive communication skills may not be enough. Individuals may be difficult, confrontational, and even aggressive and you must be prepared to adapt and respond appropriately.

Human Behavior

It is helpful to understand some tenants of human behavior. All human beings share several basic needs, including the desire to feel safe and control their lives. Because these needs are fundamental, people will go to great lengths to protect them. When people feel threatened or controlled, they can act in negative, aggressive, and in some cases, violent ways to reestablish a sense of safety and self-determination.

Strategies:

- Allow people to think of something as their own decision or idea, even if it is not true.
- Officers can also help people feel safe by reducing uncertainty by explaining their decisions and actions (procedural justice), as well as what to expect.

Another tenant of human behavior is nobody wants to feel stupid, inferior, or wrong. Questioning motives or judgment can trigger defensiveness and justifications. Officers can avoid this by refraining from any form of personal attack, insult, or condescending behavior.

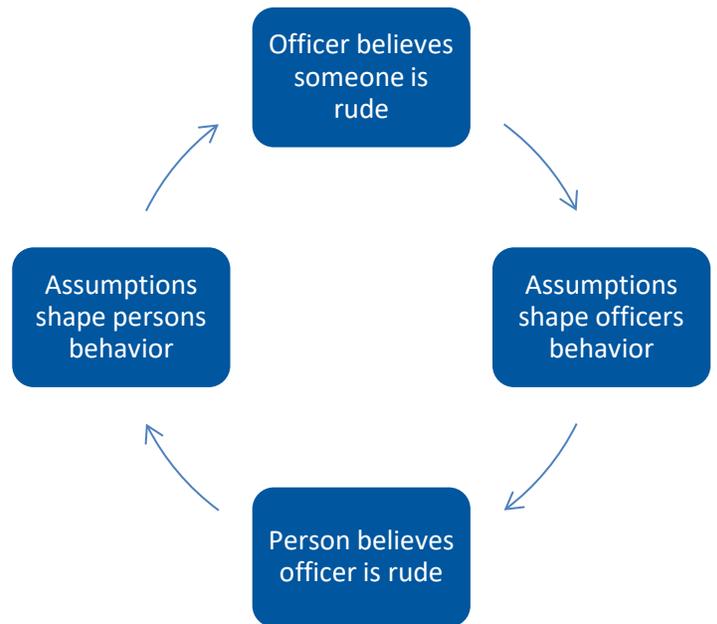
Strategies:

- Rather than attacking someone's motives or intent, concentrate on the person's actual conduct. For example, "So, you were driving northbound, did not see the red light, and struck the vehicle making a left turn" is more beneficial than stating, "Obviously you weren't paying attention because, if you were, you would have seen the red light."
- Officers should focus on separating problems from people.



The last issue of human behavior to consider is perspective. Everyone makes conscious and unconscious choices about what to notice and what judgments to make. People tend to believe that they see the world as it is, and not merely that it is their perception of the world. People use their perspective to make sense of their own experiences and interpret others' behavior. Most people seldom, if ever, question the accuracy of their worldview or assumptions.

Officers' worldviews, beliefs, and assumptions influence their interactions with others. If an officer believes that someone is difficult or rude, the officer's assumptions will affect the communication with that person. The officer's assumptions may influence the tone of voice or nonverbal communication in any number of subtle yet perceptible ways that shape how people interpret the officer's behavior and, in turn, their response. If a person believes that an officer is rude or inconsiderate, that person is likely to respond discourteously, confirming the officer's initial assumption that the person is rude. In essence, a phenomenon referred to as a self-fulfilling prophecy. In other words, the officer believes a person is rude, treats the person as a rude individual, and, by doing so, and causes the person to be rude.



Strategies:

- Suspend (as much as possible) any existing assumptions and beliefs, and replace them with a genuine desire to understand the other person's story.



"You can't win an argument.
You can't because if you lose it, you lose it; and, if you win it, you lose it."

*-Dale Carnegie
How to Win Friends and Influence People*

Avoid Arguing

Officers can quickly lose objectivity when dealing with a difficult or emotional person. To take control of your emotional response, first recognize that each problem consists of two issues, one practical and the other emotional.

Practical issues represent the topic or subject of concern, for example, gaining the cooperation of a difficult motorist or taking a combative subject into custody.

Emotional issues represent an officer's affective response to the practical problem, such as anger, frustration, or even fear.

An officer's inability to separate practical problems from affective responses can lead to a host of difficulties. Strong emotions can cloud the real issues and become the sole focus of an officer's attention. This response makes the officer less safe and typically does little, if anything, to solve the actual problem.

Tips:

- Pay close attention to your word choice.
- Know your "buttons" and practice correct responses.
- Learn your early warning system signs (increased heart rate, blood pressure, muscle tension, nervous energy, etc.) and take steps to self-regulate (breathing techniques, walking away, etc.).



Diffusing Conflict

There are multiple approaches to dealing with conflict. You must keep in mind the outcome you are working toward. Often the best approaches are compromise or collaboration. Consider this, a person is angry at you for giving them a ticket, and they are expressing their feelings to you verbally. While you might feel like you want to respond, as long as the person is cooperating, the best thing maybe is to let them say what they want.

Often the best strategy is to try and decrease a person's emotional tension. One technique for decreasing emotional tension is to acknowledge the persons' concerns or feelings. This does not mean you agree with the person; it just means recognizing their concern as legitimate. Another technique to decrease emotional tension is to ask questions. This forces the person to stop and think, requiring deliberate mental focus. As a general rule, open, reflective questions—queries that require a narrative response—are more useful than simple, closed questions that can be answered with a one- or two-word reply. Questions like, "What happened next?" are generally more effective because they encourage people to think rather than to emote. A third strategy for decreasing emotional tension is the use of paraphrasing. Like acknowledging, repeating, or paraphrasing a message provides the person an opportunity to listen to their own words, correct any confusion, and help them feel heard.

Persuasion

Generating voluntary compliance often comes down to the art of persuasion. Persuasion is the act of convincing someone to change their beliefs or do something you suggest. More than 2,000 years ago, Aristotle outlined a formula for becoming a master of persuasion using five techniques that are still widely used today.

1. Egos (character)- Gain trust by establishing your credibility
2. Logos (reason)- Use data, evidence, and facts to support your pitch
3. Pathos (emotion)- People are moved to action by how a speaker makes them feel
4. Metaphor- Turn the abstract into something concrete
5. Brevity- Less is more

Source: Harvard Business Review (2019). The Art of Persuasion Hasn't Changed in 2,000 Years.



What happens when the subject does not comply? A popular conflict resolution model is the 5-step appeal. Verbal Judo offers a similar five-step model for subjects requiring additional persuasion.

5-Step Appeal (Conflict Model)		5-Step Model (Verbal Judo)	
1	Simple Appeal Ask the individual to comply with the officer's request.	Ask	<i>"Would you please step out of the vehicle?"</i>
2	Reasoned Appeal Explain why the request has been made, what law, if any, has been broken, what conduct has caused the request. <i>"The State requires..."</i>	Set the Context	<i>"This is policy/procedure."</i>
3	Personal Appeal Remind the individual what they may be jeopardizing that matters to them: jail time if arrested, Present options <i>Positive choices first</i> <i>"You have a couple of options here."</i>	Present Options	Put what you want them to do in terms of what they have to gain or lose.
4	Final Appeal Tell the individual what is required and ask them for cooperation. <i>"You need to stand up and come with me. Is there anything that I can say to make you cooperate?"</i>	Vary Appeal	Empathy, humor, redirection, refocusing
5	Action Decision: disengage or escalate	Act	Decision



Part 4

Effective Commands

Under stress, humans can experience limitations to performance, including distortions to hearing. This applies to human officers AND human subjects. While taking time, assessing the situation, and responding calmly and appropriately are recommended, officers must also work to minimize subject misunderstandings of commands. To minimize misunderstandings:

Commands should
be clear and
concise.

Commands should
be given by
one officer only.

Lexipol provides the following on commands:

- Commands should be short and easy to understand.
 - Too much information can cause misunderstanding or confusion.
 - If you want the suspect to get down, say so. If you want the suspect to stop moving completely, just say so.
- Don't give conflicting orders.
 - If you start yelling one thing and then something different, the subject may not be able to process and respond.
 - It may be difficult for a subject to focus in a high-stress situation—even a subject who intends to comply. Asking a subject to change focus from one officer to another can be confusing.
 - When more than one officer is giving commands, it usually sounds like just a bunch of noise anyway. If another officer is already giving commands, resist your urge to join in.



- Well in advance, think about the commands you will use in high-stress situations. Talk this through with the other officers you work with.

An officer's stress level typically rises during these situations, resulting in the officer yelling even louder. This poses several problems in situations when dealing with persons in crisis.

- Yelling does not allow for two-way communication. You may be missing cues to defuse the situation and gain compliance.
- Yelling may increase the stress of the subject, which may increase their aggression. This leads to increased stress in the officer, which can lead to increased aggression.

The Force Science Institute adds the following:

- Do not issue the same loud verbal commands more than three to four times. If the desired response has not taken place, you need to change what you are doing or saying.
 - If a subject hasn't changed their behavior after being ordered in the first three attempts, what is the likelihood they will change it in the next 30 tries?
 - If you find yourself in that situation, ask yourself, *how should I change what I am saying to get the desired results?*

The more an officer perceives that he or she has control of a situation, the more he or she can give relevant, meaningful commands.

The less control he or she perceives that he or she has over a situation and the more threatening the situation is, the less relevant and meaningful the officer's commands are.



*The following is from a study titled **Command Types Used in Police Encounters**, from the **Law Enforcement Executive Forum**:*

Police officers regularly encounter situations where escalating emotion can lead to hostility or violence between law enforcement and potential suspects. These situations can quickly become dangerous for both the individuals involved as well as bystanders. Increasing public safety and officer effectiveness means it is necessary to minimize the factors contributing to antagonistic encounters between police and potential suspects.

Studies have found:

- Certain communication styles and tactics are more effective than others in eliciting immediate compliance and decreasing violence.
- A failure to communicate clearly and concisely has been shown to exacerbate negative interactions.
- Factors such as respect, tone, and demeanor of an officer's verbal communication are essential factors in reducing violence and increasing compliance.
- Officers exhibiting the most authoritative entry tactics are the least likely to gain compliance.
- Community members who felt treated fairly were more likely to comply with the law (legitimacy).
- The clarity and feasibility of commands is essential in eliciting compliance to demands.



What Makes a Good Command?

Effective Commands	Ineffective Commands
<p>Specific</p> <ul style="list-style-type: none">• Clearly defined• Concise• Calls for a motor or verbal response	<p>Vague</p> <ul style="list-style-type: none">• Uncertain, indefinite, or unclear meaning• Communicating in an unfocused or imprecise way• Compliance may be difficult
<p>Feasible</p> <ul style="list-style-type: none">• Possible to do easily or conveniently	<p>Unfeasible</p> <ul style="list-style-type: none">• Inconvenient or impractical

Effective commands (specific and feasible):

- Result in more compliance
- Result in more immediate compliance

Other study findings:

- Negative and stop commands are least likely to produce immediate compliance.
- The use of specific and feasible commands may lead to fewer violent encounters.



In-Class Activity: Clear and Concise Commands

Directions: This activity will be completed in class.

Command	Specific & Feasible	Vague and/or Unfeasible
Put your hands on your head		
Drop the gun		
Get back		
Take your hands out of your pocket		
Move		
Give it up		
Let me see them		
Give me your driver's license		
Get out of the car		
Chill out		
Get on the ground		
Do it now		
Do the right thing		
Stop fighting		
Stop		
Stop that		
Stop the car		
Don't leave your vehicle		
Don't move		
Don't even think about it		



Command	Specific & Feasible	Vague and/or Unfeasible
Don't touch that		
Quit		
Quit resisting		
All you have to do is comply with our commands.		
We want to talk to you.		
We don't want to do it.		
Would you step out of the vehicle?		
Could you put your hands behind your back?		
Could you calm down?		
Do you want to get tased again?		
Do you know how fast you were going?		
Have you been drinking?		
What is your problem?		
Why don't you stop yelling and calm down?		

Communicating with Persons in Crisis

You will complete a series of courses on behavioral health and communicating with persons in crisis. You will find many of the tactics covered in Parts 1-4 will show up again when you talk about de-escalation. These include clear and simple statements, initiating dialogue with open-ended questions, the importance of active listening, display empathy, watching your body language, and being aware of your buttons, among others.



Communication for Policing- Part 5 (Radio)

Instructional Goals:

This course is designed to introduce a new officer to the fundamentals of radio use and associated functions.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify the fundamentals of radio operation.
2. Demonstrate effective use of a radio to communicate information to another person.

Content Outline:

- Common Types of Radio Communication
- General Procedures
- Phonetic Alphabet
- Radio Codes
- Plain Language



One method of verbal communication that officers utilize daily is radio. Just as in previous discussions regarding the importance of effective, clear, and concise communication, radio is no exception. Practicing proper procedures will make radio procedures automatic and reduce confusion.

Some common types of radio communication include:

- Warrant checks
- Vehicle registration checks
- Criminal history checks
- Information gathering requests
- Checking in and out of service and various locations
- Informational broadcasts
- Emergency radio broadcasts
- Traffic stops

General Procedures

As always, check with your agency to learn about agency-specific policies and practices. The following are some general procedures.

Listen

- Is there another unit already transmitting?
 - Are there any transmissions occurring that lead you to believe there is an emergent situation happening, or a situation of more importance than yours? Wait until their conversation is finished unless your situation is an emergency. If it is an emergency, inform the other parties that you have an urgent emergency message. A common practice is to say "break" before continuing with emergency communication.
 - If you are anticipating a transmission from someone else (e.g., a unit acknowledging a call, or a traffic stop return is pending), wait until that has happened unless your radio traffic is more urgent.



- When using a two-way radio, you cannot speak and listen at the same time, as you can with a phone.
- Do not respond if you aren't sure the call is for you. Wait until you hear your call sign to respond.

Be Professional

- Attempt to make your voice as calm and clear as possible, regardless of the situation.
- Remain impersonal. Do not use profane, obscene, indecent language, or derogatory statements.

Be Clear

- Get the dispatcher or another unit's attention before talking.
- Speak directly into the microphone to avoid distortion and loss of clarity.
- Speak at a steady and moderate pace so information can be understood and recorded without repetition.
- Acknowledge inquiries with either "affirmative/affirm" or "negative."

Be Concise

- Use short phrases. Complete sentences are not necessary, so eliminate words that do not affect the meaning of the broadcast.
- Use your agency approved language (phonetic alphabet/plain language) (see below).
- Avoid the use of department member names. Unit radio numbers should be used whenever possible.



Phonetic Alphabet

Many words and letters sound similar and can be easily misunderstood in radio communications. Therefore, words and letters which may be easily misunderstood may be spelled phonetically. Care should be taken to differentiate between the letter "o" and the number "0" (zero).

There are several versions of the Phonetic alphabet, and your agency may have a policy requiring a specific one. Confirm with your agency which version you are required to use.

Example 1		Example 2	
A - Adam	N - Nora	A- Alpha	N-November
B - Boy	O - Ocean	B- Bravo	O- Oscar
C - Charles	P - Paul	C- Charlie	P- Papa
D - David	Q - Queen	D-Delta	Q-Quebec
E - Edward	R - Robert	E- Echo	R-Romeo
F - Frank	S - Sam	F- Foxtrot	S –Sierra
G - George	T – Tom	G- Golf	T-Tango
H - Henry	U - Union	H-Hotel	U- Uniform
I – Ida	V - Victor	I-India	V- Victor
J - John	W - William	J -Juliet	W- Whisky
K - King	X - X-ray	K- Kilo	X- X-ray
L - Lincoln	Y - Yellow	L- Lima	Y- Yankee
M - Mary	Z – Zebra	M- Mike	Z- Zulu

Time

The concise 24-hour military time is used to mark the time in law enforcement as well. With military time, the clock begins at midnight, which is referred to as 0000 hours, with 1:00 am being 0100 hours, 2:00 am being 0200 hours, etc. to 11:00 pm being 2300 hours. Military time does not utilize a.m. /p.m. to identify the time of day. From midnight to 10:00 am, the military time might include the term "zero". For example, 3:00 am in civilian time might be called "zero three hundred" and shown as 0300 hours.



Plain Language and Radio Codes

Your agency may use a combination of radio codes and plain language. Codes identify a variety of circumstances, including routine traffic, returning to service, and emergencies. Plain language consists of common terms and definitions that can be understood by individuals from all responder disciplines. Practice them in scenarios to help prepare you to be a better communicator when you return to your agency.

Below are some examples of codes:

Code	Meaning	Notes
0	Officer needs immediate assistance	
1	Normal response (no lights or sirens)	Response Code- If you are responding Code 1 and you see a traffic violation, you may stop it.
2	Handle immediately but obey all traffic laws	Response Code- If you are responding Code 2 and you witness a traffic violation, you should only stop them if you think it is more severe than the situation you are heading to (i.e., reckless or DUII driver).
3	Respond with lights and sirens	Response Code- If you are responding Code 3 to assist another officer or respond to a call, you should not stop to engage in another situation unless in extreme circumstances.
4	Disregard or under control	
5	Confidential information to follow	Make sure nearby subjects cannot hear officers' or vehicle radio.



Following are some examples of plain language:

"AFFIRMATIVE"	Yes / positive
"ARRIVED"/" AT SCENE"	At call location
"AVAILABLE ON SCENE"	Clear for calls but still at the location of the last call
"BREAK"	<p>The word "break," followed by a pause, means that more of the same message is to follow.</p> <p>"Break" may also be used to allow the transmitting unit time to collect thoughts and mentally organize the remainder of the transmission.</p> <p>"Break" is also used to allow units with emergency traffic to transmit in the middle of a long broadcast.</p>
"CLEAR"	<p>Units returning to service from a call will use their MCT to document their disposition. Units without MCT service will clear over the air.</p> <p>Example:</p> <ul style="list-style-type: none">• Unit: "100"• Dispatch: "100 or go-ahead"• Unit: "Clear my call with a CAD, show subjects were UTL/GOA"• Dispatch: "1737" (military time)
"COPY"	Acknowledges receipt of transmission
"DISREGARD"	Disregard my last transmission
"ENROUTE"	Acknowledge receipt of a call and proceed to the destination
"GO AHEAD"	Used to advise someone to proceed with their transmission
"IN AREA"	In the vicinity of the call, checking the area
"LAST UNIT"	A transmission was heard, but the unit identifier was not (repeat your unit identifier)
"NEGATIVE"	No / negative
"REPEAT"	Repeat your last transmission
"STANDBY"	Used to advise someone to wait for before transmitting further information
"UNREADABLE"	Transmission is unclear or unreadable



Note- Units typically will acknowledge voice dispatched calls for service by their radio number.

Examples of Communicating Specific Calls	
CRIMINAL HISTORY CHECK	<ul style="list-style-type: none"> Units may request a check of a person's status as a felon as part of the course of their investigation. A person's felony status will be given back to confirm they are (positive) or are not (negative) a felon. Computerized Criminal History specifics are not aired over the radio.
DRIVER STATUS RETURNS	<p>Person returns are typically given in the order of:</p> <ul style="list-style-type: none"> Wanted status LEDS/ NCIC/ In-House flags Driving status Driving flags <p>Example: Oregon DL Number</p> <ul style="list-style-type: none"> Unit: "100, DL" Dispatch: "100" Unit: "3975620, last of Doe" Dispatch: "Doe is clear, valid"
FIELD CONTACTS	<p>Field contacts are called out using the unit identifier and words that illustrate the type of stop. Contacts are typically given by the location first and then the person description or name identifiers.</p> <p>Examples:</p> <p>Unknown Individual:</p> <ul style="list-style-type: none"> Unit: "100, out with a bike" Dispatch: "100" Unit: "1st and Main, white male adult" Dispatch: "1534" (military time) <p>Unknown Individuals:</p> <ul style="list-style-type: none"> Unit: "100, Out with one" Dispatch: "100" Unit: "Under the overpass, with Jane Doe (or Name/DOB)" Dispatch: "1534" (military time) <p>Known Individual:</p> <ul style="list-style-type: none"> Unit: "100, Out" Dispatch: "100" Unit: "Out with a suspicious male at Starbucks Fred Meyer" Dispatch: "1534" (military time)



<p>LEDS/NCIC SUPPLEMENTAL RECORD RETURNS</p>	<p>Common LEDS/NCIC supplemental returns can come in any order and may include:</p> <ul style="list-style-type: none">• Concealed Weapons permit• Potential Armed Career Criminal• Corrections Client• Psychiatric Security Review Board• Pre-Trial Release• Interpol• Secret Service <p>Sex Offender: Sex offender returns include the person's last known address and date of contact to allow the officer to confirm they are in compliance with their registration.</p> <p>Protection Orders: Protection order returns include the names of both parties to allow the officer to determine if the two parties are at the location together.</p>
<p>LOCATION INFORMATION</p>	<p>Broadcasts include information about the incident:</p> <ul style="list-style-type: none">• Location of occurrence or last known location• Direction of travel• Time lapse
<p>NAME/WANTS CHECKS</p>	<p>Names are given in the order of:</p> <ul style="list-style-type: none">• Last name• First name• Middle name• Date of birth <p>Names should be spelled phonetically whenever possible.</p> <p>Example:</p> <ul style="list-style-type: none">• Unit: "100 wants by name/DOB"• Dispatch: "100 or go-ahead"• Unit: "phonetically David-Edward-Ocean, first is John, Edward, Nora, middle is Adam-Paul-Robert-Yellow-Lincoln, Date of Birth 01-20-1970"• Dispatch: "1455" (military time)



<p>PERSON INFORMATION</p>	<p>When describing a person, the identifying information is given in the following order:</p> <ul style="list-style-type: none">• Name (format: Last name, First name, Middle name)• Age (date of birth if known)• Race• Sex• Height/Weight• Hair/Eyes• Complexion (including facial hair)• Miscellaneous physical (e.g., scars, marks, tattoos)• Clothing (top to bottom/outside to in)
<p>TRAFFIC STOPS</p>	<p>Traffic stops are typically called out using the unit identifier and the word traffic. Traffic stops are given by the location first and then the license plate. Oregon is the default state for any license plate on a traffic stop. If a license plate is out of state, the unit will announce the state before the plate.</p> <p>Example:</p> <ul style="list-style-type: none">• Unit: "100, traffic"• Dispatch: "100"• Unit: "Traffic, 1st and Main with GAG500 (spelled phonetically)"• Dispatch: "1534" (military time)
<p>VEHICLE CHECKS</p>	<ul style="list-style-type: none">• Vehicle wants, and registration checks are often called out using the unit number and type of request.• Vehicle checks that are not by Oregon license plate should include the type of check such as VIN or Out of State plate as the dispatcher must switch to a different screen to access out of state information.• If providing a VIN, keep a predictable cadence. It is recommended to provide characters in a series of 3's, with a short pause after each series. (E.g., John, Henry, Nora (pause) 1, 4, Tom (pause) 4, Adam, Nora (pause), and so on.• When the dispatcher acknowledges the transmission, proceed with the plate or VIN. <p>Example:</p> <ul style="list-style-type: none">• Unit: "100, DMV"• Dispatch: "100"• Unit: "George-Adam-George 500"• Dispatch: "1455" (military time or immediate return)



<p>VEHICLE INFORMATION</p>	<p>When describing a vehicle, try using the acronym CYMBALS as follows:</p> <ul style="list-style-type: none">• Color• Year• Make and Model• Body Style• Additional or Accessories (cracked windshield, spoiler, etc.)• License Plate Number• State
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Note: For a crime that has just occurred, address of occurrence, the direction of travel, and time lapse are essential.

You will begin communicating via radio during scenario training. It is a good idea to get more information from your agency so you can practice in accordance with your agency policies. While at DPSST, we will use clear voice even if your agency uses coded communications (i.e., 10 or 12 code).



Databases

The National Crime Information Center (NCIC) has been called the lifeline of law enforcement. NCIC is an electronic clearinghouse of crime data that can be tapped into by virtually every criminal justice agency nationwide, 24 hours a day, and 365 days a year.

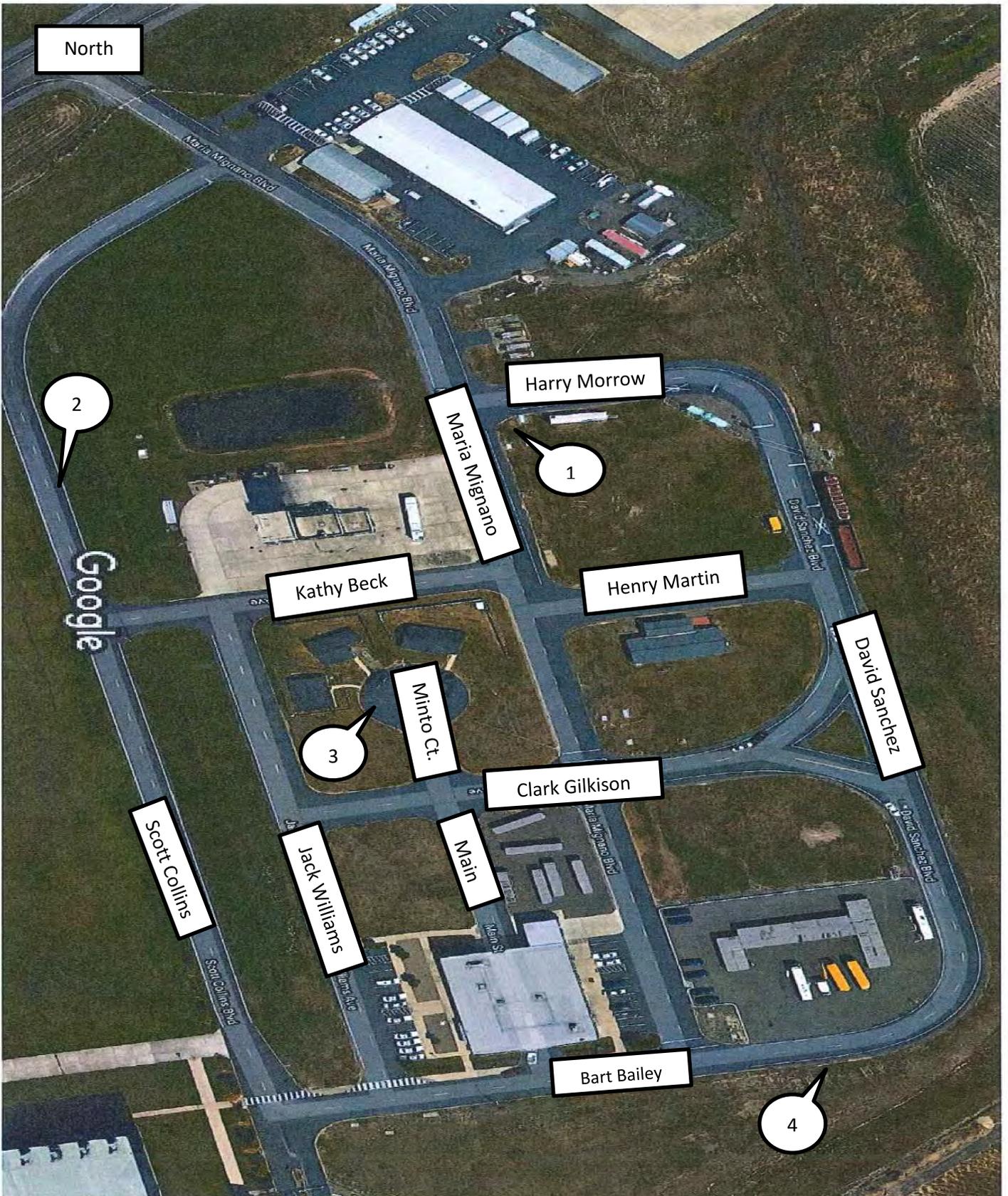
Criminal justice agencies enter records into NCIC that are accessible to law enforcement agencies nationwide. For example, a law enforcement officer can search NCIC during a traffic stop to determine if the vehicle in question is stolen or if the driver is wanted by law enforcement. The system responds instantly. However, a positive response from NCIC is not probable cause for an officer to take action. NCIC policy requires the inquiring agency to make contact with the entering agency to verify the information is accurate and up-to-date. Once the record is confirmed, the inquiring agency may take action to arrest a fugitive, return a missing person, charge a subject with violation of a protection order, or recover stolen property.

The Law Enforcement Data System (LEDS) is a program organized within the Intergovernmental Services Bureau of the Department of Oregon State Police. It provides a criminal justice telecommunications and information system for the State of Oregon. It is the control point for access to similar programs operated by other states and the Federal Government.



Using the map on the following page, find the locations associated with the following circumstances.
Write out the radio communication for each.

Location on Map	Scenario	Photo	Radio Communication
1	Field contact with a known person: Larry Potter	 <small>shutterstock.com · 687739495</small>	
2	Field contact with an unknown person		
3	Location Information		
4	Traffic Stop		



Community Competency

BASIC POLICE ACADEMY





Community Competency 1 and 2

Instructional Goals:

This course is designed to:

1. Develop a new officer's understanding of the significance of working with diverse communities.
2. Develop a new officer's ability to interact with diverse communities effectively.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Describe community diversity.
2. Identify barriers to police-community relationships.
3. Identify examples of discrimination faced by diverse communities.
4. Demonstrate cultural humility in a given situation.
5. Demonstrate culturally appropriate language in a given situation.
6. Articulate strategies for engaging with diverse communities.

Content Outline:

Part 1- Barriers

- Diverse Communities
- Social Bias
- Tools of Discrimination
- Barriers to Effective Relationships

Part 2- Solutions

- Increasing Cultural Understanding
- Tools of Resistance
- Cultural Humility
- Choosing Language
- Engaging Diverse Communities



Part 1- Barriers

Introduction

In Roles and Responsibilities, you covered the primary functions of policing; service delivery, order maintenance, and law enforcement. You have and will continue to learn about the importance of fostering positive relationships with all community members. Despite their best efforts, some police agencies struggle to build trust and partnerships with diverse communities. As was covered in the History of Policing, in some communities, there is a historical mistrust between police and communities of color. In these situations, officers are met with resistance, distrust, dishonesty, and even hostility because the individuals they are interacting with immediately view them as the enemy rather than as allies.

As an officer, it is important to recognize that mistrust does not always stem from the actions of current law enforcement personnel. Rather, it can grow from the norms and beliefs developed by an individual or even communities over time. With every negative encounter the relationship between officer and community deteriorates (Legitimacy and Procedural Justice: the bank account). Mistrust makes it infinitely more difficult for law enforcement personnel to serve and protect communities effectively.

Police must be able to fairly and effectively engage with all communities in their jurisdiction. Ensuring public safety for all requires that officers cultivate trust and collaboration with communities that may have different cultures, languages, and beliefs. Law enforcement officers must be equipped to use any encounter with the community as an opportunity to build trust and cooperation.

To assist with this, the Vera Institute of Justice put forth a series of guidebooks titled: Police Perspectives Guidebook Series- Building Trust in a Diverse Nation:

- How to Increase Cultural Understanding
- How to Serve Diverse Communities
- How to Support Trust Building in Your Agency



This course will explore some of the diversity that exists in our communities, identify challenges, and provide suggestions for officers to develop and improve relationships with various communities.

Diverse Communities

Diversity

Differences in cultures, abilities, ideas, philosophies, backgrounds, and histories that exist among individuals.

Often people find talking about diversity uncomfortable. We are afraid of saying the wrong thing or not knowing something that we think we should have known. However, the purpose of talking about diversity is not to shame anyone or make anyone feel guilty or bad.

We learn about diversity as a means to understand how to relate to qualities that are different than our own and outside the groups to which we belong. These include but are not limited to age, ethnicity, class, gender, physical abilities/qualities, race, sexual orientation, as well as religious status, gender expression, educational background, geographical location, income, marital status, parental status, and work experiences. Diversity exists in your communities, in your workplaces, on this campus, and in this classroom.

Who are the members of our communities?

Often, when people think of diverse communities, it is race and ethnicity that comes to mind. According to the 2010 census (the most current available until the 2020 census is released), approximately 40 million foreign-born people live in the United States, making up roughly 13 percent of the total U.S. population. A significant proportion of the growth is not happening in cities but in suburbs, rural communities, and small towns.



Note: The following section includes a significant amount of data. None of which is important for your quizzes and exams. Understand the concept of diverse communities, do not focus on numbers and percentages.

According to the U.S. Census 2019 survey, Oregon demographics include:

- White- 86.8%
- Hispanic or Latino- 13.3%
- Asian- 4.8%
- Black or African American- 2.2%
- American Indian and Alaska Native- 1.8%
- Native Hawaiian and Other Pacific Islander- 0.5%

The term race refers to the concept of dividing people into populations or groups based on various sets of physical characteristics (which usually result from genetic ancestry).

An ethnic group or ethnicity is a population group whose members identify with each other based on shared nationality or shared cultural traditions.

Everyone has an ethnic culture.

According to the State of Oregon Employment Department, Portland ranks 44th in diversity out of the 50 most populous metro areas in the U.S. Despite being one of the least diverse large cities in the U.S.; the Portland metro area is the most diverse region in the state. Nineteen percent of the metro's population are people of color. The Salem metro region has the highest proportion of Hispanic or Latino residents of any race, with 23 percent of residents identifying as Hispanic in 2015. The least diverse metro region of Oregon is the Bend-Redmond area, where less than 7 percent of residents are people of color.



What about other diversity dimensions? A 2018 Gallup Poll found that Oregon is one of the least religious states. According to the Pew Research Center, the most prevalent (61%) religion in Oregon are Christian based faiths and include Protestant, Christian, Catholic, Mormon, Jehovah's Witness. The next largest group (31%) is not affiliated with a religion of any kind. At 7%, non-Christian based faiths include Jewish, Muslim, Buddhist, Hindu, and other world religions.

The U.S. Census and Data USA identify the following dimensions:

- 288,540 persons in Oregon are veterans. Oregon has a large number of Vietnam veterans (over 100,000).
- 33% of Oregon's population (ages 25 and older) have a Bachelor's Degree or higher.
- 10% of Oregon's population (under age 65) has a disability.
- Oregon's poverty rate is 15%.
- The median household income is \$63,426.
- 10% of Oregon's residents were born outside of the United States
- 16% of Oregon's population are non-English speakers. The most common foreign languages are (in order) Spanish, Chinese, and Vietnamese.
- The median age of Oregon residents is 39. The population is getting older.
- The most common birthplaces of foreign-born residents are (in order) Mexico, Vietnam, and China.
- 94% of Oregon's population are U.S. citizens.

There are numerous other dimensions of diversity in Oregon communities not represented by data.

What diversity exists in your community?



Social Bias

Source: *The SAGE Handbook of Prejudice, Stereotyping, and Discrimination*

Across the globe, diverse groups and individuals experience varying forms of bias. There are multiple ways bias can be demonstrated against groups or individuals.

Stereotype	Prejudice	Discrimination	Oppression
Associations and beliefs about the characteristics and attributes of a group and its members that shape how people think about and respond to the group	Prejudice is an individual-level attitude (positive or negative) toward groups and their members that creates or maintains hierarchical status relations between groups.	Behavior that creates, maintains, or reinforces advantage for some groups and their members over other groups and their members.	Prolonged cruel or unjust treatment or control.
Thoughts Beliefs	Attitudes Judgments	Behaviors Actions	Actions Control

Stereotypes represent a set of qualities perceived to reflect the essence of a group. Stereotypes systematically affect how people perceive, process information about, and respond to group members. They are transmitted through socialization, the media, and language. Stereotypes imply a substantial

Stereotype
 The typical picture that comes to mind when thinking about a particular social group.

amount of information about people beyond their immediately apparent surface qualities and generate expectations about group members' anticipated behavior in new situations. Stereotyping can be helpful as it can serve as a means to simplify a complex environment. However, stereotyping can also be

harmful. In general, stereotypes produce a readiness to perceive behaviors or characteristics that are consistent with the stereotype. Stereotypes can not only promote discrimination by systematically influencing perceptions, interpretations, and judgments, but they also arise from and are reinforced by discrimination, justifying disparities between groups. You will learn more about bias in Implicit Bias.



What does discrimination look like? What images come to mind? Depending on your own life experiences, that picture may vary significantly, even among this class. The following section introduces tools of discrimination that have occurred here in Oregon. This content was provided by the Oregon Jewish Museum and Center for Holocaust Education in Portland as part of the exhibit: *Discrimination and Resistance, An Oregon Primer*.

Six Tools of Discrimination

Appropriate	<p>Definition: To take (something) for one's own use, typically without the owner's permission.</p> <p>Example: The 19th-century doctrine of Manifest Destiny held that white Americans had the divine right (and obligation) to expand across the continent and assert their dominance. Federal laws and treaties enabled vast appropriation of Indian lands to accomplish this goal.</p>
Dehumanize	<p>Definition: Deprive of human qualities.</p> <p>Claiming that a group of people is less than human or that they are "not like us" is a harsh tool of discrimination. Such claims aim to alienate and isolate one group from another. Fear of "the other" has often been used to deny people their civil rights and even deprive them of enjoying intimacy, marriage, or parenthood.</p>
Exclude	<p>Definition: Deny (someone) access to or bar (someone) from a place, group, or privilege.</p> <p>Example: Oregon came into existence with exclusion at its core. First, as a territory, and then as a state, Oregon excluded people based on their race or identity. Women, as well as Black, Asian, and Indian men, were not granted the same rights and privileges. Non-white citizens were routinely barred from public places, many types of employment, housing, or owning land.</p>



Intimidate	Intimidation is the act of intentionally coercing or frightening someone to cause them to do something against their will, or to prevent them from doing something they want to do.
Scapegoat	<p>Definition: A person who is blamed for the wrongdoings, mistakes, or faults of others, especially for reasons of expediency.</p> <p>Example: In the 19th century and early 20th, many immigrants who came to Oregon eager to find work, faced barriers that included the denial of fundamental civil rights and being subjected to intimidation and violence. Further immigrants were often scapegoated- accused of taking white worker's jobs and blamed for economic failures.</p>
Segregate	<p>Definition: Set apart from the rest or each other; isolate or divide.</p> <p>Example: An elaborate system of racially segregated services, facilities, and public accommodations flourished across the United States following the abolition of slavery. Jim Crow was a system of state laws and customs that enforced the legal doctrine of "separate but equal" that denied individuals and groups their constitutional rights to equal treatment under the law.</p>

What examples of discrimination have you experienced or witnessed?



Barriers to Effective Police-Community Relationships

Fostering positive relations has never been more critical to the success of community policing, yet law enforcement faces many challenges in reaching diverse communities. Some of these barriers include the following:

- **Language barriers-** Language barriers can prevent communities and the police from understanding one another and make it difficult for police to assess and respond to calls for assistance and other situations effectively.
- **Fear-** Some cultures, especially immigrants and refugees, fear police and are often reluctant to report crime because they come from places where law enforcement agencies are corrupt and abusive. Criminals also target these vulnerable populations because their reluctance to report crime is well known.
- **Federal immigration enforcement's effect on local trust-building-** Immigrants may not be able to distinguish among local, state, and federal law enforcement officers. They may attribute immigration raids or other federal immigration enforcement activities to local police and, therefore, mistrust community policing efforts.
- **Lack of awareness of cultural differences-** Members of diverse communities may misunderstand how to interact with police, while police may be unfamiliar with diverse cultural traditions and practices.
- **Negative experiences with individual officers-** When individual officers do not treat members of diverse communities respectfully, the entire department's relationship with that community may suffer.



Part 2- Solutions

Part 1 introduced types of bias and discrimination that impact diverse communities. Part 2 will introduce some solutions and strategies to help develop positive relationships.

Increasing Cultural Understanding

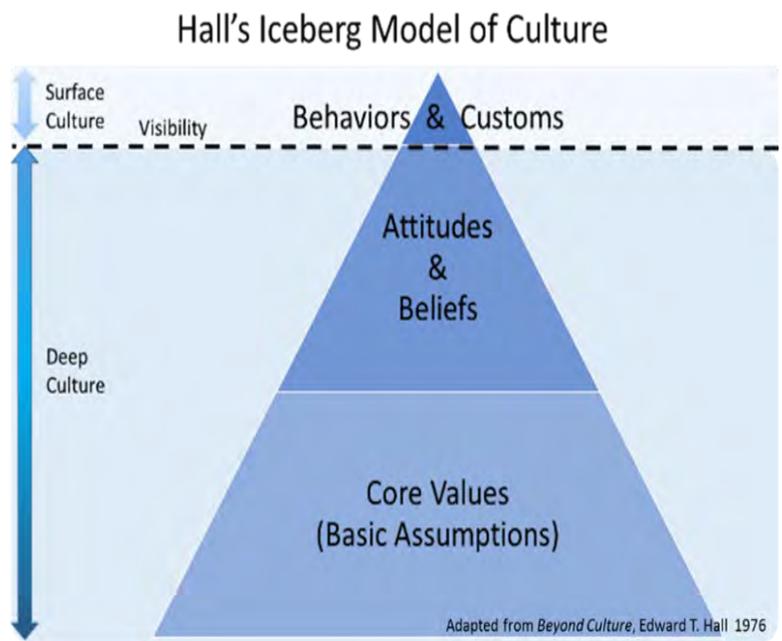
Cultural anthropologist Edward Hall developed the iceberg analogy of culture. If the culture of a society was an iceberg, there are some aspects visible above the water, but a more substantial portion is hidden beneath the surface.

The external part of a culture is what we can see (the small, tip of the iceberg). This includes food, music, language, arts, literature, celebrations, customs, dress, etc.

The internal part of a culture is the larger, less visible part below the surface. This consists of: values, religious beliefs, body language, norms, etiquette, rules, gender roles, expectations, attitudes toward social status, perceptions, attitudes toward age, notions of

modesty, views on raising children, the concept of fairness, the importance of space, approaches to problem-solving, notions of cleanliness, the importance of time, etc.

When one is in an environment of a shared culture, where people are mostly acting from a similar set of ideas and beliefs about how the world works, communication and understanding are often easier. Misunderstandings, false assumptions, and a lack of communication can arise more easily when people are operating from differing core beliefs (Communication 101).





What makes up your culture?	
External Factors:	Internal Factors:

Oregon History Lesson
1942-1948

The city of Vanport was built during the Second World War to house wartime workers at the Kaiser Shipyards. It drew tens of thousands of black workers, becoming home to Oregon's first substantial black population. After the war, these workers, unable to find housing in Portland, remained segregated at Vanport.

On May 31, 1948, a catastrophic flood wiped Vanport out of existence, leaving the black population with no option but to move to Portland. The city's response was to isolate them to inner North and Northeast Portland, strictly enforcing the practice of redlining.



Understanding Resistance

In Oregon and across the country, there has been resistance to biased practices. Indian populations persevered despite systematic efforts to expel them from their lands, stripping them of their culture, and forcing them to assimilate into white society. Although exclusion laws were imposed, the people targeted for exclusion still chose to live in Oregon and build lasting communities. Blacks, Japanese, Latinos, and American Indians served in the Second World War and fought for freedoms that were often denied to them back home. Their resistance to the decades of inequity gained urgency after the war. More recently, a newly defiant LGBTQ community (lesbian, gay, bisexual, transgender, or queer) has demanded full civil rights, equal to those guaranteed to everyone. *See Attachment A for more details.*

Some groups employ legislative remedies to work for change, while others take to the streets in direct action. When traditional institutions fail to serve a community's needs, creative alternatives are born. Resistance exists wherever discrimination does.

The following section introduces tools of resistance that have occurred here in Oregon. This content was provided by the Oregon Jewish Museum and Center for Holocaust Education in Portland as part of the exhibit: *Discrimination and Resistance, An Oregon Primer.*



Six Tools of Resistance:

Celebrate	Music, food, traditions, gatherings, and ceremonies are ways that groups celebrate their culture and pass their traditions on to the next generation. Learning about another culture might dispel myths and misconceptions about a culture different from your own.
Create	When institutions fail to include non-traditional, non-white communities in their services, those marginalized groups often succeed in creating alternative options to feed their children, provide education, tell their stories, and provide medical care. Example: Chapters of the Black Panther Party were formed in Oregon in 1969. The party provided essential nutrition and health services that were scarce in Portland and Eugene's black communities and challenged oppressive laws, racist practices, and harsh law-enforcement tactics. The party ran several free breakfast programs in inner-city elementary schools.
Organize	Discrimination has often led to the organization of political groups as a tool in the struggle to overturn oppressive laws and policies and support the oppressed.
Persist	A quiet but powerful method to resist discrimination has been the simple act of persisting- of living in a hostile environment, refusing to retreat in the face of intimidation, and thereby opposing oppressive laws and practices.
Protest	Direct actions such as sit-ins, marches, protest rallies, and boycotts have been used effectively to highlight discriminatory laws and policies, confront public opinion, and challenge the status quo.
Reform	Ending legal discrimination requires the repeal of existing discriminatory laws or the creation of new laws to outlaw discriminatory practices. When a law is contested, our courts determine whether it complies with our constitutionally guaranteed rights.



Cultural Competence versus Cultural Humility

The long-held "ideal" of cultural competency focuses on attempting to "know" and become "competent" in understanding another's culture or cultures. Competence suggests that knowing broad descriptions of various group identities can translate into knowing the life experiences of an individual. Cultural competence assumes mastery can be achieved. The danger of this strategy is that it supposes culture is knowable and may create stereotypical composites of various group identities. Critics argue that cultural competency fails to take into account the constant evolution and fluidity of culture. This constant change and fluidity make it impossible to ever "achieve" competence.

It is impossible to understand all of the elements of a culture, the ongoing fluidity, and the endless ways cultural identities intersect within an individual. Instead, we introduce the lifelong practice of cultural humility.

	Cultural Competence	Cultural Humility
Perspectives on Culture	<ul style="list-style-type: none"> Acknowledges the layers of cultural identity Challenges stereotypes Difference is seen in the context of systemic discrimination 	<ul style="list-style-type: none"> Acknowledges the layers of cultural identity Recognizes that working with cultural differences is a lifelong and ongoing process Emphasizes not only understanding the 'other' but understanding ourselves as well
Assumptions	<ul style="list-style-type: none"> Assumes the problem is a lack of knowledge, awareness, and skills to work across lines of difference Individuals and organizations develop the values, knowledge, and skills to work across lines of difference 	<ul style="list-style-type: none"> Assumes that in order to understand individuals, we must also understand our communities, colleagues, and ourselves Requires humility and recognition of power imbalances that exist in relationships and society
Premise	<ul style="list-style-type: none"> Mastery 	<ul style="list-style-type: none"> Accountability



Cultural humility is different from other culturally-based training ideals because it is not about achieving a state of knowledge or awareness. Rather than learning to identify and respond to sets of culturally specific traits, the culturally humble person develops and practices a process of self-

awareness and reflection (Emotional Intelligence). The starting point for such an approach is not an examination of the other person's belief system, but rather YOU giving careful consideration to YOUR assumptions and beliefs that are embedded in YOUR own understandings and goals of the encounter with the other person.

Self-Reflection Questions for Cultural Humility
What are my cultural identities? How do my cultural identities shape my worldview? How does my own background help or hinder my connection to communities? What are my initial reactions to individuals who are culturally different from me? What do I learn about myself by listening to persons who are different than me?

A cultural difference is a relationship between two perspectives. Self-awareness of your perspective and an awareness and acceptance of the other person and any differences in the contrasting cultures can be useful in any encounter, not just with people who are perceived to be culturally "other."

Cultural humility encourages us to realize our own power, privilege, and prejudices. Each of us must work to understand the other person's worldview and any oppression or discrimination that they may have experienced.



Hall suggested that the only way to learn the internal culture of others is to participate in their culture. When one first enters a new culture, only the most overt behaviors are apparent (tip of the iceberg). As one spends more time in that new culture, the underlying beliefs, values, and thought patterns that dictate that behavior will be uncovered (under the water). What this model teaches us is that we cannot judge a new culture based only on what we see when we first enter it. We must take the time to get to know individuals from that culture and interact with them. Only by doing so can we uncover the values and beliefs that underlie the behavior of that society.

Oregon History Lesson

Chinese men who came to Oregon in the late 19th century as laborers were often referred to as “sojourners” since they were only allowed into the country to work, and could not be accompanied by wives or families.

In 1882, the nation’s failing economy, coupled with long-standing anti-Chinese sentiment, resulted in the passage of the federal Chinese Exclusion Act, which banned Chinese labor immigration for 10- years.

Amid the hysteria, arsonists burned buildings in Portland’s Chinatown, vigilantes expelled Chinese workers from Oregon City, and a small group of men and boys massacred 34 Chinese miners in Hells Canyon.

Bring it Together-

Applying Cultural Humility, Emotional Intelligence, Effective Communication Skills, and the Needs of Victims to Your Role

You will cover more about bias crimes in your criminal law series. For a quick introduction, a hate and bias incident is any hostile expression that may be motivated by another person's race, color, disability, religion, national origin, sexual orientation, or gender identity. Hate and bias acts can be verbal, physical, or visual. This language and behavior often contribute to or creates an unsafe or unwelcoming environment. Some examples include:

- Name-calling; using a racial, ethnic, or another slur to identify someone; or using degrading language.
- Creating racist or derogatory graffiti or images/drawings.
- Imitating someone with a disability, or imitating someone's cultural norm or practice.

Imagine you are responding to a hate and bias incident. The victim is a member of a cultural group of which you do not have a deep understanding. What might your response be? What might you say? How can you meet the needs of the victim?



Choosing Language

Just as culture evolves, the language used to describe and define groups evolves. Additionally, members of any group do not necessarily feel the same way about words describing their identity. There is no way for a person to know how to refer to every individual or group. Part of cultural humility is simply acknowledging that we don't know something and asking the person to guide us. Getting comfortable with asking questions and accepting and acknowledging that we will all make mistakes during interactions is essential. First, let go of any guilt or blame for "not knowing." Second, find out what individuals want to be called? Ask what pronouns a person uses or would like you to use (he/she/they). Third, try to use the most precise term, such as the specific ethnic name. Be careful not to assume ethnicity or place of birth, just ask "what ethnic group are you part of?". The use of language applies to groups and individuals outside of race and ethnicity. Gender, class, sexual orientation, age, religion, and ability are all areas to be aware of.

Person First Language-

The words or phrases people speak and write plus the order in which they are sequenced greatly affects the images that are formed about individuals and the negative or positive impressions that result.

A general rule is to use person-first language, which demonstrates respect for individuals. This simply means putting the person ahead of their characteristics. For example, the man who is blind versus the blind man.

*Source: The Power of Language: Speak and Write
Using "Person First"*

Additionally, some words and phrases are laden with judgment and assumptions and likely to invoke a negative response. Avoid using phrases like "those people" and "you people" about a person's identity group. Terms such as "handicapped" originate from "cap in hand," referring to someone who needs to beg. Similarly, avoid phrases that suggest victimhood, such as "suffers from" or "confined to a wheelchair." Referring to sexual "preference" rather than sexual orientation implies one's sexuality is chosen.



If concern over terminology is frustrating or feels overly sensitive, consider the following:

- We choose to use words that convey sensitivity and understanding not because we want to be "correct" but because how we use words affects people—their concept of themselves and members of their group and the ability to create and maintain authentic relationships across differences.
- Words we use affect how we think and perpetuate attitudes about groups.

Source: The Evolving Language of Diversity

Engaging Diverse Communities

Developing collaborations with diverse communities is essential to effective public safety. Community groups and community leaders have their fingers on the pulse of a community. They can often serve as ambassadors to law enforcement agencies working to connect with the communities they serve. Two examples of collaborations include working with faith-based organizations and social service providers.



Faith-Based Organizations (FBO)	Social Service Providers
<p>Partnering with FBOs can help law enforcement agencies prevent crime and de-escalate tense situations by providing officers with valuable insight into community needs and issues, helping them understand the community's unique cultural and religious characteristics, building relationships with local leaders, and working jointly with organizations and people dedicated to protecting the community and its most valuable members.</p> <p>By partnering with FBOs, the police may be able to:</p> <ul style="list-style-type: none">• Gain insight into the needs of a particular community;• Have a community-based ally with whom the police can work to prevent crime or de-escalate tense situations within the community;• Gain access to and build trust with vulnerable groups in the community;• Better understand the culture and inner workings of the community they serve.	<p>Today's police officers are increasingly tasked with responding to a variety of social problems—including homelessness, mental illness, and drug use. Law enforcement agencies and social service providers often have a shared mission: to serve vulnerable populations and make communities safer. Partnering with social service providers helps clarify what the role of the police officer should be and allows these complex social problems to be addressed by trained individuals and organizations.</p> <p>By partnering with social service providers, the police may be able to:</p> <ul style="list-style-type: none">• Better understand the intricacies of the communities in which they work;• Identify critical community resources for individuals in need;• Build legitimacy with vulnerable populations, which may be unwilling or unable to approach police for assistance;• Develop a referral network consisting of community safety stakeholders.



Proactive trust-building can help tremendously when contentious incidents occur (remember the procedural justice bank account?). Agencies that are proactive in connecting with the communities they serve, rather than reactive when emotionally charged situations occur, rely on strong community partnerships to help them ensure public safety through community-oriented problem-solving. Furthermore, when contentious incidents occur, those partnerships are already in place, allowing police and community members to work collaboratively to solve problems or address negative feelings that may arise as a result of the incident.

Trauma-Informed Policing means that police services are delivered in a way that will not cause re-traumatization to vulnerable individuals. This requires officers to be familiar with the signs of trauma and some reactions that traumatized individuals may exhibit. Officers need to know the following:

- Those affected by trauma can exhibit symptoms, including nausea, flashbacks, trembling, memory gaps, fear, and anger. These same symptoms can trigger behaviors that police may interpret as not cooperating, appearing adversarial, or behaving aggressively.
- Traumatic experiences can cause someone to disengage or "tune out" and avoid interacting with the outside world. Traumatized individuals may feel numb and show no outward signs of distress, which can easily mislead police officers to believe that the trauma is not significant because the signs of stress are minimal.
- Traumatic experiences can also cause someone to be hypervigilant and come off as hostile.

Lastly, law enforcement agencies must use *community-informed strategies* to increase their agencies' ability to build trust with diverse communities. Strategies such as asset mapping, mediation, and police/community dialogue have been successful in communities.



Sources and Resources

Vera Institute of Justice: Police Perspectives Guidebook Series- Building Trust in a Diverse Nation:

- How to Increase Cultural Understanding
- How to Serve Diverse Communities
- How to Support Trust Building in Your Agency



Attachment A- Definitions

Provided by The Human Rights Campaign

Many Americans refrain from talking about sexual orientation and gender expression identity because it feels taboo, or because they're afraid of saying the wrong thing. This glossary was written to help give people the words and meanings to help make conversations easier and more comfortable.

Ally- A person who is not LGBTQ but shows support for LGBTQ people and promotes equality in a variety of ways.

Androgynous- Identifying and/or presenting as neither distinguishably masculine nor feminine.

Asexual- The lack of a sexual attraction or desire for other people.

Bisexual- A person emotionally, romantically, or sexually attracted to more than one sex, gender, or gender identity though not necessarily simultaneously, in the same way, or to the same degree.

Cisgender- A term used to describe a person whose gender identity aligns with those typically associated with the sex assigned to them at birth.

Closeted- Describes an LGBTQ person who has not disclosed their sexual orientation or gender identity.

Coming out- The process in which a person first acknowledges, accepts, and appreciates their sexual orientation or gender identity and begins to share that with others.

Gay- A person who is emotionally, romantically, or sexually attracted to members of the same gender.

Gender dysphoria- Clinically significant distress caused when a person's assigned birth gender is not the same as the one with which they identify. According to the American Psychiatric Association's



Diagnostic and Statistical Manual of Mental Disorders (DSM), the term - which replaces Gender Identity Disorder - "is intended to characterize better the experiences of affected children, adolescents, and adults."

Gender expression- External appearance of one's gender identity, usually expressed through behavior, clothing, haircut, or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.

Gender-fluid- According to the Oxford English Dictionary, a person who does not identify with a single fixed gender; of or relating to a person having or expressing a fluid or unfixed gender identity.

Gender identity- One's innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. One's gender identity can be the same or different from their sex assigned at birth.

Gender transition- The process by which some people strive to more closely align their internal knowledge of gender with their outward appearance. Some people socially transition, whereby they might begin dressing, using names and pronouns, and be socially recognized as another gender. Others undergo physical transitions in which they modify their bodies through medical interventions.

Homophobia- The fear and hatred of or discomfort with people who are attracted to members of the same sex.

Intersex- An umbrella term used to describe a wide range of natural bodily variations. In some cases, these traits are visible at birth, and in others, they are not apparent until puberty. Some chromosomal variations of this type may not be physically apparent at all.

Lesbian- A woman who is emotionally, romantically, or sexually attracted to other women.

LGBTQ- An acronym for "lesbian, gay, bisexual, transgender and queer."



Living openly- A state in which LGBTQ people are comfortably out about their sexual orientation or gender identity – where and when it feels appropriate to them.

Non-binary- An adjective describing a person who does not identify exclusively as a man or a woman. Non-binary people may identify as being both a man and a woman, somewhere in between, or as falling completely outside these categories. While many also identify as transgender, not all non-binary people do.

Outing- Exposing someone's lesbian, gay, bisexual, or transgender identity to others without their permission. Outing someone can have severe repercussions on employment, economic stability, personal safety, or religious or family situations.

Pansexual- Describes someone who has the potential for emotional, romantic, or sexual attraction to people of any gender though not necessarily simultaneously, in the same way, or to the same degree.

Queer- A term people often use to express fluid identities and orientations. Often used interchangeably with "LGBTQ."

Questioning- A term used to describe people who are in the process of exploring their sexual orientation or gender identity.

Sex assigned at birth- The sex (male or female) given to a child at birth, most often based on the child's external anatomy. This is also referred to as "assigned sex at birth."

Sexual orientation- An inherent or immutable enduring emotional, romantic, or sexual attraction to other people.

Transgender- An umbrella term for people whose gender identity or expression is different from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply



any specific sexual orientation. Therefore, transgender people may identify as straight, gay, lesbian, bisexual, etc.

Transphobia- The fear and hatred of, or discomfort with, transgender people.

Community Crime Prevention

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATSON 1960-1966
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY INDEE



Community Crime Prevention

Instructional Goal:

This course is designed to introduce a new police officer to crime prevention strategies.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Explain the role of police in crime prevention.
2. Identify effective crime prevention strategies.
3. Recognize the risks of unintentional consequences of crime prevention strategies.

Content Outline:

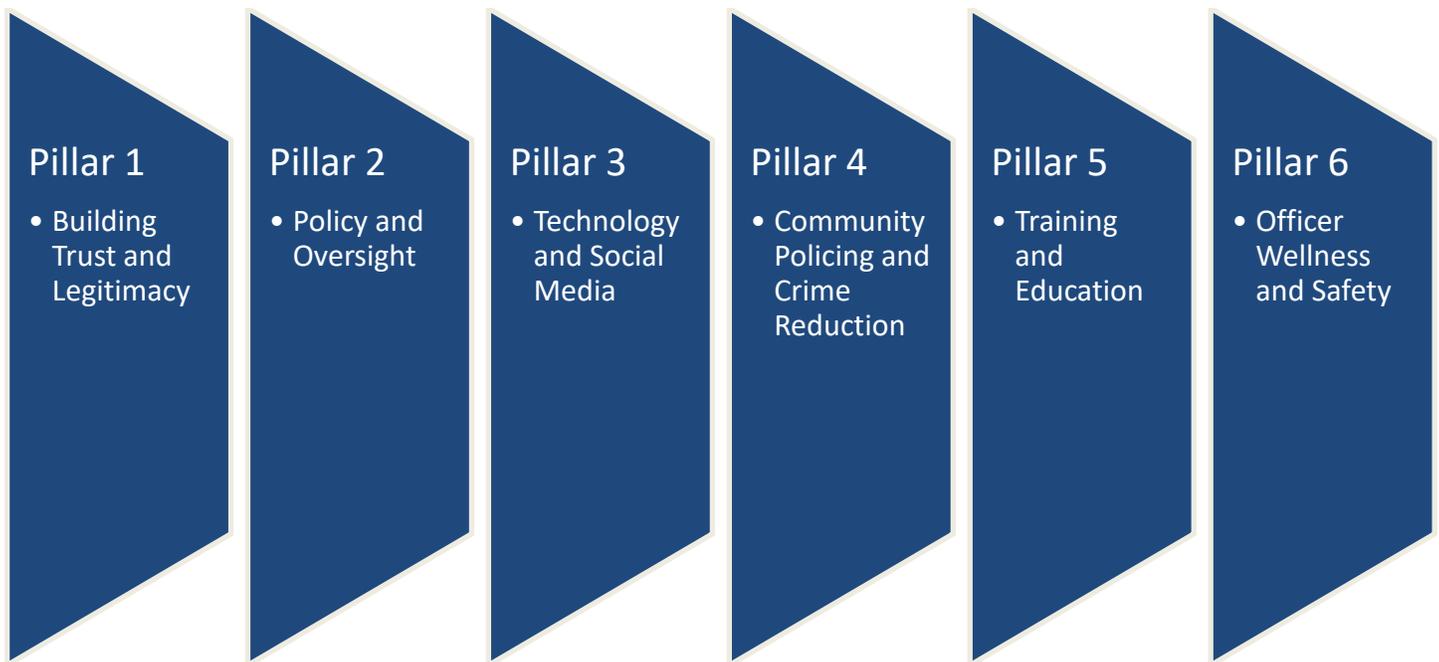
- 21st Century Policing- Pillar 4
- Theories of Crime
- Effectiveness of Policing Strategies on Crime Prevention
- Crime Prevention through Environmental Design (CPTED)
- Situational Crime Prevention
- Hot Spots



Establishing public safety is among the local government's fundamental obligations to its citizens. The safety of one's person and security of one's property is widely viewed as basic human rights and are essential to the community's overall quality of life. When the citizenry is not (or does not feel safe), other critical local government functions such as economic development, government finance, public education, stable housing, and basic local government services become that much more challenging to provide. In short, a community's reputation for public safety heavily influences its appeal as a place to raise a family or open a business.

SOURCE: Effective Policing and Crime Prevention, Joel B. Plant and Michael S. Scott, Center for Problem-Oriented Policing, 2009

21st Century Policing



The Final Report of the President's Task Force on 21st Century Policing, and the subsequent Evidence Assessment, address the importance of the police role in crime prevention under both Pillar 1 and 4.



Pillar 1: Building Trust and Legitimacy	Pillar 4: Community Policing and Crime Reduction
<ul style="list-style-type: none">• Police should focus on several trust-building activities, including emphasizing non-enforcement activities in communities and schools and increasing transparency through information sharing.<ul style="list-style-type: none">○ The Evidence Assessment points out Portland's Smart Policing Program as an example of a non-arrest focused hot spots approach.• They should also consider the potential consequences of crime-fighting strategies for resident trust.<ul style="list-style-type: none">○ The Evidence Assessment points out intensive policing practices could harm legitimacy when efforts are focused on a particular community and the individuals therein.	<p>Focuses on building positive partnerships with community members to both increase police legitimacy and enhance public safety and resilience to crime.</p> <ul style="list-style-type: none">• Police should collaborate with multiple individuals and organizations to "co-produce" public safety.<ul style="list-style-type: none">○ Collaboration is a core tenet of Community Policing.○ Community policing provides the framework for hot spots policing or problem-oriented policing.○ Problem-Oriented Policing strategies can become more productive by using crime prevention strategies.
<p>The most common type of strategies used are community-oriented police training, the creation of special community-oriented task forces, foot patrol officers, grants for community policing activities, or a combination of these.</p>	<p>Programs involving problem-solving through situational prevention and community collaboration were more successful than those focusing more on increasing low-level arrests to reduce disorder.</p>



Theories of Crime

To implement crime-fighting strategies, one should first know something about the causes of crime. Consider the following:

Suppose we abandoned all situational controls:

no locks on cars, houses, bicycles

no alarms on businesses

no security cameras on ATM's

no baggage screening at airports

no ticket checks at train stations

no traffic lights

Would there be a change in the volume of crime and disorder?

Source: Police Methods | Section 4.1 | Professor McKee's Things
<https://www.docmckee.com/WP/oer/policing-2/police-methods-section-4-1/>

For environmental criminologists, "opportunity makes the thief" is the cornerstone of their approach. They believe that if opportunity increases, then so will crime. If you answered "yes" to the box above, that crime and disorder would increase, then you, too, think opportunity is a cause of crime.

However, many criminologists do not agree. They believe that opportunity can only determine when and where crime occurs, not whether it happens. In their view, whether crime occurs is wholly dependent on offenders' propensities, and these propensities determine the volume of crime in society.

Many theories try to explain why crime occurs in some places and not others. Here are just a few:



- **Routine Activity Theory** suggests that crime occurs when a motivated offender, a suitable target, and the lack of capable guardians converge in the same place at the same time. Criminals find their targets within the context of their routines, such as traveling to and from work or shopping. They tend not to go too far out of their way to commit crimes.
- **Situational Crime Prevention Theory** suggests that crime and public disorder can be prevented by reducing opportunities for crime. For example, if crime occurs regularly in a dimly lit alley, public works could improve lighting and increase police presence in the area.
- **Broken Windows Theory** explains how lesser crimes, untended areas, blight, graffiti, and signs of disorder decrease neighborhood residents' willingness to enforce social order, which in turn leads to more serious crime. If police target minor transgressions, they may prevent serious crime from developing in those places.

*Source: Why Crimes Occur in Hot Spots | National Institute of Justice.
<https://nij.ojp.gov/topics/articles/why-crimes-occur-hot-spots>*

Crime is not evenly distributed across a community. Crime and disorder are heavily concentrated:

- Among relatively few offenders
- Happening to relatively few victims
- Occurring in relatively few places
- Involving relatively few target types

This phenomenon is commonly called the 80-20 rule, wherein 20 percent of some things are responsible for 80 percent of the outcomes. In practice, it is seldom precisely 80-20, but it is always a small percentage of something or some group involved in a large portion of some results.

This phenomenon suggests that focusing resources where crime is most concentrated will yield the most significant preventive benefits.

*Source: Step 18: Learn if the 80-20 rule applies | ASU Center for ...
<https://popcenter.asu.edu/content/step-18-learn-if-80-20-rule-applies>*

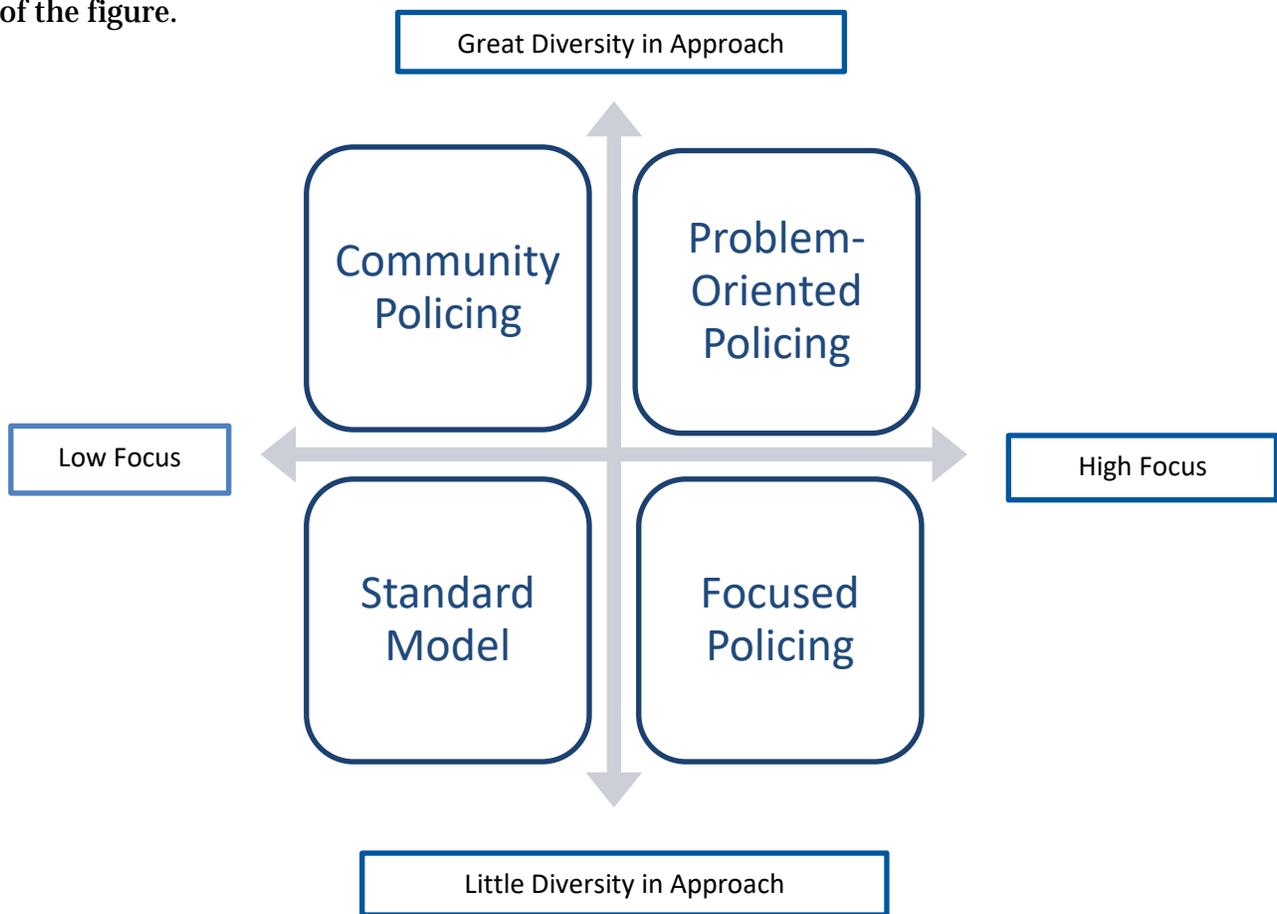


Effectiveness of Policing Strategies on Crime Prevention

Source: Step 3: Know what is effective (and not) in policing | ASU
<https://popcenter.asu.edu/content/step-3-know-what-effective-and-not-policing>

Research has consistently failed to find that the standard model of policing has any noticeable effect on crime, disorder, or fear of crime. Random patrol, rapid response, follow-up investigations, and arrest policies may be very beneficial for other purposes. Still, we should not expect any of these practices to have an impact on crime or disorder. Nor is there substantial evidence that adding police to carry out these practices will affect crime.

To effect crime, police strategies must include two elements. These strategies are represented on the axes of the figure.





Diversity in Approaches	Focus
<p>Policing must address crime and disorder using a greater range of tools than merely enforcing the law. There is evidence that working with the public, and going beyond law enforcement, can have modest crime and disorder reduction effects, and the more personal the police-citizen contacts, the more likely it is that they will affect crime.</p>	<p>There is generally substantial evidence that geographically concentrated enforcement at crime or disorder hot spots can be useful, at least in the short run. That is, focused patrolling of very small high-crime places has a modest effect on crime and a significant impact on disorder. Such a result can be accomplished with or without intensive arrest actions. CompStat and other related innovations seek to take advantage of these findings.</p>

Strategy: Crime Prevention through Environmental Design (CPTED)

Source: Using Crime Prevention Through Environmental Design in
https://popcenter.asu.edu/sites/default/files/using_cpted_in_problem_solving.pdf

Crime prevention through environmental design is an approach to problem-solving that considers environmental conditions and the opportunities they offer for crime or other unintended and undesirable behaviors. The use of design for safety and security is not new. Caves and cliff dwellings, and castles and moats are good historical examples. Requirements for street lighting grew out of a need to distinguish legitimate travelers from outlaws and thieves.

Contemporary approaches, including CPTED, emerged out of research on the relationship between crime and place, theories known variously as environmental criminology, situational prevention, rational choice theory, or routine activities theory, among others. Each theoretical approach focuses on the crime event and how a criminal offender understands and uses the environment to commit a crime. This research asks, why here?



The research reveals:

- Crime is specific and situational
- The distribution of crimes is related to land use and transportation networks
- Offenders are opportunistic and commit crimes in places they know well
- The opportunity arises out of daily routines and activities
- Places with crime are often also places without observers or guardians.

CPTED attempts to reduce or eliminate those opportunities by using elements of the environment to:



Control Access	Examples
<ul style="list-style-type: none"> • Create both real and perceptual barriers to entry and movement to control access. • The environment must offer cues about who belongs in a place when they are supposed to be there, where they are allowed to be while they are there, what they should be doing, and how long they should stay. • Users/guardians can also serve as access control if they pay attention to people and activities and report unwanted behaviors to the appropriate authorities. 	<ul style="list-style-type: none"> • Fences, tree lines, hedges, or berms define the boundaries of a site • Drives, sidewalks, paths, and gardens guide movement through a site • Signs direct movement, provide information, define appropriate activities and schedules, and identify intended users (e.g., "Employees Only") • Consistent use of colors or materials – in buildings, pavers, light fixtures, and landscaping – create an identity • Gates and doors limit points of entry to a site or building • Support design features with locks, and enhanced with alarm systems or guards, depending on the situation



See and Be Seen	Examples
<ul style="list-style-type: none">• See from adjacent properties or the site perimeter onto the site• See parking areas and buildings• See from one part of the site to another• See parking, walkways, and other areas of the site from various locations inside the building	<ul style="list-style-type: none">• Lighting improves the ability to observe activity and identify individuals• Windows afford views from inside to outside and outside to inside• Building location and orientation can create or remove views• Proper selection of trees, shrubs, and other plant species, combined with regular maintenance, can minimize the conflict between lighting and landscaping• Furniture arrangements, window treatments, and other interior design elements can support observation and encourage guardianship• Design features may be supported by physical security, CCTV, or guards when circumstances require them
Define Ownership	Examples
<ul style="list-style-type: none">• Use design to define ownership and encourage the maintenance of territories.• The design should provide cues about who belongs in a place and what they are allowed to do.	<ul style="list-style-type: none">• Fences, hedges, tree lines, or planter boxes separate spaces• Changes in elevation or variations in paving or flooring materials define transitions from public to private spaces• Gardens, artwork, and furniture individualize spaces and show that someone cares and is paying attention• Signs establish ownership and any limits on the use• Buildings, yards, gardens, sidewalks, and other features are well maintained, clean and in working order, which is a sign of guardianship



	<ul style="list-style-type: none">• Support design features by locks, alarm systems, CCTV, guards, or other security measures in some situations
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CPTED may be distinctly different from traditional policing, yet it is very consistent with problem-oriented policing, in four ways:

- It considers a broad array of problems, not just crime.
- It requires a systematic analysis of crime events and the conditions and factors that contribute to opportunities for crime.
- It results in proactive and tailored strategies for the problem and the location.
- It engages an array of citizens, government agencies, and local institutions, each of which has a role to play in defining the problem and deciding upon an appropriate solution, as well as some accountability for long-term Improvements.



In-Class Activity- CPTED Scenarios

Scenario #1	Scenario #2	Scenario #3
Custodial workers routinely find evidence of smoking and vandalism in a high school bathroom.	The back wall of a building in an office center is repeatedly tagged with graffiti.	ATM patrons at a bank are being robbed after dark.
Why Here? The bathroom is in an isolated area of the building, adjacent to a concession stand that is only active during athletic events. The school's open lunch policy allows students to eat anywhere on campus, while monitors are assigned only to the cafeteria.	Why here? The taggers have selected an area that is out of the view of passers-by: a rear corner location where two buildings come together at the end of a poorly lit service lane. Hedges further reduce visibility at the site's perimeter. Businesses in the office center are open from 9 AM to 5 PM during the week; however, the tagged building is next to a roller-skating rink where activity peaks at night and on weekends.	Why here? The bank is situated along a commercial strip in a neighborhood with vacant properties and abandoned businesses. The ATM is in the front corner of the bank building, and the drive-through teller windows are at the side of the building, around the corner from the ATM. Robbers hide in the darkened drive-through teller area and attack unsuspecting ATM users after they complete a transaction.
Solution(s)	Solution(s)	Solution(s)



Strategy: Situational Crime Prevention

Situational crime prevention originated not as a policing approach, but more broadly as a scientific approach to crime prevention. Unlike CPTED, this approach is not concerned principally with design and the built environment. Instead, it is a general approach to reducing the opportunities for any kind of crime occurring in any type of setting. Situational Crime Prevention focuses on reducing crime by designing safer environments and more-secure consumer products.



Routine Activity Theory, states that predatory crime occurs when a likely offender and suitable target come together in time and place, without a capable guardian present. At its heart is the idea that in the absence of adequate controls, offenders will prey upon attractive targets.

- To have a crime, a motivated offender must come to the same place as an attractive target.
- If an attractive target is never in the same place as a motivated offender, the target will not be taken, damaged, or assaulted.

By directing attention to the three major components of any problem, the crime triangle helps to ensure that your analysis covers all three.

Also, problems occur when offenders are at the same places as targets, without any effective controller and these controllers who can prevent crime are represented in version 2 of the crime triangle. If the controllers are absent or present but powerless, crime is possible.



The latest formulation of the problem analysis triangle adds an outer triangle of "controllers" for each of the three original elements:

- **Target/Victim-** This is the capable guardian of the original formulation of routine activity theory. Usually, people are protecting themselves, their belongings, or those of family members, friends, and co-workers. Guardians also include public police and private security.
- **Offender-** This is the handler. The handler is someone who knows the offender well and is in a position to exert some control over their actions. Handlers include parents, siblings, teachers, friends, and spouses. Probation and parole authorities often augment or substitute for normal handlers.
- **Place-** the controller is the manager, the owner or designee who has some responsibility for controlling behavior in the specific location such as a bus driver or teacher in a school, bar owners in drinking establishments, landlords in rental housing, or flight attendants on commercial airliners.



When crime is occurring, all inner elements of the triangle must be present, and all outer elements weak or absent. If potential offenders are constantly present, for example, but crimes occur only when guardians are absent, then rescheduling guardians might be a useful solution.

Having an understanding of how opportunities create problems will help you think about solutions. For example, how to prevent offenders from reoffending by making better use of handlers, help victims reduce their probabilities of being targets, and to change places where problems occur, be these schools, taverns, or parking lots.

*Source: Situational Crime Prevention | ASU Center for Problem
<https://popcenter.asu.edu/content/situational-crime-prevention-0>*



While the Crime Triangle helps to analyze problems, situational crime prevention provides a framework for intervention. By assessing the opportunities that specific situations offer for crime, situational crime prevention has identified five main ways in which situations can be modified. These are:

- 1) Increasing the effort the offender must make to carry out the crime.
- 2) Increasing the risks the offender must face in completing the crime.
- 3) Reducing the rewards or benefits the offender expects to obtain from the crime.
- 4) Removing excuses that offenders may use to "rationalize" or justify their actions.
- 5) Reducing or avoiding provocations that may tempt or incite offenders into criminal acts.

These five approaches to reducing opportunity can be expanded to list 25 techniques of situational crime prevention (*see attachment*). Following are some examples from the 25 techniques:

#1 Harden targets use physical barriers such as locks, screens, or reinforced materials. Study- bullet-resistant passenger screens have cost-effectively reduced assaults and robberies committed against cab drivers.

#6 Utilize Place Managers use store clerks, hotel doorkeepers, parking lot attendants, and train conductors. Study- Having two clerks on duty, especially at night, has been found useful in preventing robbery of convenience stores.

#15 Deny Benefits use ink tags in clothing stores to prevent shoplifting, speed bumps to deny the benefits of speeding, and the immediate removal of graffiti to prevent offenders from the gratification of seeing their work on display.

#17 Avoid Disputes by separating rival sports fans at events, fixed taxi fares to prevent cheating and disputes over fares.

#22 Post Instructions such as No Parking signs, Park Closes at 10 PM signs.



These ways of reducing opportunities for crime often meet the same objection: all they do is move crime around, not prevent it. This theory of displacement sees crime as being shifted around in five main ways:

- Crime is moved from one place to another (geographical)
- Crime is moved from one time to another (temporal)
- Crime is directed away from one target to another (target)
- One method of committing crime replaces another (tactical)
- One kind of crime is substituted for another (crime type)

Displacement is usually limited because offenders have difficulty adapting quickly. If they do make changes, they are most likely to change to places, times, targets, methods, and crime types that are similar to those the prevention program blocks because these are the simplest changes for them to make. We can predict displacement by anticipating the easiest changes for offenders to make. If there are apparent easy changes, then you should consider how to incorporate these in your prevention plan. If you cannot include them, then you should consider monitoring them to detect possible displacement.

Hot Spots Policing

Although there is not a standard definition for "hot spots," they are generally thought of as "small places in which the occurrence of crime is so frequent that it is highly predictable, at least over one year." Remember where we started today? Crime is highly concentrated on particular people, places, and things. Through place-based strategies, such as hot spots policing, agencies can focus limited resources in areas where crime is most likely to occur. The appeal of focusing limited resources on a small number of high-activity crime areas is based on the belief that if crime can be prevented at these hot spots, then total crime across the city might also be reduced.

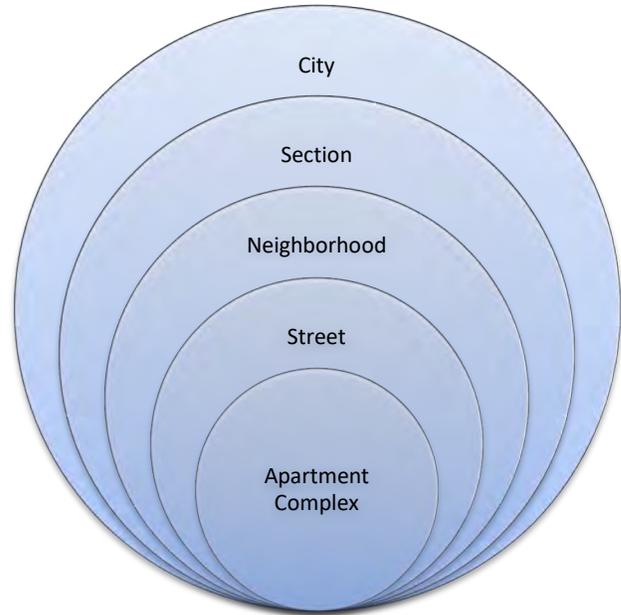
*Source: Practice: Hot Spots Policing - CrimeSolutions.gov.
<https://www.crimesolutions.gov/PracticeDetails.aspx?ID=8>*



Hot spot areas can include very small units of analysis such as buildings or addresses, block faces, or street segments, or bigger units such as clusters of addresses, block faces, or street segments.

There are two general approaches to hot spots:

- The first approach, problem-oriented policing (more on this tomorrow), represents police-led efforts to change the underlying conditions at hot spots that lead to recurring crime problems. It requires police to look past traditional strategies and include other possible methods for addressing crime problems.
- The second approach relies primarily on traditional policing activities, such as vehicle patrols, foot patrols, or crackdowns concentrated at specific hot spots to prevent crime through general deterrence and increased risk of apprehension.



Studies on the effectiveness of hot spots policing strategies have been positive, and displacement does not appear to be a common occurrence. However, while policing strategy and practices may have a positive effect from the perspective of crime reduction, concerns have been raised about their potential to generate negative collateral consequences, particularly for communities of color.

Source: Understanding the Impacts of Policing Strategies and

<https://nij.ojp.gov/sites/g/files/xyckuh171/files/media/document/NIJ-2017-11565.pdf>



Think about:

- Are practices and strategies perceived as fair by those policed?
- How are those practices and strategies implemented (in their encounters with police, are individuals treated politely and with respect)?
- Do data and crime analysis tools encourage "over-policing" of communities of color?

It is essential to consider displacement and collateral consequences as possible unintended consequences in crime prevention.

Policing Resources

National Institute of Justice <https://crimesolutions.gov/>

- The National Institute of Justice's CrimeSolutions.gov is comprised of two components — a web-based clearinghouse of programs and practices and a process for identifying and rating those programs and practices.
- The clearinghouse, accessible via the CrimeSolutions.gov website, presents programs and practices that have undergone rigorous evaluations and meta-analyses. The site assesses the strength of the evidence about whether these programs achieve criminal justice, juvenile justice, and crime victim services outcomes to inform practitioners and policymakers about what works, what doesn't, and what's promising.

The Oregon Knowledge Bank <http://okb.oregon.gov/>

- The Oregon Knowledge Bank (OKB) is your statewide resource for Oregon-based public safety programs and research. The OKB highlights innovative programs operating in the state and research about Oregon-based solutions. Find solutions, offer answers, share research, and contact law enforcement experts.



The Center for Problem-Oriented Policing <http://www.popcenter.org/>

- The mission of the Center for Problem-Oriented Policing is to advance the concept and practice of problem-oriented policing in open and democratic societies. It does so by making readily accessible information about ways in which police can more effectively address specific crime and disorder problems.
- The Center for Problem-Oriented Policing is a non-profit organization comprising affiliated police practitioners, researchers, and universities dedicated to the advancement of problem-oriented policing.

US DOJ Community Oriented Policing Services <https://www.cops.usdoj.gov/resources>

- The COPS Office is an essential resource for members of law enforcement looking for the smartest approaches to preventing and reducing crime. The COPS Office works with leading researchers, practitioners, and trailblazers to get useful strategies out to the field.
- The COPS Office provides numerous training and support materials in a variety of formats, including curricula, guidebooks; webinars; publications; conference presentations; podcasts, and videos. COPS Office training can be found on the COPS Training Portal, a comprehensive public, online training portal with valuable resources for law enforcement and related stakeholders.



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TWENTY FIVE TECHNIQUES OF SITUATIONAL PREVENTION

Increase the Effort	Increase the Risks	Reduce the Rewards	Reduce Provocations	Remove Excuses
Harden Targets Steering column locks and immobilisers Anti-robbery screens Tamper-proof packaging	Extend guardianship • Take routine precautions: go out in group at night, leave signs of occupancy, carry phone • "Cocoon" neighborhood watch	Conceal targets • Off-street parking • Gender-neutral phone directories • Unmarked bullion trucks	Reduce frustrations and stress • Efficient queues and polite service • Expanded seating • Soothing music/muted lights	Set rules • Rental agreements • Harassment codes • Hotel registration
Control access to facilities Entry phones Electronic card access Baggage screening	Assist natural surveillance • Improved street lighting • Defensible space design • Support whistleblowers	Remove targets • Removable car radio • Women's refuges • Pre-paid cards for pay phones	Avoid disputes • Separate enclosures for rival soccer fans • Reduce crowding in pubs • Fixed cab fares	Post instruction • "No Parking" • "Private Property" • "Extinguish camp fires"
Screen exits Ticket needed for exit Export documents Electronic merchandise tags	Reduce anonymity • Taxi driver IDs • "How's my driving?" decals • School uniforms	Identify property • Property marking • Vehicle licensing and parts marking • Cattle branding	Reduce emotional arousal • Controls on violent pornography • Enforce good behavior on soccer field • Prohibit racial slurs	Alert conscience • Roadside speed display boards • Signatures for custom declarations • "Shoplifting is stealing"
Deflect offenders Street closures Separate bathrooms for women Disperse pubs	Utilize place managers • CCTV for double-deck busses • Two clerks for convenience stores • Reward vigilance	Disrupt markets • Monitor pawn shops • Controls on classified ads. • License street vendors	Neutralize peer pressure • "Idiots drink and drive" • "It's OK to say No" • Disperse troublemakers at school	Assist compliance • Easy library checkout • Public lavatories • Litter bins
Control tools/weapons "Smart" guns Disabling stolen cell phones Restrict spray paint sales to juveniles	Strengthen formal surveillance • Red light cameras • Burglar alarms • Security guards	Deny benefits • Ink merchandise tags • Graffiti cleaning • Speed humps	Discourage imitation • Rapid repair of vandalism • V-chips in TVs • Censor details of modus operandi	Control drugs and alcohol • Breathalyzers in pubs • Server intervention • Alcohol-free events



Contact & Cover

BASIC POLICE ACADEMY





Contact and Cover Officers

Instructional Goal

This course is designed to:

1. Develop a new officer's understanding of the concepts of contact and cover.
2. Enhance a new officer's knowledge in all types of police interactions and become familiar with two officer, one suspect contacts.

Learning Outcome(s)

Upon completion of instruction, student will be able to:

1. Recognize officer contact and cover responsibilities.
2. Identify fatal tendencies and characteristics that lead to officer injury and death.
3. Articulate why contact and cover is essential.

Content Outline

- Officer Safety
- Contact and Cover Functions
- Switching Roles
- One and Two Officer Units
- Initial Briefings
- Positioning
- Searches and Handcuffing
- Multiple Contact and Cover Officers
- Release of Cover Officer



Officer Safety

In 2017, The U.S. Department of Justice and National Law Enforcement Officers Memorial Fund released a publication called *Making It Safer*. In this document, the authors examined law enforcement fatalities and provided a series of recommendations to make contacts safer. Many of the recommendations include having an additional officer on scene to provide cover and assistance.

The Tactical Concept of Contact and Cover

Contact and cover is a decades old tactical concept for use anytime two or more officers deal with one or more subjects. The concept applies whether the contact is a field interview, traffic stop, arrest, criminal investigation, and more.

Source: Contact and Cover: Two-Officer Suspect Control, Albrecht & Morrison (1992)

The basic concept is that one officer assumes each role and each role carries specific functions.

Contact Officer	Cover Officer
The contact officer is the officer initiating an action who becomes responsible for conducting the business of the contact.	The cover officer is the officer responsible for surveillance and control of a suspect in order to free the contact officer to conduct the business of the contact.

It is important that each officer understand the functions of both roles.

- Contact officer functions include talking to subjects, patting them down, writing anything, and directing the subject's movements. It includes searching the subject's car or belongings, and talking on the radio. It includes handcuffing, searching, and moving the subject.
- Cover officer functions include providing cover by positioning themselves in a way to see and hear what is happening with the encounter, but not be seen as interfering or intimidating the subject. The cover officer does not step into the conversation, search other companion subjects who are with the first subject, talk on the radio, fill out citation forms, or search the subject's car. The cover officer can provide information the Contact Officer may have missed.



Contact Officer Responsibilities	Cover Officer Responsibilities
<ul style="list-style-type: none">• Initiate action• Conduct the essential business required, such as, but not limited to:<ul style="list-style-type: none">○ Alert cover officer that a weapon or contraband is located on the subject○ Conduct thorough systematic searches○ Maintain control of the subject○ Recover evidence○ Record necessary subject or incident information○ Handle radio communication○ Write traffic or misdemeanor citations• Communicate with the cover officer, as appropriate, regarding force option selection	<ul style="list-style-type: none">• Protect the contact officer from possible interference (e.g. onlookers or associates of the subject(s))• Alert the contact officer that a weapon or contraband is located on the subject• Maintain constant observation of the overall situation; being aware of possible dangers and potential interferences• Provide a command presence to discourage hostile acts, assaults, or escapes by the subject• Secure any weapons or contraband; this allows the contact officer to continue the search• Prevent the destruction of evidence• Intervene with appropriate force to protect the contact officer if a suspect reacts violently• Communicate with the contact officer, as appropriate, regarding force option selection

Officer safety is a primary responsibility of all officers at all times. The contact officer should never rely solely on the cover officer for protection.



Officer Observations

Research on reducing risks to officers finds that although a suspect's facial expressions may allow for the interpretation of emotions and respectful eye contact may help to de-escalate in some situations, merely focusing on the face cannot predict an upcoming attack.

The research finds *tactical gaze control*, or focusing on the more "dangerous" areas of a suspect rather than "harmless" regions as more effective. These "dangerous" regions include the hands and areas of potential weapon concealments such as the hip area.

Switching Roles

In some instances, once the initial contact has been made, officers may decide to exchange contact and cover officer duties. The switch should be verbally communicated and understood by both officers.

Such a switch may take place when:

- It is tactically advantageous to do so (e.g., when the suspect's position changes)
- One officer has specialized training or expertise in a given area, better rapport with a suspect, more knowledge regarding the area, is bilingual, or possesses a specific skill).

In such exchanges, the officer assuming the role of cover officer must be in position and fully prepared to respond to any sudden action by the suspect before the original cover officer relinquishes that duty to take on the role as contact officer.



One and Two Officer Units

Depending on the jurisdiction, officers may be assigned to patrol alone or with another officer in the patrol unit. The following table identifies how the roles of contact officer and cover officer pertain under each condition.

One-Officer Unit	<p>The first officer to arrive and initiate any activity assumes the role of contact officer determines if there is a need to call for a cover officer (i.e., backup).</p> <p>Additional personnel, whether responding to a call for cover or simply stopping at the scene to offer assistance, should automatically assume the role of cover officer(s).</p>
Two-Officer Unit	<p>The officers should agree upon who will act as the contact officer and cover officer in advance of each contact.</p>



Initial Briefings

It is essential that contact officers requesting cover and responding officers clearly communicate with one another. Responding officers should be briefed on the details of the contact as thoroughly as possible. The following table identifies elements of such contact officer/cover officer communications.

Upon arrival, the contact officer should advise the cover officer of:	After receiving the information, the cover officer should brief the contact officer on:
<ul style="list-style-type: none">• Observations made or evidence obtained• Whether or not a search for weapons has already been conducted• The reason for the contact and suspected criminal activity• The contact officer's immediate plans• Any previous knowledge of the suspect(s) and/or An appraisal of their potential for violence• Any other suspicious persons or activity in the area	<ul style="list-style-type: none">• Previous knowledge of the suspect(s)• Observations made while approaching the scene• Any significant radio communications the contact officer may have missed

Both officers should verbally confirm what has been told to them by the other officer to ensure that communication was correct.



Positioning

The exact positioning of the contact and cover officers will vary according to the situation and circumstances. The following table provides general guidelines for establishing positions of advantage.

Contact officers should position themselves to:	Cover officers should position themselves to:
<ul style="list-style-type: none">• Avoid moving between the cover officer and suspect(s)• Not be in a position of vulnerability	<ul style="list-style-type: none">• Have a clear and unobstructed view of the suspect(s), and the contact officer• Have the best peripheral view of the surrounding areas• Avoid crossfire situations between officers control the likeliest route of escape

The Advantage of Time

Research finds that increasing the speed of officer response increases error. Officer positioning tactics include creating time and space using distance and barriers. Additionally, a defensive position provides opportunity for officers to detect behaviors and react appropriately.

Weapon Searches/Handcuffing

The most hazardous moments of the majority of contacts with suspects occurs during a cursory search for weapons or when the suspect is being handcuffed. Because of the inherent danger, the role of each officer must be clear. For example contact officer conducts the search or cuffing while the cover officer acts as security



Multiple Contact and Cover Officers

Some major crime scenes or disturbances involving several subjects may require multiple contact and cover officers (e.g., when two or more subjects must be separated and other witnesses individually questioned, when a potentially hostile crowd may interfere, etc.).

In such cases assignments should be absolutely clear and as specific as the situation permits.

Assignments should be made by the:

- Primary officer (i.e., the first contact officer on the scene), or
- Supervisor

Release of Cover Officer

Circumstances such as hostile bystanders or the continued presence of suspect(s) companions may dictate that the cover officer maintain position until all of the business of the contact is completed. It is the responsibility of the contact officer to determine when the cover officer can be released. This decision is very gray and situationally dependent. Communication amongst officers is the key to this working successfully.

- Example: You're in contact with an individual and they are confirmed to have a warrant for their arrest. You have requested backup due to another individual in the area on foot interfering with your contact and due to the imminent custody of the subject with the warrant. Once backup arrives, you elect to take the subject into custody and the bystander gets agitated. Once the initial subject is in handcuffs, you elect to release the cover officer to speak with the agitated subject who is interfering with your contact.



Common Failure Points

Contact and cover is a system that often works to increase safety for officers and members of the public. When the system fails, it is often linked to one or more of the following five common failure points.

1. **Shortcutting rule and procedures:** Officers involved in fatal or near fatal encounters tended to not follow the department rules or procedures. Instead they took shortcuts either for convenience to themselves or courtesy to the offender.

What are some examples of shorting rules or procedures?

2. **Acting without waiting for backup:** Often backup was available but the officers tended to go ahead on their own in situations that were later recognized as likely needing an additional officer.

How might we more easily identify the need to backup earlier?

3. **Relying too heavily on reading people:** The officers generally took great pride in their ability to “read” people and situations. They depended on their gut rather than the observable, articulable facts and often dropped their guard when “good” was perceived.

What are some observable, articulable circumstances we can use to make effective decisions rather than simply “reading” people?



4. Not taking decisive action when necessary: Not having a full understanding of the situation and when they have exhausted all verbal options and need to move to other means to resolve the situation is often seen as a contributing factor to officer death and injury.

What are some examples of these options and how might we develop our decision making to know when it's time to move to something else:

5. Failure to forecast future behavior: One of the things we can do to maintain our safety as law enforcement professionals is forecasting the behavior of those we are in contact with.

What are some ways we may be able to forecast the behavior of those in contact with and how much of it can we control?

Crash Response and Investigations

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATSON 1960-1980
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY INDEED



Crash Response and Investigation Basics

Instructional Goal:

This course is designed to develop a new officer's understanding of their role in traffic crash prevention, response, and investigations.

Learning Outcome:

Upon completion of instruction, student will be able to:

1. Describe key elements of a crash response.
2. Describe key elements in a crash investigation.
3. Identify relevant evidence in a crash investigation.
4. Complete a DMV Crash Report Form.

Content Outline:

- Crash Defined
- Law Enforcement Role
- Oregon Crash Data
- Part 1- Crash Prevention
- Part 2- Crash Response
- Part 3- Crash Investigation



Crash Defined

The term ACCIDENT implies “no fault” when CRASHES are actually caused because someone used poor driving strategy & tactics. The interchangeability of these two words may seem like semantics, but if words really do mean things then we should choose the correct word. This can influence how we handle the investigation, our beliefs about determining who is at fault and our actions based on those conclusions. If it is an accident or just bad luck will this impact the effort and thoroughness you put into your investigation? What other affects could it have?

Crash:

An occurrence in a sequence of events involving at least one moving motor vehicle (or its load in motion) which usually produces unintended injury, death, or property damage.

Law Enforcement Role

In this course, you will learn the basics of the various roles the officer fills in regard to crashes:

Crash
Prevention

Crash
Response

Crash
Investigation



2018 Oregon Motor Vehicle Traffic Crashes Quick Facts

Based on data available as of 01/30/2020

CRASHES (All Roads)

		% change from prior year
■ Fatal Crashes:	446	10.67 %
■ Non-fatal Injury Crashes:	27,717	-2.39 %
■ Property Damage Only Crashes:	21,936*	-24.17 %
Total Crashes:	50,099	-13.21 %
■ Fatality Rate:	1.36	14.05 %
■ Fatal & Serious Injury Rate:	5.94	-0.94 %
■ Serious Injury Rate:	4.58	-4.67 %
■ Injury Rate:	111.46	-2.21 %
Number of Crashes Involving:		
■ Bicycles / Pedalcyclists	826	8.12 %
■ Pedestrians	984	1.03 %
■ Motorcycles	1,036	11.76 %
■ School Buses	154	2.67 %
■ Medium/Heavy Trucks	2,423	-14.47 %
■ Drivers Age 15-20 (Fatal + Injury Crashes)**	5,556	2.79 %

18.53% of fatal and injury* crashes involved a driver age 15 to 20

Most common collision type for fatal crashes: Fixed Object (33%)
 Most common collision type for all other crashes: Rear End (34%)

Peak Month: October Peak Day of Week: Friday Peak Hour: 5:00 p.m. to 5:59 p.m.

PARTICIPANTS

		% change from prior year
■ Persons killed:	502	14.35 %
■ Persons injured:	41,073	-1.96 %
Casualties**:		
# of Coded Participants***	Killed	Injured
■ Drivers	90,201	310
■ Passengers	12,824	104
■ Occupant, Type Unknown	0	0
■ Pedestrians	1,028	79
■ Bicyclists / Pedalcyclists	833	9
■ Occupants of Parked Vehicles	124	0
■ Other Type of Non-Motorist	4	0
■ Motorcycle Riders	1,114	85

*OC Crashes are included in "Drivers" and "Passengers" categories, whereby

Children in Fatal and Injury Crashes:**
 ■ All children age 0 to 14: 4,562 (16 killed, 2,656 injured)
 ■ Child passengers age 0 to 14: 4,365 (15 killed, 2,469 injured)

24.2% of injured passengers were children age 0 to 14

ERRORS**

Top 10 Driver Errors:

1. Failed to avoid stopped or parked vehicle ahead
2. Failed to yield right-of-way
3. Ran off road
4. Inattention
5. Driving too fast for conditions (not exceeding posted speed)
6. Following too closely
7. Failed to maintain lane
8. Left turn in front of on-coming traffic
9. Failure to decrease speed for slower moving vehicle
10. Disregarded traffic signal

Top Pedestrian Errors:

1. Crossing between intersections
2. Failure to yield right-of-way
3. Improper use of traffic lane by non-motorist

Top Bicyclist / Pedalcyclist Errors:

1. Failure to yield right-of-way
2. Disregarded traffic signal
3. Disregarded stop sign or flashing red

* Effective 1/1/2018, DSV raised the damage threshold for reporting property damage only (PDO) crashes, resulting in fewer PDO crash reports received. Other internal processing practices may also have contributed to the lower of PDO crash figure.
 ** Age, Error, Participant Type (passenger "Driver") and other Vehicle and Participant data are no longer collected for Property Damage Only crashes, as of the 2016 crash file. Please keep this in mind when comparing data for 2018 and later years against data for earlier years.
 *** Drivers, injured passengers, injured non-motorists, children ages 0 to 4



Part 1- Crash Prevention

What is the role of the officer in preventing crashes?

- **E**nforcement- Doing visible patrols, working radar, targeted enforcement related to top 10 driving errors (make the roads safer)
- **E**ngineering- Reporting road hazards to the road authority
- **E**ducation of the Public – Citations/warnings, community presentations, traffic safety classes, social media

Part 2- Crash Response



Preparation

There are multiple ways you can be called to a crash. Calls can come in over the radio/MDT, you could be flagged down by a citizen, you could receive a telephone call, or a crash can even occur in your presence. Be prepared, have the right equipment for when you need it.

Pre-Shift Vehicle Inventory Basic Equipment:

- Measuring device
- Camera/cell phone
- Spray chalk/lumber crayon
- Evidence bags
- Traffic cones/flares
- Nitrile gloves
- DMV crash report/department forms
- First aid kit
- Fire extinguisher
- Traffic vest



Arrive Safely

Urgency does not mean high speed when responding to a crash. You must arrive safely or someone will be responding to your crash as well as the crash you were heading to. An urgent run can increase stress, which can create an impaired driving condition in both judgement and vision (tunnel vision). Other dangers include not wearing a seatbelt, speeding (particularly through intersections), and being distracted while using the MDT or other device. Additionally, a high speed response can result in unfavorable public perceptions and can jeopardize the safety of everyone. Check with other responding units (fire, EMS, other police units) to see if a code run is proper.

We are bound by ORS 820.300 to drive with due regard for the safety of all. You can personally be held criminally liable for unsafe actions.

ORS 820.320 – Illegal operation of an emergency vehicle. Lights and sirens (exemptions)

Arrival

Once you arrive at the scene, position your patrol car in a visible, safe spot. Consider that you may need to park in a specific place to help secure the scene and this may be off or on the roadway. Think about visibility and alert traffic by using your overhead emergency lights. Use all of your lights, not just the rear ones. Your lights are on, are they visible? Radio your arrival and any EMS equipment needed for the injured (ambulance, jaws, fire).

In addition to vehicle visibility, think about your own visibility. Visibility will differ depending on the time of day and weather. Use your traffic safety vest, this is required per OSHA and you can receive a fine for not wearing it.

Oregon OSHA

Emergency responders and law enforcement officers must also wear high-visibility apparel after an emergency has passed and they're doing traffic control, cleanup, investigations, or similar tasks. Max fine \$12,600.00 to individual, not agency.



Assess the Situation

Although you may be in a hurry, do not just jump in. Take a minute to look around and watch for hazards such as power lines, transformers, leaking fuel, hazardous materials, chemicals (fluid and airborne), and biohazards such as blood or other body fluids. The emergency response guide book or a mobile application with that information will give guidelines on how to respond to hazardous material incidents. Be aware of hazmat placards.

What to do first

Determine what is most important for your crash scene. Determine if there are injuries and be prepared to render aid. You may arrive on scene before the medics, so be prepared to administer proper first aid procedures if necessary. If there is a question about a potential injury, call for a medic unit. Let the medics make the determination if transport to the hospital is necessary. The medics will also have the injured sign a release if the person refuses treatment or transport.

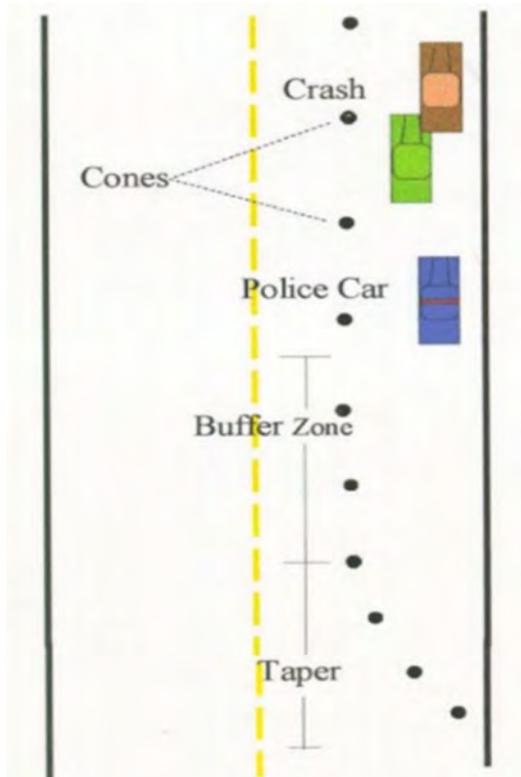
What else is needed? Do you still need additional police units to respond? What response code? Do you need to block traffic? Secure the scene? Are there other resources you should call (Power Company, traffic control, ambulance, fire, etc.)? Do you need to start identifying those involved? Is there evidence that needs to be marked or photographed? Are there tasks that you can delegate to other officers? It is time to start making decisions.

Securing the Scene

Traffic control serves to protect responders, victims and other personnel on site, provide reasonably safe traffic flow, prevent secondary traffic crashes, and manage the impact to the surrounding road system. According to OSHA, responders may use any available devices or equipment to guide traffic through an incident area until proper equipment is available, as long as the devices themselves do not create additional hazards. As soon as practical, Federal Highway Administration *Manual on Uniform Traffic Control Devices* (MUTCD) compliant devices and equipment should be used. No one set of temporary traffic control devices (signs, signals, markings, and other devices used to regulate, warn, or guide road users) can satisfy all conditions for a given project or incident. At the same time, defining details that would be adequate to cover all applications is not practical.



One type of temporary traffic control device is the traffic cone. For everyone's safety and OSHA compliance, the cone pattern must be set up properly. Proper cone set up includes:



- Tapering- placing cones at an angle to the traffic flow to slowly guide traffic out of its normal path.
- Creating a buffer zone- a section of clear road space between the taper and the work space, providing an extra margin of safety for both traffic and the workers.
- Extending the pattern beyond your scene.
- Advanced warning indicators – if the contour of the roadway limits visibility consider placing advance warning indicators to indicate that there is a hazard ahead. An example of this would be to set a few flares or cones prior to a corner or top of a hill.

Warning lights, such as flares, can be used to supplement cones and add visibility especially in low-light conditions. Be cautious with flares and flare placement.

What other considerations need to be made depending on the circumstances? Do drivers need a visible pre-notice of a roadway closure? Should a traffic advisory be issued to the media? Are there pre-planned detours you can utilize? Does the road authority (State Highway = ODOT, County Road = Road Master, City Street = Public Works) need contacted? Who else can be utilized to assist (Reserves, Explorers, and Cadets)?

If you use citizens to direct traffic, you are accepting liability for that citizen's actions and safety. If a citizen is on-scene directing traffic upon your arrival, replace them as soon as practical.



ODOT Authority

ODOT has the ultimate responsibility and authority over all state roads, therefore you must notify ODOT whenever a State Highway has to be closed. During this communication, do not tell the ODOT personnel you are closing their roadway, but rather advise them that you would like to close the roadway and allow them to order the closure.

The exception to this is when the crash has been determined a crime scene. After designating the situation a crime scene, notify the road authority of this and work closely with them to develop alternative route plans and work to keep as many lanes open as possible. Once all of the evidence has been collected, advise the authority that it is no longer a crime scene and the authority then goes back to them.

Part 3- Crash Investigation

Once the scene is secure and everyone is getting the medical help they need, you can move on to conducting the investigation. There are three levels of crash investigations:

Crash investigations have every aspect of any other case investigation. There are suspects (violators), victims, witnesses, and physical evidence. What may be unique, is that it may all happen to be in the same place at the same time.

Depending on the level of investigation needed and your training, you may use a few or all of the following crash investigation tasks:

- Gather Information
- Evidence- Identify, Photograph, Document, Collect, Mark, Protect it/Preserve, Measure
- Photograph the Scene
- Sketch the Scene



Gather Information

You will need to tailor your questions to your specific crash scene, but some basic questions may include:

- Who was involved in the crash?
- What happened?
- When did the crash occur?
- Where did the crash happen?
- Why did the crash occur?
- How did the crash occur?
- As with all investigations be sure that you can articulate how you know what you know. This may be as simple as Mr. Smith told me... or as complex as based on statements obtained from Mr. Smith I obtained video footage from ODOT who had a camera that was installed at this location. I reviewed the footage captured by the video camera and saw the following.....

When getting statements and vehicle information, you can use the DMV Crash Form as your guide to ensure you collect all of the information you need for the form.

If necessary, interview any witnesses first. Interview drivers separately, and consider that this may need to wait if they are being treated for injuries.

Think back to your previous Communication and Interview courses. When interviewing, ask open ended questions, be objective, be positive, be specific, be diplomatic, and be certain to allow each person to fully give their statement and do not argue. Remember to “Miranda” if you have a driver that is a suspect of a crime.

Who else might you interview? Consider who else is around, witnesses and passengers may be the key people in the crowd telling others what happened. Write down license plate numbers of vehicles parked in the area in case you need to contact them later to see if they saw anything.



When conducting initial interviews, display empathy and concern. Use a personal touch; introduce yourself, provide information and forms, and offer to make phone calls for tows or other assistance. Allow witnesses to tell their side of the story before questioning them. Be objective and professional, keeping your feelings and pre-conceived ideas out of it. Ask questions in a positive manner without leading or suggesting answers. Verify the person’s statement by having them repeat it and by comparing it with other statements and physical evidence.

Evidence

What to do with it and when?

Most Crashes	Serious Crashes
<p>Look for evidence- what does it tell you? Photograph it Include it in your notebook sketch Collect it (Hit & Run, DUII)</p>	<p>Mark it Protect It / Preserve It Measure It</p>
<p>Critical Thinking: What might distinguish a basic crash from a serious crash?</p>	
<p>Critical Thinking: Why might you need to take different actions in different crashes?</p>	

Think about all of the components that could be evidence at a crash scene. In all crashes, evidence exists. It is the officer’s job to find it and utilize it. Inspect the scene for physical, roadway, vehicle, and scene evidence. For example:



Physical	Roadway	Vehicle	Scene	Person
Fingerprints on Exchanged Papers or Vehicles Paint Chips or Transfers	Area of Impact Tire Marks Roadway Marks Debris Pattern Fluid Trails Final Rest Positions of Vehicle/Bodies	Contact Damage Non-Contact Damage: Bends and Folds in Metal, Cracking Paint Parts: Speedometer, Safety Belts, Deployed Airbags, Tires and Wheels, etc.	Weather Conditions: Rain and Wet Pavement, Snow and Ice, Dry, Sunny and Bright Road Factors: Ruts, Gravel, Grade, Elevation Other Factors: Construction, Traffic, Signs	Identification of Occupants and Witnesses Statements Age Bodyweight Proper Use of Restraints Role- Driver, Passenger, Witness Injuries

On the following pages, we are going to focus on roadway evidence. Note, this is only an introduction to crash investigations. Additional training beyond the academy is necessary.

Roadway Evidence- Skid Marks

A skid mark is a tire friction mark caused by a tire that is locked and sliding. Skid marks appear differently on different surfaces:

- Dry Asphalt- The mark brings the oils and tars to the surface by heat between the two surfaces.
- Wet Asphalt- The mark gives an erasure appearance.
- Concrete- The marks will appear white or like a “cleaning” mark. There may be some darkening to the skid mark from the tire.
- Gravel/Dirt- The marks will appear in the form of a furrow, plowing away the material.
- Wet Grass- The marks will generally not dig into the grass, but slide across the top of the grass, matting it down.
- Ice- The mark will appear shiny and wet and will be very short lived.



Skid marks will be visible for different amounts of time, depending on the surface type, lighting and weather conditions. Skid marks on dry, warm asphalt may last for weeks, while skid marks with anti-lock brakes on wet surfaces may only last minutes.

Skid marks are generally straight, however factors such as the grade or slope of the roadway, unequal road surfaces, a rotating vehicle, or defective brakes could result in the skid mark not traveling in a straight line.

Skid marks start light and end dark. To measure a skid mark, measure from the beginning of the shadow to the end of the mark. Measure each mark separately. If the marks are overlapping, note where the overlap starts in comparison to the start of the shadowing. Shadowing is caused by a tire that is rolling at a slower speed than the vehicle is traveling. This could be caused by a tire just before the tire starts to skid (also known as ABS braking).

Roadway Evidence- Scuff Marks

Pedestrian and bike scuff marks- shoe and bike tire scuff marks can be located near the area of impact. These marks may be difficult to see.

Roadway Evidence- Gouges

Gouges are deeper at first and get shallow at the end (tear drop). They are made by a strong component from a vehicle (frame, transmission, suspension, wheel, brake part, etc.) and can be traced back to the component part that caused it. Gouges can indicate the area of impact and post-crash direction of travel for each unit.

Indentations usually occurs from a vehicle that flips, vaults or rolls over.

Scratches are not as deep as gouges, and are usually just a superficial mark on the surface of the roadway.



Roadway Evidence- Debris

Debris is sometimes a good indication of the area of impact. Debris can show the post-impact travel of a unit, the point of rest of a unit if the unit has been moved.

Roadway Evidence- Fluid Trails

Fluid trails are good sources of evidence to determine the path that a vehicle travels from the crash toward its final resting place.

Roadway Evidence-Area of Impact

All of the above items can help identify the area of impact (AOI) which is where the crash physically happened. The end of skid marks may be an indicator, gouges in the roadway may indicate a sudden displacement of energy, scuff marks show a change in direction which could be caused by the initial impact. Debris and fluid trails or spills can also help narrow down the AOI. Statements from witnesses and person involved in the crash can be helpful when compared to available roadway evidence.

Roadway Evidence- Final Rest Positions

- Uncontrolled- Vehicle comes to rest on its own and is not moved from final rest by anything or anyone.
- Controlled- Vehicle comes to rest in a pre-determined location by the operator (driven or pushed).

Officer Safety Issue-

At all crash sites there are foreign substances on the surfaces where you walk (blood, other bodily fluids, vehicle fluids, etc.). Take precautions, what you walk in at a scene, you take home.



Photographs

Photographs of a traffic crash are an important part of the crash investigation, they provide an indispensable means of recording the scene and evidence. Photographs also help to depict other supplemental and useful information not thought of at the time of the investigation. Photographs help build your credibility, or breakdown the credibility of a proposed witness or operator. Photographs help to refresh your memory if the case waits years to go to court. They allow you to help explain what you and others saw during the investigation. Photographs are not a substitute for your personal observations or for measurements. Photographs should not reveal “action shots”.

How do you know if photos are needed? Consider the following circumstances: an injury crash with possible charges, transitory evidence, or need to recall of the scene before it is altered. Photographs are not always necessary. If the officer believes photographs are necessary to document the scene properly, get cursory photos of the scene as soon as possible upon arrival: document the scene before things are moved/altered, document evidence, document by-standers/possible witnesses.

Due to exigent circumstances, photographs should be a high priority after the scene is secured and witnesses and drivers have been identified to show how the scene looks before anything is altered or moved for evidentiary processes. Follow up photographs should be taken of any alterations or movement if you still need to investigate further once the items are altered or moved.

What to Photograph:

- Final rest position of vehicles/bodies
- Interior of the vehicle (gauges, switches, restraint systems, other items that may have contributed to the crash)
- Roadway evidence (gouges, chips, debris, fluids, etc.) or anything that will assist in identifying the Area of Impact
- Long range photos to show landmarks
- Mid-range photos to focus on specific items
- Detailed photos of specific items
- Conditions and position of tires, wheels, and tread
- Overall view of the scene from the center line



- Overall view of the area while standing at the crash site
- The view each driver (from the lane and the approximate height) and witness (from the position where they witnessed the crash and the approximate height) had prior to and after the crash
- Other:
 - Damage to fixed objects
 - Injuries of deceased
 - Detailed photographs of the contact damage areas: paint transfers, blood, hair, fiber
 - Any view obstruction which may be a concern in your case
 - Evidence of a crime
 - Anything else that may be helpful for you

Photography “Do’s”

- Photographs of large objects (40 feet or more) may need to have overlapping photos taken.
- Small items should have two photographs take, a close up to capture the details, and a wider shot to show the item in relation to the crash site.
- When photographing small items, think about using a photo scale.

Photography “Don’ts”

- Do not rearrange the objects at a scene to get the effect you want. Photograph the scene as is.
- Try not to tilt the camera, as it may give a false impression of a grade in the roadway
- Do not delete photograph, submit all you take
- Have enough lighting for your photos



Marking the Scene

You may need to mark a crash scene in order to clear traffic and measure later or to preserve locations for the Crash Investigator. The following may need to be marked:

- Skids (start and end points)
- Vehicle locations (mark the center hubs of each vehicle with a small T)
- Bike or ped debris
- Other evidence

Measuring the Scene

There are some basic measurements you will need to complete the crash form. For some crashes, more in-depth measurements are needed and may require a Crash Reconstructionist.

Basic Measurements for Crash Form	In-Depth Measurements
Distance from nearest intersection Distance from nearest city Length of skid marks prior to impact Distance vehicles traveled after impact	Road/lane/shoulder widths Roadway evidence Vehicle locations Poles, signs, obstructions Height and size of damaged areas (Hit and Run)

Measurements and diagramming are key elements in documenting the results of a crash. They provide the foundation needed to establish:

- Vehicle-to-Vehicle and Vehicle-to-Roadway Relationships
- Speed Estimates
- Technical Court Testimony
- Accurate Visualization of Crash Results (Judges, Juries, Attorneys)



How to Conduct Baseline Measurements- Measuring requires two officers, and three is even better. Choose a reference point (RP) at one end of the crash scene. The reference point should be easy to access and a tangible, semi-permanent object that can be located later. For example: milepost marker, the end of a guardrail, end of the fog line, a fire hydrant, etc. Establish a baseline by stretching and anchoring a tape measure parallel to the crash scene. First measure an item by how far down the baseline it is from zero. Second measure how far out the item is from the baseline. Always measure at a right angle.

Measurements will be added to a scale diagram. Often agencies have a crash reconstructionist that will take these measurements and create a scale diagram for your case. You will need to check with your agency regarding crash diagram specifics.

Report Requirements and Forms

There are two different DMV crash reporting forms; one is for the involved drivers to fill out and the other is for law enforcement. ORS requires a report to DMV under the following conditions:

- ORS 811.720- A citizen who is involved in a crash **MUST** make a report to DMV within 72 hours when:
 - There is a death from the crash
 - There is injury to any person as a result of the crash
 - The amount of damage to the property of any person is in excess of \$2500

- ORS 810.460- A police officer **SHALL** complete a DMV Crash Report within 10 days when any of the following are true:
 - Investigates a crash in which ORS 811.725 or 822.600(requirements for garage to report vehicle struck by a bullet or involved in serious crash) requires a crash report.
 - Prepares a report of an accident investigated at the time and place of the accident or by field interviews with the participants or witnesses.



Just as you have covered in your report writing course, numerous people may read your report. For example:

Your supervisor	Insurance Companies	Traffic Engineers
Your FTO	ODOT/NHTSA/DMV	Research Teams
Attorneys	Media	General Public
Judges	Reconstructionist	
Involved Persons	Other Officers	

Police Crash Form

Fill out appropriate boxes front and back.

Narrative

Give a concise, complete description of what happened. Refer to vehicles or pedestrians by the same "unit number" used on the face of the report and the sketch. Generally, you do not need to repeat facts or data contained elsewhere on the form. Start the description with what the units were doing before the start of events that produced the crash. Describe the maneuvers that led to the crash, and describe the collision, rollover, or non- collision event. Include statements the people involved in the crash or witnesses said that is pertinent to the crash.

Scene Diagram

The diagram should, at a minimum, allow another person to look at the diagram and get a basic idea of what happened in the crash. A scene diagram should be included;

- Direction of North
- Street Names or Highway Numbers
- Vehicles, Bodies, and Other Physical Evidence
- Skid/Tire Marks
- Traffic Control Devices (Signs, Barrels, Barricades, Flaggers)



Taking Enforcement Action

At the conclusion of your investigation, take any enforcement action needed, including writing citation(s). When you are investigating crashes that may result in criminal charges, consult with your District Attorney. Note the Statute of Limitations for a violation is six months.

If a violation has occurred, the offending driver should be cited for that violation. Do not let sympathy become involved. You can empathize with the offending driver, but let the court sympathize when a fine is administered.

ORS 810.410

When a police officer at the scene of a crash has reasonable grounds, based upon his personal investigation, to believe a person involved in the crash has omitted a traffic offense in connection with the crash, the officer may issue a citation for the offense.

Conclusion

This has been a brief overview of crash investigations. Several key takeaways are:

- Arrive safely
- Make the scene safe
- Conduct a thorough investigation
- Provide good customer service

You will be given the opportunity to practice these skills in the coming weeks.



Crash Form Exercise Information Sheet:

Case #: RCC 20-21057 Call time: 1530 Arrival time: 1540 EMS: Not called

Location:

Pacific Av (35 MPH Zone) @ Avenue C (25 MPH Zone) Medford, OR. (Road conditions are as shown in photo)

Vehicle 1:

Green 1989 Buick Regal 4-door, Oregon license plate #ABC 123

Driver 1: Wilson, Tim J. WMA, 040182, ODL #A234567, 1200 E Pine St, Medford, 541-772-7428. Insurance company is Farmers, policy #987654. He said he was wearing his lap and shoulder seatbelt. His airbag deployed.

Statement: "I was on Avenue C (Westbound) and stopped at the intersection of Pacific Avenue. I signaled for a right turn, and I did not see anyone coming so I pulled out. Just as I started to turn right, I heard tires screeching and then I was hit by the red car. I was going about 5 mph when I was hit, I did not get a chance to put on my brakes. I was not injured."

- Damage exceeds \$2500
- Towed by/to: Star Towing Co

Vehicle 2:

Red 2015 Honda Fit 2-door, Oregon license plate #DEF 456

Driver 2: Arbor, Ann, WFA, 031265, 123 W Main St, Medford, 541-944-3157, Driver license # is 123456. Insurance expired 6 months ago. She said she was not wearing her seatbelt. Her airbag did not deploy.

Statement: "I was driving towards the college on Pacific Avenue (Northbound) and just before I got to the intersection, a green car pulled out in front of me. I slammed on my brakes but I could not stop before I hit the other car. I was going 35 mph when I saw the other car pull out. I was not injured."

- Damage exceeds \$2500
- Not towed

Impairment:

None noticed by officer during contact with both drivers.



Passenger:

Veh-2: Deere, John, 121173, 123 W Main St. Sitting R/F, was wearing his seat belt (lap and shoulder belt). Airbag was not deployed.

Statement: “I was sitting right front seat. We were traveling towards the college on Pacific Avenue (Northbound) and just before we got to the intersection, a green car pulled out in front of us. Ann slammed on her brakes but we could not stop before we hit the other car. We were going around 40 mph. I was not injured.”

Witness:

Richardson, Gabe, 110595, BMA, 505 A St, Medford, 541-987-6543.

Statement: “I was standing at the driveway entrance, north of the intersection. I heard screeching tires and looked over and saw green car hit by red car.

Surface Evidence:

Veh-2 left 25’ of skid marks prior to impact, none after the impact. Veh-1, no skid marks.

STUDENT QUESTIONS:

Would you issue traffic citations? If so, to who and for what violation(s)?

Crash Diagram



Criminal Investigations: Introduction

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATSON 1960-1980
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY INDEE



Criminal Investigations 1: Introduction to Criminal Investigations

Instructional Goal:

This course is designed to introduce a new officer to the general principles of conducting a criminal investigation.

Learning Outcomes:

Upon completion of instruction, student will be able to:

1. Articulate the duties of a responding officer in a criminal investigation.

Series Outline:

Part 1: Introduction to Criminal Investigations (2 hours)

Part 2: Investigative Interviewing (4 hours)

Part 3: Evidence Collection (2 hours)

Part 4: Criminal Investigations Lab (3 hours)

Part 5: Complex Investigations (2 hours)

Part 1 Content Outline:

- Criminal Investigation Basics
- Role of Responding Officer



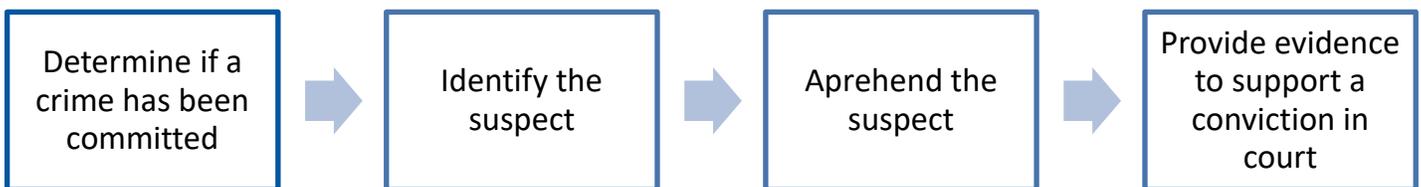
Introduction to Criminal Investigations

Criminal investigations are among the cornerstone roles and responsibilities of law enforcement. As described in *The New Detective* (Eck & Rossmo, 2019), while it is often assumed that investigations are the responsibility of detectives, most crimes are solved 1) by members of the public, 2) by patrol officers, and then 3) by detectives. This makes sense if you consider it from a numbers perspective, there are far more public members than patrol officers and there are more patrol officers than detectives. However, it also makes sense if you consider the broad scope of criminal investigations. Most crimes are cleared by an on-scene arrest or identification of suspects by victims, witnesses, or forensic evidence. In contrast, detectives spend more time working complex cases.

What is a Criminal Investigation?

What comes to mind when you hear the term *criminal investigation*? Do you think of crime scene tape and forensic evidence? Do you picture suspect interrogations and photo line ups? Do you picture this being the responsibility of a detective unit? While all of these could be part of a criminal investigation, the reality is often criminal investigations are much less complex. Officers conduct investigations to varying degrees on a daily basis.

A crime can only be solved through evidence: a witness, a confession, or physical evidence. A criminal investigation refers to the process of collecting information (or evidence) about a crime in order to:





Consider the following investigation scenarios:

Scenario 1- You respond to an elementary school for a report that a child has disclosed they are being sexually abused at home. The school day is close to ending.

Scenario 2- You respond to a cold burglary. Dispatch advises the homeowners have returned from vacation and found their home has been broken into and items stolen.

Scenario 3- You respond to a domestic disturbance where both individuals are making accusations against the other and both parties have visible injuries. Dispatch advises neighbors have called in concerned about the potential for violence.

Scenario 4- You respond to a grocery store for a report of a shoplifter in custody by the in-store loss prevention staff. Dispatch advises the suspect is cooperative.

Scenario 5- You respond to a home for a welfare check and find the individual deceased in what appears to be a suspicious manner.

Scenario 6- You respond to the hospital for a report of a sexual assault. Dispatch advises the assault is reported to have occurred the night before.

Scenario 7- You respond to the construction site where a new neighborhood is being built for a report of a suspicious vehicle after hours. Dispatch advises the site has been experiencing theft of building supplies.

Scenario 8- You respond to a multi-vehicle crash with injuries. Dispatch advises a caller had reported one of the cars driving fast and weaving in and out of traffic prior to the crash.



Purpose of Investigations

Although criminal investigations seek resolutions to individual crimes, they also serve the larger purpose of promoting justice and reducing crime. To accomplish this, a criminal investigation must be a search for the truth and not simply an effort to close a case.

Criminal investigation failures include:

- Wrongful conviction (begins with a wrongful arrest)
- Unsolved crime that should have been solved
- Ignored crime

Some factors which lead to criminal investigation failure include poor decision-making, flawed or rushed judgement, confirmation bias, tunnel vision, and groupthink among others.

Investigation Basics

Criminal investigations consist of numerous moving parts and a successful investigation depends on the ability and efforts of the officer to think critically and be a problem solver. Although there is not a one-size-fits-all checklist to conducting an investigation, there are important concepts, rules, legal parameters, and processes which matter and can be applied in various circumstances.



What is the Role of the Responding Officer?

Your role may vary depending on your agency; do you have a specialized crime team to call in or are you it? Even in large jurisdictions, chances are if you are the first member responding at the scene of a crime, you are in charge. So what is the role of the responding (and often also the investigating) officer?



Prepare

You have been dispatched to a call. While your first priority is to arrive safely, what things might you start considering in preparation for your arrival?

- First consider, what is the call? What is the level of urgency? What might be happening at the scene when you arrive?
- Are you familiar with the location? Where will you park? Plan to park a short distance away. Start to think through your approach to the location.
- What resources may you need? Do you need a cover officer? How/where should they approach?
- Start thinking through elements of the crime(s) (mental state + conduct).
- Next, who will you be talking to? Start to mentally prepare for the interview(s) of the involved persons. Who are, or might be, the witnesses? Who is the victim? Is there already a suspect? Are there bystanders? What factors could impact information gathering? Have parties experienced trauma? Are parties injured? What accommodations might be necessary, for example will you need a language interpreter or a forensic interviewer?

Intentionally Knowingly Recklessly Criminal Negligence



Manage the Scene

Once you arrive, approach the scene cautiously. Make some initial observations (look, listen, smell) to assess the scene and ensure officer safety before proceeding. Be aware of any persons or vehicles in the vicinity that may be related to the crime. Are there any persons/vehicles leaving the area?

If you have other units arriving, safely direct any additional responding units into the area. Make a plan with the cover officer, including who will interview which party.

Using an assertive communication style, provide clear and concise directions to all parties on scene. Separate the parties (victims, witnesses, suspects).

Gather Information

Once the parties have been separated and the scene is under control, contact the complainant (*note: this could be the victim*) and begin gathering information.

Conduct the interview(s) and obtain statements. *Note: you will cover specifics about interviews in a later criminal investigations class.* Who needs to be interviewed?

- Complainant
- Victim
- Witnesses
- Suspect (be mindful of Miranda and when it applies)

During the interviews, obtain the personal information (name, DOB, address, phone number) of involved persons. Check names and DOBs with dispatch for outstanding warrants/DMV record. Once parties have been interviewed, discuss and compare information with the cover officer. Did information align? Conflict?

Prior to leaving the scene, make sure you have all of the information you need. Do you need to ask follow up or clarification questions? Do you have all relevant personal information?

Notebooks

When do you need to get your notebook out?
Remember what was covered in Report Writing?
What should you be documenting?



Collect Evidence

In some investigations there will be physical evidence to collect. *Note- you will cover specifics about evidence collection in a later criminal investigations class.*

Initially, consider the following:

- Is there visible physical evidence?
- Might there be physical evidence that is hidden or invisible without enhancement?
- Do you need to take photos?
- What might need to be done to protect and preserve the evidence?

Decision-Making

Eventually you will need to make some decisions. For example:

- Is there a crime?
 - What is the crime(s)?
- Do you need to make an arrest?
 - Who/which party should be arrested?
 - Is it a mandatory arrest crime?
 - Do the circumstances require physical custody or is citation in lieu of custody an option?
What circumstances would encourage you to choose one over the other?
- What are the next steps?

Criminal Investigations 2: Investigative Interviewing

BASIC POLICE ACADEMY





Criminal Investigations Part 2: Investigative Interviewing

Instructional Goal:

This course is designed to introduce a new officer to methods of gathering information from various subjects in an investigation.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Describe the role of the interview in an investigation.
2. Describe the role of interrogation in an investigation.
3. Develop effective interview questions for a given circumstance.
4. Demonstrate legal interview and interrogation practices.

Content Outline:

Part 1: Introduction to Criminal Investigations (2 hours)

Part 2: Investigative Interviewing (4 hours)

Part 3: Evidence Collection (2 hours)

Part 4: Criminal Investigations Lab (3 hours)

Part 5: Complex Investigations (2 hours)



Part 2 Content Outline:

- Introduction to Investigative Interviewing
- Interview and Interrogation- What is the Difference?
- The Investigative Interview Process
 - Rapport Building
- Interviews
 - Witness Interviews
 - Victim Interviews
 - Cognitive Interviewing
 - Suspect Interviews
- Interrogations
 - Types of Questions
 - Tactics for Suspects whose Guilt is Reasonably Certain
 - Introducing Evidence
 - Ethical Considerations
 - Specialized Techniques
- Truth-Tellers and Liars
 - Examining Verbal Behaviors
 - Examining Physiological Behaviors
 - Getting to the Truth
 - The Confession
- Recording Statements and Confessions
 - Statutory Requirements



In your Communication series, you covered a common interaction where gathering information is critical, the field interview. Here you learned about verbal and non-verbal communication, listening, and asking questions and conducting field interviews wrapped in information from emotional intelligence as well. By now, you have had time to practice your field interviews, and this course builds from there.

Investigative interviewing is an important component of a criminal investigation. This process may include interviewing victims, witnesses, and suspects to gather information, but also interrogating suspects to obtain a confession. Among the essential traits for a successful interviewer are empathy, communication, and professionalism.

Empathy concerns understanding the experience of another person: their feelings, intentions, and needs. Research has shown that empathy is an important component in the development of rapport in investigative interviewing.

Additionally, the officer must be knowledgeable about legal parameters. According to the International Association of Chiefs of Police, under the rules of evidence applicable in both state and federal courts, when an interrogation is conducted properly, any resulting statement or admission may be admissible in court against the person making the statement. However, the keyword here is admissible. A confession is of no value as evidence if it is inadmissible at the trial. Federal and State courts have, over the years, established very rigid guidelines as to when, and under what circumstances, a self-incriminatory statement may be admitted in a criminal trial. Failure to follow these guidelines may be fatal not only to the prosecution's chances of obtaining a conviction but also to the successful completion of your investigation process.

Legal guidelines for confessions and interrogations derive from two sources:

5th Amendment

You were introduced to Miranda in your Procedural Law series. The Miranda case provides that no confession obtained during a custodial interrogation is admissible unless:

Miranda v. Arizona

1. The person who made the statement was first advised of his or her Fifth Amendment rights, and
2. The police observed those rights in the process of obtaining the statement.



Miranda Warning Example

1. You have the right to remain silent.
2. Anything you say may be used against you in a court of law.
3. You have the right to talk to a lawyer and have him/her present with you while you are being questioned.
4. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you wish

Interview and Interrogation- What is the Difference?

The following content comes from Effective Interviewing and Interrogation Techniques (2019) by Nathan Gordon and William Fleisher.

Interview and interrogation are related but two different processes in investigative interviewing. Interviewing is an information-gathering process that could involve a victim, witness, or suspect. Interrogation, on the other hand, seeks to encourage a guilty subject to admit to their involvement in a crime.

Interview	Interrogation
Goal: Gather information	Goal: Get a confession
Tone: Non-accusatory	Tone: Accusatory
Free Flowing	Structured
Subject does most of the talking	Interviewer does most of the talking

Achieving these differing goals requires differences in the behavior of the interviewer and the scope of the questions. Examples of this change include a shift in tone, who does the majority of the talking, and the structure of the questioning. There is an additional challenge in determining the truthfulness of information obtained. This course will explore each of these topics further as well as provide opportunities for application and practice.



The Investigative Interview Process

There are many different styles and techniques in investigative interviewing. Your agency and coaches may have their preferences. According to the International Association of Chiefs of Police, the current standard protocol of investigative interviewing relies on a progressively narrowing or funnel-shaped model of information gathering. Additionally, specialized techniques may be used according to the circumstances and experiences of the interviewer.

According to the model, following an initial stage of rapport building, which should be maintained throughout the interview, subjects are first asked to describe events in their own words, without direction or interruption by the interviewer. Next, the interviewer poses general questions to fill in any missing data or resolve any glaring discrepancies in the narrative. More focused and detail-oriented queries are then used to help “tie up any loose ends” in the narrative and obtain a clear overall picture of the subject’s knowledge. Finally, rapport is reestablished at the close of the interview, and the subject is asked to contact the interviewer if he subsequently recalls anything relevant.

Examples:

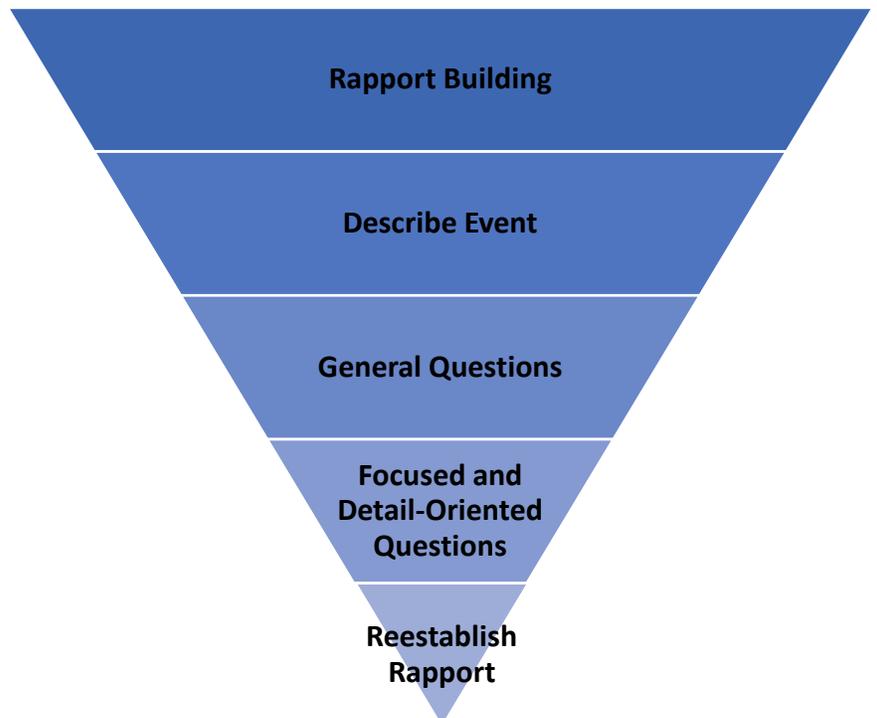
Thanks for coming in today. How was the drive?

Tell me what happened.

Who else might have witnessed that?

Tell me exactly where everyone was standing when the assault occurred.

I do appreciate you helping us out. Do you have anything good planned for (today, tonight, this weekend)?





Rapport Building

For information to be generated in a police interview, rapport must be developed—that is, a shared understanding and communication between the interviewer and interviewee. To develop rapport, the interviewer must be open, flexible, and able to adapt to the state and expressions of the interviewee through the use of different communication techniques or other relational approaches. The development of rapport may help the interviewee to feel safer and more comfortable, moving the individual into a state where it is easier to talk. This demonstrates the importance of the relational aspects of interviewing.

Source: Emotional Intelligence in Police Interviews- Approach, Training and the Usefulness of the Concept (2016).

Developing rapport with a subject early in the interview can be very valuable to ultimately obtaining a confession. Spending time with the subject discussing non-threatening topics will put the person at ease. These questions can be as simple as verifying their address, phone number, the spelling of a name, work history, or even asking questions about their favorite sports team. In addition to putting the subject at ease, rapport building allows you to establish the subject’s normal response to questions. This makes evaluating truthful and deceptive responses later in the interview easier.

Interviews

During an investigation, the officer will conduct interviews with the victim(s), the suspect(s), and all available witnesses. The interview is a dynamic, interpersonal process where the quality of the interview relationship varies because of social chemistry, the extent to which the parties understand each other, or other relational processes that affect an individual’s state and behavior.

The interview begins by first gathering necessary personal information (name, DOB, address, phone number). The officer should ask open-ended questions in an attempt to elicit as much information as possible. You were introduced to interviews and open-ended questions in your Communications Series.

Interviews	
Free Flowing	Interviewer speaks 5% of the time. Interviewee speaks 95% of the time.



For example:

- “Tell me all about what happened here today.”
- “Tell me what you saw here today.”

During an interview, the interviewer speaks only about 5% of the time, asking questions and directing the conversation. This allows the interviewee to speak 95% of the time, answering the questions, and providing information. This is in keeping with the goals of the interview process, which is to gather information. The less the interviewer talks, the more information he gathers.

Witness Interviews

Investigators must make a systematic effort to interview all witnesses, so a thorough investigation is completed. Witnesses include anyone who has pertinent information to your investigation. To identify possible witnesses, look around, who is talking to bystanders? ID individuals currently in or leaving the area.

In general, the witness should be asked to describe:

- What they observed in as much detail as possible
- What involvement, if any, they had in the event
- Their knowledge of, or relationship with, any of the participants
- Personal information (name, DOB, phone number, address)



You may have to find different ways to prompt a witness' recollection. For example:

Officer: What time did the shooting occur?

Witness: I don't know, it was evening

Officer: What were you doing before you heard the shooting?

Witness: I was eating dinner

Officer: What time did you start dinner?

Witness: It was about 7 PM

Officer: What were you eating for dinner?

Witness: A salad

Officer: How far into the salad were you?

Witness: I was almost done

Officer: What time do you think that was?

Witness: It was about 7:30 PM

Victim Interviews

Remember what you learned in the Supporting Victims of Crime course. When interviewing a victim, the officer must keep in mind the person they are speaking with has just been through a difficult experience. The victim's health and personal safety must be the officer's primary concern. The victim may be angry, afraid, or even traumatized. These intense emotions may be projected onto the officer. The officer will have to use all of his or her communication skills to obtain the valuable information the victim possesses. This may cause the interview with the victim to be postponed.

The victim should be asked to describe what happened to them in as much detail as possible. Allow them to tell their story without interruption (this is also referred to as free narrative). After they have told their story, go back through their statement chronologically and ask follow up questions. Questions to be asked:

- If they know the other person(s) involved in the incident?
- What, if any, is their relationship to them?
- In property crime cases, establish, in detail, what was taken or damaged, and the dollar value.
- Personal information (work, cell, and email) for follow up contact



Emotional Intelligence and Victim Interviewing

Source: Emotional Intelligence in Police Interviews- Approach, Training and the Usefulness of the Concept (2016)

Scenario: A 28-year-old woman attends a police interview after being subjected to violence by an unknown assailant at a bar a few days earlier. Immediately after the incident, she was rushed to the emergency room for medical care, so she has not been interviewed until now. The investigator assigned to conduct the interview takes the victim from the waiting room to the interview room. Initially, the investigator works to establish rapport. He asks how she is doing, before telling her about her rights and the regulations and informing her about the interview procedure. He asks whether she has any questions before he starts the interview by facilitating a free account from the interviewee.

1. *Interviewer:* I will ask you questions about the incident, where I want you to tell me as much as you can about what happened.
2. *Interviewee:* I don't want to talk about it. I don't feel good . . .
3. *Interviewer:* You don't feel good?
4. *Interviewee:* (looking down, crossing her arms) It feels uncomfortable being here, I want to go home.
5. *Interviewer:* Is there anything we can do that may reduce the discomfort?
6. *Interviewee:* No, I just want to go home. I feel uneasy and nauseous; I just want to go home.
7. *Interviewer:* I can see that you're not comfortable. Many people who come to the police find it uncomfortable, often because they don't want to talk about something bad they have seen or been exposed to, and that's okay. And then we try to make the best of it.
8. *Interviewee:* I don't want to think about what happened.
9. *Interviewer:* I understand that it wasn't easy for you to come here today and that it can be tough to talk about what happened. But you showed up for the interview, and that's good. Many who have been interviewed have said that it has felt good to be able to talk about something difficult in a place that's safe. Is it possible for you to tell me about what happened, and then we can take a break, drink some water, or change the subject if you find that it has become difficult to talk?
10. *Interviewee:* I can try . . .
11. *Interviewer:* We police don't know what happened on Saturday, so we need your account to clarify the incident as much as possible. I would like you to tell me everything you can remember, not omitting anything. Please describe it in as much detail as you can. You can now begin your explanation about the incident, and you can start where it feels natural.

The investigator tries to manage the interviewee's emotional responses by showing an awareness of her emotional activation (3, 7) and by expressing acceptance and understanding of how she is feeling (7, 9). He then approaches the interviewee, emphasizing problem-solving by accommodating her emotional needs (5, 9)—in this case, the need to regulate discomfort by providing support and safety. If we consider the emotional processes that may arise in investigative interviews, we can define emotional intelligence as *the interviewer's use of his or her understanding of and approaches to emotional processes that have positive effects on the well-being of the interviewee and the generation of information.*



Cognitive Interviewing

A specialized interview method for victims, witnesses, and some suspects is called cognitive interviewing. The Police Foundation describes cognitive interviewing as a method of framing questions to obtain a more thorough account of a traumatic event while increasing law enforcement legitimacy in the eyes of the victim.

Neuroscience research finds that memories subjected to a traumatic experience is fragmented and not recalled in a linear way. Peripheral details may not have received the same attention as details perceived necessary for survival, for example, a suspect's face versus the suspect's weapon. To an untrained officer, the lack of clarity may be seen as a lack of credibility or even deception.

Methods:

- Acknowledge the victim's trauma and/or pain
 - Be empathetic, compassionate, and patient
- Ask the victim/witness what they are able to remember about their experience
 - Use questions like "tell me more," "help me understand," and "describe."
 - Give victims the ability to say, "I don't know" or "I don't remember."
- Ask the victim/witness about their thought process at particular points during their experience
 - Prevent re-victimization, don't ask, "why didn't you fight back?"
 - Instead, ask about thought processes to help you understand actions/inactions
- Ask about tactile memories before, during, and after the incident
 - Sights, sounds, smells, feelings (physical and emotional), and taste
- Ask how the experience has impacted them physically and emotionally
- Ask the victim/witness what the most difficult part of the experience was for them
- Ask the victim/witness what they cannot forget about the experience
- Clarify other information and details after the cognitive interview
 - Who, what, when, where, how?
- Close the interview as empathically as it began



One example of cognitive interviewing is the Forensic Experiential Trauma Interview (FETI). Russell Strand, chief of the Behavioral Sciences Education and Training Division for the U.S. Military Police School, developed this interview protocol and describes FETI in the following: *FETI entails the adaptation of the principles used in critical incident stress debriefing and defusing (impact of the event including emotional and physical responses) as well as principles and techniques developed for forensic child interviews (open-ended nonleading questions, soft interview room and empathy) as well as neurobiology of memory and psychological trauma (initially tapping into the lower functioning portion of the brain to understand the experience as well as the meaning of the experience in a non-threatening, non-suggestive manner).*

Suspect Interviews

There may be times when, depending on the suspect’s behavior, an interview will change into an interrogation. Once the tone of the conversation has moved to accusatory (interrogation), it is virtually impossible to stop and go back to interviewing.

As you are asking questions, keep the elements of the crime in mind. What information are you seeking? Generate some questions for an Assault in the Second-Degree investigation:

Elements	Questions
Intentionally or knowingly causes physical injury to another with a deadly or dangerous weapon.	
Intentionally or knowingly causes serious physical injury to another with a deadly or dangerous weapon.	
Recklessly causes physical injury by deadly or dangerous weapon under extreme indifference to value of human life.	



Avoid Harsh Words	Use Soft Words/Phrases
Crime	Incident
Robbery	Situation
Murder	Injury
Arrest	Witness
Punishment	Get your side of the story
Suspect	Take something
Prison	Help me to understand
Felony	Mistake
Steal	Situation got out of hand

Tips for Getting the Most Information from an Interview

- Be able to communicate and relate to a wide variety of people.
- Be empathetic.
- Interview with purpose.
- Know the elements of the crime.
- Keep questions specific, definite, and concrete.
- Choose words with care, avoid legal jargon, remain objective.
- Ask the difficult and embarrassing questions.
- Be persistent, work to get more than minimum information.
- Ask follow up questions or reframe questions to elicit further detail.
- Unobtrusively direct the interview.
- Listen and observe.
- Regulate your emotions (review emotional intelligence).



Interrogations

In contrast, in an interrogation, the officer is seeking to obtain a confession from an individual already suspected to be guilty. An overall goal is to maximize valid confessions while minimizing false confessions. Different than the interview, the officer will do most of the talking in an interrogation.

An interrogation is not the time for collecting information that should have happened during the interview stage. Here, the officer is seeking confirmation of information that is already known or highly suspected. The questions asked of the suspect are more direct and less open-ended. All the officer wants the suspect to do is nod or say “Yes” when he asks a leading question, such as, “Is that why you did it

Interrogations	
Structured	Interviewer speaks 95% of the time. Interviewee speaks 5% of the time.

(the crime)”? Asking questions that seek information in this stage suggests that the officer does not have the necessary information to be certain that the suspect committed the crime, thus weakening the officer’s chance of success.

Because the goal here is not gathering information, notes are not necessary. During this time, it is important to be attentive to the verbal and non-verbal behaviors of the subject. Behaviors may indicate a suspect is getting close to an admission, or it may provide indicators of deception. More on signs of deception later.



Types of Questions

Source: *Effective Interviewing and Interrogation Techniques (2019)*

The most effective approach is to use a variety of questions during an interrogation. You have already learned about open versus closed-ended questions, but here we introduce the use of irrelevant, relevant, and comparison questions to maximize your effectiveness.

Irrelevant Questions	Relevant Questions	Comparison Questions
<p>Irrelevant questions are generally background questions that have nothing to do with the investigation, and therefore, offer no threat to innocent or guilty suspects.</p> <p>These questions establish the interviewer’s professional authority, allow for assessment of the suspect’s situational heightened emotional State, allow for the building of rapport, and assist in preventing resistance by structure.</p>	<p>Relevant questions deal with the matter under investigation.</p> <p>They may deal with direct or secondary involvement.</p> <p>These questions force the guilty to lie and allow the innocent to answer truthfully.</p>	<p>Comparison questions are designed to gauge a reaction. They deal with deviant acts that everyone has performed in their lifetime.</p> <p>If the subject displays more reactive signs to the comparison questions than to the relevant ones, it is a sign that he is truthful on the relevant issue. If, on the other hand, the subject exhibits the opposite behavior, by reacting more strongly to the relevant questions than to the comparison ones, it is a sign he is deceptive.</p>
<p>Examples:</p> <ul style="list-style-type: none"> • Name • Address • Age • Interest in recent sporting events • Shared military or educational experiences 	<p>Examples:</p> <p>Direct Involvement:</p> <ul style="list-style-type: none"> • Did you set that fire? <p>Secondary Involvement:</p> <ul style="list-style-type: none"> • Did you help anyone take that money? <p>Knowledge:</p> <ul style="list-style-type: none"> • Were you present when that shooting took place? 	<p>Examples:</p> <p>Theft Comparisons:</p> <ul style="list-style-type: none"> • Prior to working for your current employer, did you ever steal anything from a job? • In your entire life, did you ever steal anything?

As a general rule, begin the interview with irrelevant questions. Follow this by interspersing relevant and comparison questions.



Choosing the right questions can be difficult. For example, what if you ask a seemingly straightforward question: “Did you steal the money from your employer?” and the subject says “no.” Be aware that the subject may be internally justifying their actions. They may not believe they “stole” anything from their employer. Rather, they may justify that they were promised a raise that didn’t happen. Think about how to ask questions differently while still being short and focused. Try, for example: “Did you remove any of the money that your boss reported missing?” Also notice how you avoided a harsh word like “stole” and replaced it with a soft word like “remove”.

Make sure they answer the question. For example, if you ask “where were you last Saturday night?” and they answer “On Saturdays I go to my mom’s for dinner”, notice how they gave you an answer, but did not really answer your question.

Tactics for Suspects whose Guilt is Reasonably Certain

- Ask the suspect if she/he knows why she/he is being questioned.
- Ask the suspect to relate all he/she knows about the incident.
- Obtain details about the suspect’s activities before, during, and after the incident.
- Ask the suspect about known facts to allow him/her to lie.
- Tell the suspect to “think carefully,” if you want to express skepticism, and ask, “Are you sure about that?”
- Ask the suspect to take a polygraph examination.

Themes

Some specialized interview and interrogation methods will train officers on the use of themes. Themes are simply statements of justification offered to the subject, which may motivate them to be truthful about their actions. In these circumstances, the officer proposes reasons to justify or excuse the crime often in the form of a story. The officer will observe the subject’s response to the theme. If they are responsive, for example, nodding, then the officer will continue with that theme. If they are not responsive, the officer may try proposing a different theme.



When co-offenders are being interrogated, play one against the other:

- Individually, each may feel confident of their own ability to evade detection but may have a lack of confidence regarding accomplices
- Fear and the mutual distrust among co-offenders can be a useful technique
- Keep the suspects separated
- Identify the leader and the follower

Example: Possible Themes Why a Person Might Steal from an Employer

Employer philosophy (they have a license to steal)	The boss (company) is rich Everyone else is doing it (or unauthorized discounts) Overworked, unappreciated, or underpaid Feeling of being cheated on shifts, hours, or job duties Wasn't their idea, someone put them up to it, or encouraged it
Blame the employer for not paying enough	They were an honest person who made a mistake because they were not being paid enough Blame inflation or the cost of living Family or lifestyle to support
Poor management/security	Employer should have been paying closer attention Poor management or policies Nature of job makes it too easy to steal Blame another person for not doing their job and this happened on the spur of the moment
Exaggerate the amount	If you are investigating \$100 loss, claim it is hundreds or thousands. Use caution with this, because it may be thousands and you only know a small part to begin with.
Helping another person	Only took the money to help another: friend, sick kid, family member needing to eat or buy medicine.

The theme does not have to be the right theme for that situation, but it needs to resonate with the subject enough that they feel comfortable telling you what really happened.



Introducing Evidence

You covered types of evidence and evidence collection in your Forensics class. How might that information be used in an interview or an interrogation? Research tells us that withholding information regarding evidence and asking strategic questions about it, is more effective in gathering information to determine if a subject is telling the truth or lying. Liars run a higher-risk of contradicting the evidence that they are unaware of.

Withholding Evidence Information

While conducting a suspect interview where the suspect's car was observed close to the crime scene on the day of the crime, rather than sharing that information with the suspect ("Your car was seen leaving the crime scene. You committed the crime, didn't you?"), first ask questions about the car:

- Did the suspect have their car that day?
- Where did the suspect drive the car that day?

Note any inconsistencies in statements and evidence and begin to dig at the inconsistencies.

Source: Hartwig, M., Granhag, P., Stromwall, L., & Kronkvist, O. (2006). Strategic Use of Evidence During Police Interviews: When Training to Detect Deception Works. Law and Human Behavior, 30(5), 603-619.



Ethical Considerations

Sources: *Inside Interrogation: The Lie, The Bluff, and False Confessions (2011)*, *The Social Psychology of False Confessions (2015)*. Innocenceproject.org.

The use of deception during an interview is one of the most common ethical questions an officer will face. The tactic of bolstering an accusation by presenting false evidence of the subject's guilt ("*your hair was found at the scene*," or "*witnesses identified you leaving the crime scene*"), is permitted by law.

However, misusing deception can result in confessions the courts consider coercive. Never use deliberate or implied promises that you cannot legally fulfill.

Additionally, bluffing, or pretending to have evidence that you don't have ("*witnesses were present and will be interviewed*," or "*we have collected biological evidence and sent it to the lab for testing*," or even simply carrying a case file as a visual aid), increases false confessions.

It is often unfathomable to think that an individual would confess to committing a crime that they did not commit. However, in nearly 30% of wrongly convicted cases exonerated by DNA evidence through the Innocence Project, false confessions were a contributing factor. As of 2018, the real perpetrators of these crimes had gone on to commit an additional 25 murders, 14 rapes, and nine other violent crimes.

Individuals particularly vulnerable to making false confessions include juveniles, those with intellectual impairments, mental illness, and personality traits that foster compliance and suggestibility.

False confessions may also occur during interviews that take place over an extended, unusually long time, as well as those that involve coercive techniques, or the use of themes that imply leniency.

State v. Simmons, 302 Or App 133
(2020)

A detective told the defendant that if the defendant talked to him then maybe he could talk to the DA and maybe the charges would be dismissed. This was an improper inducement that violated ORS 163.425(1).



Consider for a moment, the Milgram experiment video from Ethics where subjects obeyed commands to deliver painful electric shocks to a subject. How did the experiment environment compare to a traditional interrogation? How is deception used? How is authority used?

Officers must be aware of the ethics regarding interrogations and take steps to mitigate risk.

False Confessions- The Central Park Five

In 1989, a female jogger was raped, beaten, and left for dead in New York City's Central Park. She managed to survive but could not remember anything about the attack—then or now. Within 72 hours, five African- and Hispanic-American boys, 14–16 years old, confessed to the assault. Solely based on their oral confessions, four of which were videotaped, and all of which were vividly detailed, though often erroneous, the boys were convicted and sentenced to prison. Almost nobody questioned their guilt—even though there was no other evidence, even though DNA tests on sperm that was recovered from the victim and her clothing had excluded them all.

Thirteen years later, Matias Reyes, in prison for two rapes and a murder committed subsequent to the jogger attack, stepped forward to admit that he was the Central Park jogger rapist and that he acted alone. Reinvestigating the case, the Manhattan District Attorney questioned Reyes and discovered that he had accurate and independently corroborated guilty knowledge of the crime and that the DNA samples originally recovered from the victim belonged to him. The DA issued a report that dismantled the confessions and other evidence. Shortly thereafter, the original convictions were overturned. Then in September of 2014, 25 years after the crime was committed, New York City awarded the defendants a \$41 million settlement. The Central Park jogger case now stands as a shocking demonstration of five false confessions resulting from a single high-profile investigation.



Specialized Techniques

There are specialized techniques for conducting interviews and interrogations in a criminal investigation. As previously mentioned, the use of a technique may be influenced by your agency, training you have attended, and the person you are interviewing. You are not expected to learn these specialized techniques at the academy. Some well-known methods include the Reid Method™ and the PEACE Method.

Reid Method™ (US)	PEACE Method (UK and Canada)
<p style="text-align: center;">Factual Analysis- <i>Collect and analyze information related to the case, victim, and suspects.</i></p> <p style="text-align: center;">Behavioral Analysis Interview (BAI)- <i>Structured interview of the subject in a controlled environment. Includes evaluation of suspects' normative behavior. Uses investigative and behavior-provoking questions.</i></p> <p style="text-align: center;">Interrogation- <i>Accusatory, nine-step process to elicit the truth from a subject believed to have lied during the interview.</i></p>	<p style="text-align: center;">Preparation and Planning- <i>Formulate aims and objectives</i></p> <p style="text-align: center;">Engage and Explain- <i>Develop rapport, engage the subject in conversation</i></p> <p style="text-align: center;">Account- <i>Elicit information from the subject via a cognitive interview and conversation management techniques. Allows subject to tell their story without interruptions, and before presenting inconsistencies or contradictions between the story and other evidence.</i></p> <p style="text-align: center;">Closure- <i>Summarize the main points and allow the subject to correct or add information.</i></p> <p style="text-align: center;">Evaluate- <i>Evaluate the information in the context of the investigation.</i></p>

As you advance in your career and obtain advanced and specialized training, be mindful of the legitimacy of the science behind various methods as well as the critiques.



Truth-Tellers and Liars

The liar is forced to avoid betraying the deception by controlling feelings of guilt or excitement and monitoring his/her words to keep the story straight. While presenting enough detail to appear credible, the liar must avoid the provision of excessive information that could lead to problems recalling and maintaining the lie. While telling the tale, the liar must try to control facial expressions and monitor body language.

Source: Porter, S., & ten Brinke, L. (2010). The Truth About Lies: What Works in Detecting High-Stakes Deception. Legal and Criminological Psychology, 15, 57-75.

The million-dollar question is, how can we tell if a suspect is lying? Unfortunately, there is no guaranteed way to determine this. Trainings will entice you with methods to become a human lie detector, but research tells us that people are mediocre at best at determining when someone is lying to us. Why can't we easily determine if someone is lying?

- An untruth may be caused by many things, and not just a deliberate attempt of deception.
- It is normal that everyone being interviewed will feel apprehensive and nervous.
- People have different perceptions of the same event.
- Not all liars display the same deceptive behaviors.

Despite this uncertainty, there are cues we can look for in the subject's verbal and non-verbal behaviors that can be helpful.



The following content comes from Effective Interviewing and Interrogation Techniques (2019) by Nathan Gordon and William Fleisher.

What is a lie? A lie is defined as the deliberate communication to another (verbally, written, or by gesture), of something that the communicator knows or suspects is not the case; or the presentation or omission of information, with the deliberate intent to deceive and mislead someone who is requesting the truth.

There are multiple types of lies, including lies of omission and lies of commission.

Lying by Omission	Lying by Commission
Denying or leaving out relevant information (passive deceit)	Fabricating information (active deceit)
Generally, this is the lying method of choice. It is easier, and involves less risk because no invention is required.	This method involves greater cognitive energy, commitment, invention, and defense. There is an enhanced risk of contradicting prior information or giving information that can later be proved to be false.
Passive deceit usually contains some elements of fabrication or evidence of missing information that a knowledgeable interviewer can detect and expose through detailed inquiry.	When asked a question, the suspect has two choices: tell the truth or lie. If he chooses to tell the truth, it is easy, because the truth is free-flowing and requires very little mental energy. If he chooses to lie, he now is presented with numerous additional choices and concerns: how big a lie to tell, what to put in, what to leave out, contradicting prior inventions, punishment if caught, etc. It should be noted, this being the case, that the majority of what a deceptive suspect says is actually true.

A good interviewer must learn to sift through whatever truth there is in a liar's story. The most effective means is to focus on the components of the statement that indicate possible deception or deliberate omission of information.



Examining Verbal Behaviors

Attentiveness to language patterns is the most effective means of catching a liar. There is evidence to support that compared to truth-tellers, liars:

- Talk for a shorter time (brief)
- Include fewer details (simple)
- Stories make less sense, are somewhat less plausible and less logically structured.
- Repeat words, phrases, and details

One red-flag area is the flow of the subject’s statement. Deceptive subjects do not want to have to talk about the incident. Therefore, they tend to devote a lot of time in the pre-incident as they attempt to avoid getting to the part of the statement dealing with the incident, where they must lie. Once they arrive at the part of the statement where they must lie to conceal their involvement, they tend to lie by omission, resulting in a short narrative about the incident itself.

Flow of a Truthful Statement:
 Pre-Incident 20%
 Incident 50%
 Post-Incident 30%

Another area to pay attention to is to look/listen for signs of credibility with their word choice. Credibility is established by proper use of pronouns and using *first person singular, past tense* to describe what happened. The most psychologically difficult “voice” for a person to lie in is the first person singular, past tense: “I did not touch my daughter’s vagina,” versus “I would not touch my child’s vagina.”

Truthful Statements	Deceptive Statements
<p>Rich in details</p> <p>First-person, singular, past tense</p> <p>Proper introduction of the victim: “My daughter...”</p> <p>Uses possessive pronoun: “My daughter...”</p> <p>No gaps in time</p> <p>Appropriate emotions in the right place (post-incident)</p> <p>Will deny doing the crime before being asked</p> <p>Proper flow of story</p>	<p>Lack of details</p> <p>Deviates from the first person singular, past tense</p> <p>Improper introduction of the victim: “She...”</p> <p>Lack of possessive pronoun: “The child...”</p> <p>Missing time: “Two hours later...”</p> <p>No emotions</p> <p>Only makes denials to direct questions</p> <p>Incorrect flow of story</p>



Examining Physiological Behaviors

The research tells us that people are not very good at detecting lies. There are multiple reasons for this, including reliance on incorrect and scarce cues. There is no behavioral sign that always accompanies a lie; there is no simple cue (*there is no Pinocchio's nose*). Additionally, some people are just better liars.

Common (But Incorrect) Beliefs	Reality
Liars will be nervous, and this nervousness will be evident in their behavior.	Many indicators of nervousness (fidgeting, blushing, speech disturbances) are not linked to deception.
An increase in movement is associated with deception.	Deception is associated with a decrease in subtle movements.

Despite common belief, most behaviors are only weakly related to deception, if at all. For example, a common belief is that gaze aversion is a sign of deception, but studies find this is not an accurate indicator.

Another challenge in reliance on physiological indicators is that objective cues to deception are scarce. Behavior differences between liars and truth-tellers are, at best, minutia. The research does suggest that liars might be tenser, possibly due to operating under the increased burden or due to an increased effort to appear credible. There is some evidence to suggest that liar's pupils are more dilated, their voice pitch is higher, and they blink less when lying.

Why do physiological indicators occur? Our sympathetic nervous system kicks into action whenever the brain perceives a threat, and telling lies tends to cause a similar reaction. However, not everyone responds in the same way. The degree of change depends on many factors, including:

- The suspect's perception of the interviewer's ability to detect the truth.
- The suspect's past success in similar situations where he lied.
- The degree of guilt and shame the suspect feels about his actions.
- The degree of guilt or shame the suspect experiences about lying to the interviewer.
- The extent of the suspect's reward or punishment if he succeeds or fails in his attempt at deception.



The science behind understanding and interpreting nonverbal communication (NVC) is quite complex. Recognizing one single behavior is not a reliable indicator of deception. Researchers and professionals tend to identify co-occurring multiple cues or clusters of behaviors as more reliable. True behavior analysis involves categorized behaviors and behavior sequences. In all circumstances, the officer first needs to have an understanding of the subject's baseline behaviors before one can assume any behaviors are a result of deception.

Specific cues with the most reliable support include:

- Reduced blink rate
- Increased response latency (delay in beginning to answer a question)
- Longer and more frequent pauses
- Reduced speech rate
- Vague descriptions
- Repeated details or repeating the question
- Overly structured productions
- A lack of contextual embedding
- A lack of reproduced conversation concerning incidents involving multiple persons (i.e., most serious crimes).

Further, the lie catcher should be highly attuned to idiosyncratic 'slips' – including

- Verbal (such as tense changes; e.g., suspect in a missing person case refers to the missing individual in the past tense)
- Non-verbal (such as unconscious communications to the interviewer including potential crime re-enactments),
- Facial cues (involuntary fleeting emotional expressions typically occurring in the upper or lower face only and false expressions more generally)



Getting to the Truth

When the subjects verbal and/or physical behaviors arouse suspicion during an interview or interrogation:

- Apply focused questioning around the topic where the behaviors are observed
- Ask the subject to repeat/recall events in reverse-order/different timeline (increases the complexity for the subject)
- Ask specific questions about incriminating details without revealing evidence (subjects are challenged to provide a believable answer without incriminating self or contradicting the evidence)

The Confession

The final stage in interrogation is obtaining an admissible confession. The officer will want to put an oral statement into written, typed, or recorded form. This step includes establishing voluntariness of the statement by having the subject sign the statement as witnessed by a second person.

Tips for Getting the Most Information from an Interrogation (*In Addition to Interview Tips*)

- Develop rapport.
- Be prepared.
- Know the legal parameters.
- Demonstrate confidence and be in control.
- Demonstrate professionalism.
- Observe and assess verbal and nonverbal behaviors.
- Have patience and perseverance, and display an attitude of never giving up.
- Assume there is more information.
- Do not become judgmental.
- Sound and appear sincere.
- Avoid using emotionally charged words and legal jargon.
- Do not set a time limit.
- Know when to stop, pause, be silent, be direct, be indirect.



Recording Statements and Confessions

It is considered best practice to record statements. Following are the minimum requirements for recording a confession:

- Identity of the suspect
- Recording/interrogating officer's name and department
- Date, time, location of the interview
- Agency case number
- Persons present
- Advise that conversation is being recorded or written down.
- Advise of rights under Miranda
- Witness's signature, if written down

Statutory Requirements

ORS 133.400 (Recording of Custodial Interviews) requires electronic recordation if all three of these conditions about an interview are met:

1. A custodial interview;
2. In a "law enforcement facility"; and
3. In connection with aggravated murder or crimes listed in ORS 137.700 or 137.707 ("Measure 11" crimes).

The requirement to record "custodial interviews" does *not* apply to statements made:

- Before a grand jury;
- In open court;
- A custodial interview done in another state in compliance with the laws of that State;
- Custodial interrogation conducted by federal law enforcement in compliance with the laws of the United States;
- A spontaneous statement of the defendant that did not result from a custodial interview;
- Statements made during arrest processing in response to routine questions;
- If the law enforcement agency has five or fewer peace officers;



- In a custodial interview conducted in connection with an investigation carried out by a corrections officer, a youth corrections officer or a staff member of the Oregon State Hospital in the performance of the officer's or staff member's official duties of treatment, custody, control or supervision of individuals committed to or confined in a place of incarceration or detention;
or
- If "good cause" is shown for not electronically recording. "Good cause" includes but is not limited to:
 - A defendant refusing or expressing unwillingness to having the custodial interview electronically recorded;
 - Equipment failure and a replacement device was not immediately available;
 - The person operating the electronic recording equipment had a good faith belief the equipment was recording the interview;
 - Electronic recording would jeopardize the safety of any person, or jeopardize the identity of a confidential informant;
 - Exigent circumstances prevented the electronic recording of the custodial interview; or
 - At the time the custodial interview began, the peace officer conducting the custodial interview reasonably believed that it was in connection with a crime other than aggravated murder or a "Measure 11" crime;

NOTE: Do what you can so that your case (and prosecutor) are not are relying upon this "good cause" exception for the admissibility of statements.

ORS 133.400 (Recording of Custodial Interviews) also:

- Allows unrecorded statements into evidence, *but* requires the judge to give the jury instructions concerning the fact that the statement was not recorded (which will hurt the State's case);
- Requires the State to provide the defendant with an electronic copy of the statement, but not a written transcript of the tape;
- Allows the recordation into evidence in any pre-trial or post-trial proceedings.
- Defines a "law enforcement facility" as a courthouse or a building where a police or sheriff's office is located.



REMEMBER: These electronic recording requirements apply to custodial interviews for anyone (adult, youth, non-English speaker, etc.) charged with aggravated murder or any Ballot Measure 11 crime.

Statutory requirements for electronic recordation of “custodial interviews of juveniles” **as of January 1, 2020:**

ORS 133.402 (Recording of Custodial Interviews of Juveniles) requires electronic recordation if these conditions about an interview are present:

- A custodial interview inside a law enforcement facility, conducted by a peace officer, a school resource officer or a special campus security officer, with a person under 18 years of age, and that is in connection with an investigation into a crime (misdemeanor or felony);
- A custodial interview anywhere *outside* of a law enforcement facility, conducted by a peace officer, a school resource officer or a special campus security officer, with a person under 18 years of age, and shall be electronically recorded if:
 - It is in connection with an investigation into a crime, and
 - The officer has a video camera upon the officer’s person.

BOTTOM LINE:

Record any in-custody interviews of juveniles.

If you are interviewing a juvenile out of custody and have a body-cam, you must record it.

This recording requirement as to juveniles does not apply to statements made in the same circumstances as listed above for ORS 133.400. The only difference being “corrections officer” is not present here in ORS 133.402 as a corrections officer would not investigate a minor.

ORS 133.402 (Recording of Custodial Interviews of Juveniles) also has the same limitations and requirements as ORS 133.400 (Recording of Custodial Interviews) above.

NOTE: A significant difference between what is required for adults and juveniles is that for any in-custody interview of juveniles for any crime, it must be recorded. That is only required for adults being interviewed for aggravated murder and the “Measure 11” offenses.

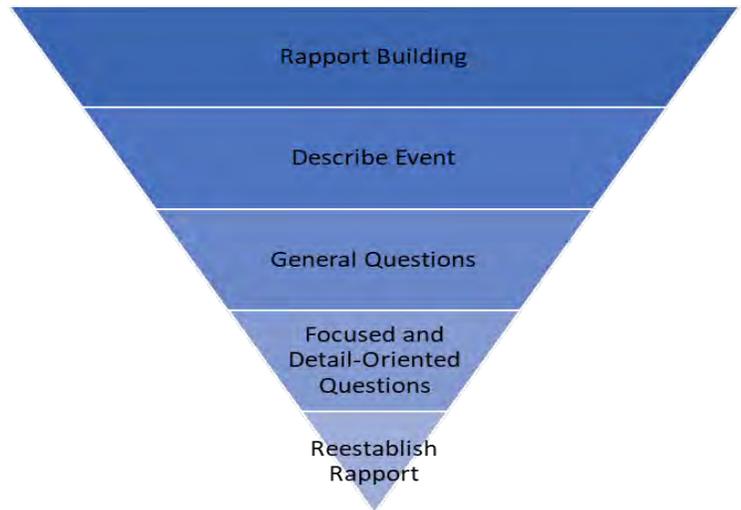


In-Class Activity

Interview	Interrogation
Goal: Gather information	Goal: Get a confession
Tone: Non-accusatory	Tone: Accusatory
Free Flowing	Structured
Subject does most of the talking	Interviewer does most of the talking

Part 1- Conduct an interview to gain information about the interview subject, the crime in question, and the person’s possible connection to the crime.

- Take notes in your field notebook.
- Consider the elements of the crime.
- Use the narrowing/funnel approach.
- Listen and observe.
- Practice talking about the incident while being non-accusatory.
- Avoid harsh words
- Review interviewing tips on page 11.



Part 2- Conduct an interrogation and accuse the suspect of the crime. Attempt to obtain a confession or other admissions.

- Consider if/when to advise Miranda.
- Try using a variety of types of questions: irrelevant, relevant, and comparison.
- Practice being accusatory.
- Try using a theme
- Consider if/when to introduce evidence.
- Identify verbal and non-verbal behaviors possibly indicating deception.
- Review interrogation tips on page 24.



Supplemental Reading (Not Required)

Current State of Interview and Interrogation, The FBI Law Enforcement Bulletin, November 2019

<https://leb.fbi.gov/articles/featured-articles/current-state-of-interview-and-interrogation>

Information-Gathering Interrogation Approach, Center for Evidence-Based Crime Policy

<https://cebcp.org/evidence-based-policing/what-works-in-policing/research-evidence-review/information-gathering-interrogation-approach/>

Juvenile Interview and Interrogation, International Association of Chiefs of Police

<https://www.theiacp.org/resources/document/juvenile-interview-and-interrogation>

Criminal Investigations 3: Evidence Collection

BASIC POLICE ACADEMY





Criminal Investigations 3: Evidence Identification and Collection

Instructional Goal:

This course is designed to introduce a new officer to protocols for collecting and submitting evidence for analysis.

Learning Outcomes:

Upon completion of instruction, student will be able to:

1. Identify types of evidence in a given situation.
2. Identify proper evidence handling and collections procedures.

Content Outline:

Part 1: Introduction to Criminal Investigations (2 hours)

Part 2: Investigative Interviewing (4 hours)

Part 3: Evidence Collection (2 hours)

Part 4: Criminal Investigations Lab (3 hours)

Part 5: Complex Investigations (2 hours)

Part 3 Content Outline:

- Forensic Science
- Types of Evidence
- Evidence Handling and Collection
- Chain of Custody
- Digital Evidence
- Photographs



A crime can only be solved through evidence: a witness, a confession, or physical evidence. A criminal investigation refers to the process of collecting information (or evidence) about a crime in order to:

1. Determine if a crime has been committed
2. Identify the suspect
3. Apprehend the suspect
4. Provide evidence to support a conviction in court

This session focuses on the identification and collection of physical evidence in a criminal investigation.

What is Evidence?

Evidence refers to information or objects that may help you solve your case. Some evidence may be simple to identify and collect. Other evidence may be more complex, hidden, or requiring specialized collection techniques.

Examples of varying types of evidence:

- Photographs/Videos
- Measurements
- Fingerprints
- Blood/Urine/Breath Samples
- Items for comparison
- Digital- Cell Phone/Computer/Etc.

Evidence has multiple purposes in an investigation. It can help to reconstruct the crime, prove an element of the crime, or link the suspect/victim/witness to the crime or crime scene. Additionally, it can exclude a suspect, corroborate, or disprove a statement or involvement, provide investigative leads, or help secure a search warrant.



Evidence and the Purpose of Investigations

In Part 1, you covered criminal investigation failures:

- Wrongful conviction (begins with a wrongful arrest)
- Unsolved crime that should have been solved
- Ignored crime

Taking into consideration the value of evidence in each investigation can help avoid these failures.

Consider the value of each of the following:

- A statement from a witness to the crime identifying the suspect
- Security camera footage of the suspect committing the crime
- The suspect's fingerprint is found at the crime scene
- The suspect is found to be in possession of tools that would have been used to commit the crime
- The suspect's DNA is found on the victim

Enough evidence is needed to establish probable cause (more likely than not) to support making an arrest or requesting a search warrant. However, to prevent an investigation failure, or compiling insufficient evidence for a rightful conviction, officers should conduct thorough investigations including seeking a higher standard of evidence.

The Quality of Evidence

There are two general types of evidence, direct and indirect. Direct evidence demonstrates a fact. No inferences or presumptions are needed to draw a conclusion. In contrast, indirect evidence is information that requires inferences to draw a conclusion. Indirect evidence is sometimes referred to as circumstantial evidence and is less valuable in establishing proof, but this does not mean it is without value.

All evidence, including direct evidence, has an error rate: An eyewitness might misidentify a suspect, a person may make a false confession, or a scientific test can produce a false positive. In each investigation, it is necessary to determine not only how strongly the evidence supports the guilt of a suspect, but also the viability of other explanations for the evidence. Additionally, evidence must be evaluated to determine the likelihood that it is true or accurate. Evidence is not more reliable simply



because the investigator wants it to be, and is not less reliable because it is inconsistent with the prevailing investigative theory. These cognitive biases lead to inaccurate evidence evaluation and may result in an investigation failure.

Corroborative Evidence

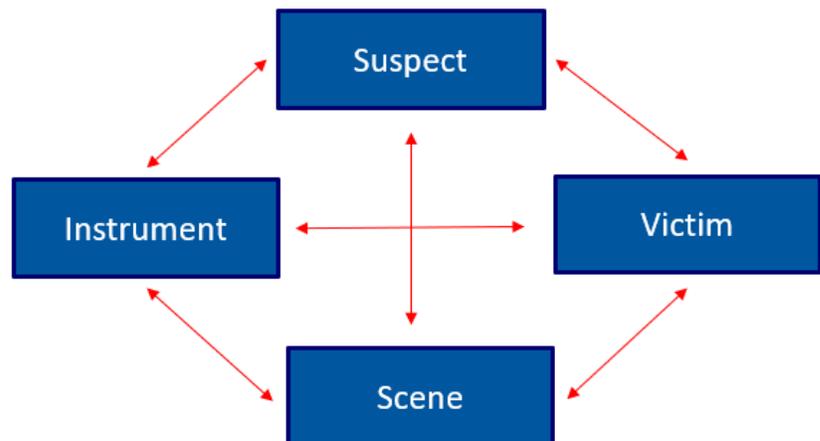
A thorough investigation calls for officers to look beyond the minimum. Corroborative Evidence is evidence that supplements evidence already collected. It supports the meaning, validity, or truthfulness of another piece of evidence. Examples:

- An independent witness provides a statement that corroborates the account given by the victim.
- DNA belonging to the suspect is found on the victim, corroborating the victim’s statement.
- The suspect’s fingerprints are collected from a burglary scene corroborating a witness statement reporting seeing the suspect running from the scene with stolen items.

Physical Evidence

In addition to statements, another type of evidence is physical evidence. Physical evidence describes the more tangible evidence related to a crime. Note this does not mean the evidence is easily visible. Often physical evidence requires forensic analysis to be useful, for example fingerprints or DNA.

Physical evidence can help officers establish the elements of the crime. Additionally, it can help link two people, places, or objects. This linking is the foundational principle of forensic science. Locard’s Exchange Principle states that whenever two objects come into contact there will be an exchange of materials. A suspect can leave evidence at the scene or carry evidence away with them. Examples: DNA, fingerprints, footprints, hair, skin cells, blood, bodily fluids, pieces of clothing, fibers, and more.





There are numerous types of evidence that may be applicable to your investigation. Some types of evidence will require the assistance from the Oregon State Police Forensic Services Division (OSPFSD). See the OSPFSD Physical Evidence manual for detailed information regarding collection, packaging, and submission of specific evidence types.

The complete OSPFSD Physical Evidence Manual can be located here:

<https://www.oregon.gov/osp/Docs/PhysicalEvidenceManual.pdf>

The following material is from the OSPFSD Physical Evidence manual.

Types of Evidence

- **Biological Evidence**
 - Processing of physical evidence for biological material (e.g., blood, semen, saliva) and the sampling of Sexual Assault Forensic Evidence (SAFE) kits for DNA analysis.

- **Latent Prints**
 - The physical and chemical processing of items to develop and preserve friction ridge detail. Friction ridge detail developed is subsequently compared to a person or persons of interest.

- **Toxicology**
 - Analysis of biological fluids (e.g., urine) for controlled substances, common pharmaceuticals and poisons.

- **Firearms & Tool Marks**
 - Screening and comparisons of bullets and cartridge cases, firearm functionality, caliber determination of cartridge cases and projectiles, proximity determination tests and restoration of obliterated markings.

 - Tool mark analysis compares marks left during the commission of a crime to test marks from a tool possibly used in the crime.



- **Controlled Substances**
 - Analysis of physical evidence to determine if a controlled substance is present.

- **DNA Analysis**
 - Analysis of biological evidence for the presence of DNA.
 - When a DNA profile is developed it can be compared to relevant standards and/or searched in the CODIS database.

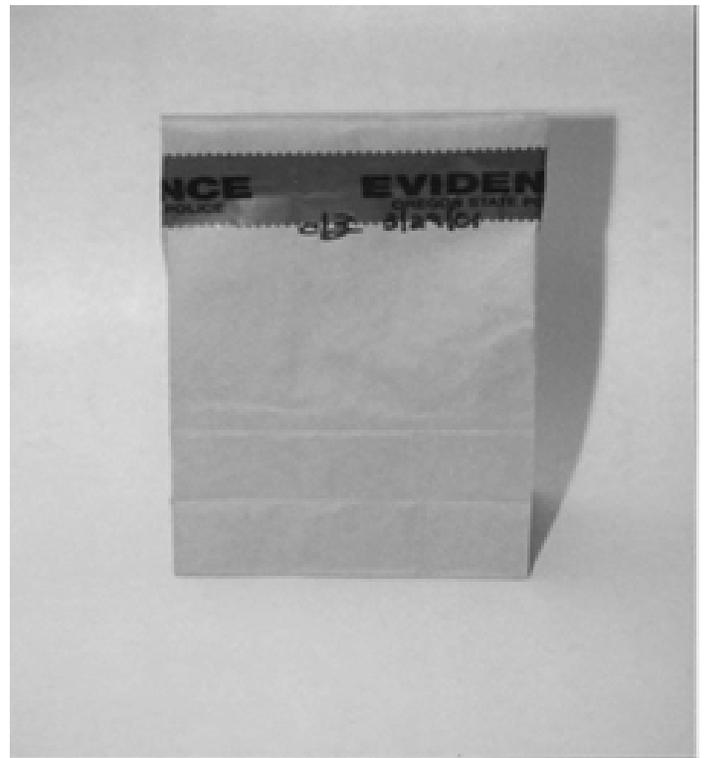
- **Trace Evidence**
 - The screening for and analysis of ignitable liquids, explosives, fibers, glass, paint, hair, footwear and tire impressions, physical match and miscellaneous evidence including but not limited to poisons and inhalants.

Evidence Handling and Collection

It is important that all evidence be collected, handled, and stored in a way that will ensure its integrity.

General Evidence Guidelines:

- Protect yourself and others (personal protective equipment)
- Protect the evidence
- Consider all types of forensic evidence
- Document the chain of custody
- Document the location of evidence recovery with notes, sketches, and/or photographs
- Mark the evidence and/or packaging with a case identifier, description of evidence, initials, and date.
- Evidence seals must be initialed and the initials should cross over the seal in such a





way as to provide visual indication of entry into the evidence package.

- Package each item of evidence separately, with the exception of latent lift cards and fingerprint standards.
- Allow wet biological stains to air dry (at your agency).
- Obtain appropriate standards, when needed, for comparison to evidence
- Use packaging that is appropriate for the specific type of evidence, such as paper bags, envelopes, plastic bags (for non-biological evidence), cardboard boxes, metal cans, glass jars, etc.
- Select a sufficiently large package to allow the item to be re-sealed after examination. Conversely, avoid oversized packaging when submitting small quantities of evidence (e.g. residues).

Biological Evidence Identification and Collection

Biological fluids such as blood, semen, and saliva are frequently encountered as physical evidence in many types of criminal investigations such as homicides, sexual assaults, assaults, robberies, and burglaries.

Current DNA technology allows for very small amounts of sample to be analyzed. Because of this, inadvertent contamination of the evidence is possible if you do not take proper precautions.

Guard against contamination:

- Wear gloves and, as appropriate, a mask while collecting biological samples.
- Change gloves frequently or anytime your gloves are contaminated with biological material.
- Avoid touching the tips of cotton swabs with your fingers or to other unintended surfaces.
- Avoid talking over swabs, blowing on swabs to make samples dry faster, etc. Consider purchasing individually wrapped sterile swabs.
- Do not touch the water dropper bottle tip to any surface or evidence.
- Clean tools (such as scissors or tweezers) that you might use to collect evidence with a dilute bleach solution or product containing bleach. Alcohol should be used to rinse residual bleach from those items that will come in direct contact with the evidence. Do not use commercial disinfectant products (such as Clorox wipes) for the purposes of decontamination unless they contain bleach or are designed specifically for laboratory surface decontamination.
- Do not lick envelope seals.



In general, wet or moist biological evidence should be dried and packaged into clean and previously unused paper containers (e.g., envelopes, bags, cardboard boxes). Do not wrap the evidence first in plastic and then inside paper (or vice versa) as these conditions could cause the evidence to degrade. Package each item separately and properly label and seal the container. All evidence containing known biological fluids should be marked with appropriate biohazard labels.

Blood Evidence. Blood evidence is common in violent crimes and property crimes. Bloodstains may appear red, red/brown, tan, gray, or yellowish. Bloodstains may be undetectable to the unaided eye depending upon evidence and stain characteristics. If it is reasonable to transport the stained object, the entire item may be collected and submitted to the laboratory. Be careful to seal all openings of a package since dried blood may flake off of an object. If the stained object is not being transported, collect the blood by swabbing or cutting.

Saliva Evidence. Saliva stains are not usually evident from a visual examination. However, certain types of evidence frequently contain traces of saliva (e.g., cigarette butts, drinking containers, adhesive surfaces of envelopes, chewing gum, bite marks, masks, etc.). If the stained object is transportable, the item may be collected and submitted to the laboratory. If it is not transportable, such as bite marks on a body, collect the saliva stain using the double swab technique.

Semen Evidence. When the perpetrator of a sexual offense is a male, semen stains may be found on the victim as well as on clothing, bedding, rags, upholstery and other objects. Semen stains may appear white, off-white, yellow, tan or colorless and may have a crusted appearance. Semen stains may be undetectable to the unaided eye depending upon evidence and stain characteristics. Consider collecting the suspect's underwear, pants, or other clothing items, as victim DNA could also be transferred to the suspect or the suspect's clothing.



Collection Guidelines:

- Collect all suspected stained material (e.g., bedding, underwear or other clothing, etc.).
- Each item of evidence should be packaged separately and carefully to prevent loss of any trace evidence (e.g., hairs) that may be present.
- Evidence with damp stains should be air dried.
- Consider marking the location of a damp stain by circling it with permanent marker, as it may not be visible once it has dried.
- Clean paper should be spread under the item to catch any debris, which may be dislodged during the drying process. Fold and submit the paper along with the piece of evidence.
- Clean paper should be placed between items hanging next to each other to prevent cross-contamination.
- Package each item separately in paper bags or envelopes, along with any paper used. If the semen stain is on an object that cannot be easily submitted to the laboratory, contact your local laboratory for collection instructions.

Adult and Child Sexual Assault Forensic Evidence (SAFE-A and SAFE-C) Kits. Biological evidence associated with the body of a potential sexual assault victim needs special attention. The victim needs to be transported to a medical facility for a sexual assault examination. This should be done as soon as possible in order to preserve what remains of the biological evidence and to document any physical trauma. Consider having photographs taken of any physical trauma and collecting blood and/or urine for toxicology testing as well. Attending medical personnel should collect the evidence by using the appropriate Sexual Assault Forensic Evidence Kit provided by the Forensic Services Division.

In general, if more than 120 hours has elapsed from the time of the sexual assault to the time of the medical examination, the chances of finding semen evidence in the body of a living victim are greatly diminished, although it may still be possible to detect male DNA. However, it may be prudent to collect a SAFE Kit if you have any doubts or concerns about the timeline. This time range does not apply to deceased victims; it is recommended that you collect a SAFE Kit from deceased victims regardless of the elapsed time. Bathing, showering, and douching by the victim does not necessarily eliminate the possibility of finding semen, saliva, or trace evidence on the body. A SAFE Kit should still be collected under these circumstances. Undergarments, worn by the victim during and/or immediately after the



assault, are also good sources for collecting biological and trace evidence. Package each clothing item separately.

DNA Analysis

Since blood, semen, and saliva originate as liquids, they can quickly coat or penetrate surfaces on which they are deposited and may be difficult to remove once dried. Because no two humans are genetically the same (except for identical twins), these body fluids are unique to the person from which they originate. Performing DNA analysis on these fluids or stains can result in a genetic profile which can then be compared to DNA profiles obtained from reference standards or from other items of evidence. The nature of DNA analysis lends itself to a computerized identification system; thus, DNA profiles from qualifying items of evidence can be compared to the COmbined DNA Index System (CODIS), a database that maintains qualifying DNA profiles from convicted offenders, items of evidence, unidentified human remains, and missing persons.

See the OSPFSD Physical Evidence Manual for a more comprehensive list of types of DNA analysis.

DNA Standards

DNA standards should be obtained from all listed individuals in a case who may have contributed DNA to evidentiary items if those items will be referred for DNA analysis. This includes victim and suspect standards, and, in sexual assault cases, standards from any recent (within 5 days) consensual sexual partner(s). Elimination standards are especially critical when an item of evidence is collected from person who can reasonably be assumed to have left their own DNA behind on an item, such as standards from the wearer of an item of clothing (when a profile foreign to the wearer is the goal of analysis) or standards from the regular driver(s) of a vehicle when submitting swabs from the steering wheel of a stolen vehicle. These standards are compared to the DNA profiles obtained from the evidence to determine inclusions and exclusions. DNA profiles from convicted offenders will not be used in lieu of DNA standards for direct comparison to evidence profiles.

For living individuals, oral swabs (also referred to as buccal swabs) are recommended for routine use as a DNA standard; however, blood samples are also acceptable. Blood standards are preferred as a DNA standard for deceased individuals that are not severely decomposed or have not recently received



a blood transfusion. For recently transfused decedents, an oral swab standard is an appropriate DNA standard. It is not recommended to swab the bleeding wounds of a living individual for submission as a DNA standard in lieu of collecting oral swabs. Depending on the activity that led to the wounds, this type of sample could yield a mixture of DNA from more than one individual, no longer qualifying the sample for use as a DNA standard.

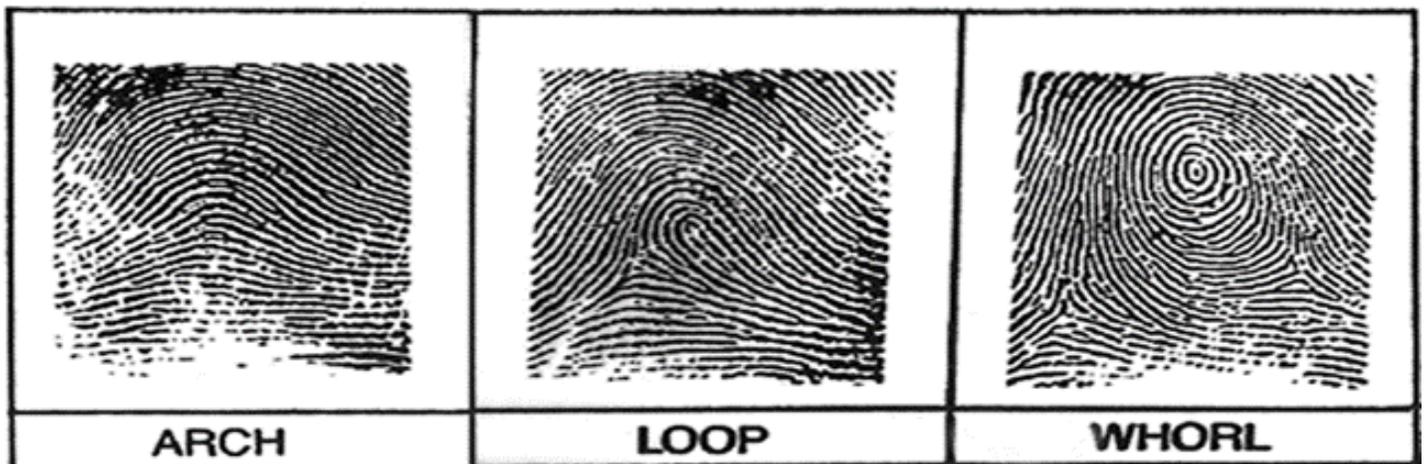
Collecting Oral Swab Standards

1. Vigorously swab the inside of the mouth until 2-4 swabs are collected. The individual may do this him/herself under your direct supervision.
 2. Allow the swabs to air dry thoroughly.
 3. Seal in a paper envelope labeled with the individual's name, date, and "Oral Swab Standard."
- The swabs collected from one individual should be packaged together.

Latent Print Evidence Identification and Collection

On the surface of everyone's feet, toes, hands and fingers are ridges of skin. The ridges consist of lines that form patterns and smaller details known as minutiae. Fingerprints develop in utero and do not change during a person's lifetime except to become larger. Each fingerprint is unique. Not only will no two people have the same fingerprint but also one person will not have two fingerprints that are the same. Not even identical twins have identical fingerprints.

BASIC FINGERPRINT PATTERNS





There are three ways fingerprints may be present at a crime scene:

1. Latent Print- Not readily visible, requires development to make visible
2. Patent Print- Can be seen, does not need additional development
3. Plastic Print- Can be imbedded into a material, can be photographed or cast

Most crime scene evidence has the potential to reveal comparable latent prints. Officers should handle all evidentiary items with caution (i.e. with gloves and minimal contact) to prevent damaging potential evidence.

To Locate Latent Print Evidence, Check:			
All clean, smooth, non-porous surfaces	Points of entry/exit	Items used, handled, moved, or disturbed by suspect	Obvious target areas

Because latent prints are not readily visible, they require some form of development. Depending on the surface type, development may include the use of powder or a chemical process. In most circumstances, smaller items of evidence should be collected and submitted to the Lab for full sequential processing. In these circumstances, no processing should be conducted in the field unless absolutely necessary.

Latent print evidence should be packaged in a way to minimize the movement of the object without being too restrictive to cause wiping/rubbing (this may destroy latent prints present on the object).



Acceptable	Not Acceptable
<p>DO use gloves to pick up items of evidence being careful not to wipe possible latent prints off the surface.</p> <p>DO minimize handling of evidence.</p> <p>DO fasten down large articles to a rigid surface to prevent shifting and contact with other items.</p> <p>DO put latent lift cards in envelopes and mark and seal.</p> <p>DO take complete and legible inked fingerprint and palm print standards of all subjects without SID numbers and/or FBI UCN numbers who may have handled the evidence.</p> <p>DO include full name, date of birth, and SID numbers for all involved persons on the Form 49.</p> <p>DO place evidentiary papers and documents in manila envelopes, seal and submit to the laboratory</p>	<p>DON'T apply powder to obviously greasy, wet or bloody surfaces, or to prints left in dust or soft putty. Please photograph these latent prints or submit the items to the laboratory for processing.</p> <p>DON'T wrap nonporous items in cotton or cloth as they may damage or destroy latent prints.</p> <p>DON'T use "packing peanuts" directly in contact with the evidence.</p> <p>DON'T directly cover evidence to be examined for latent prints with evidence tape.</p>

Latent Print Lifts. Larger objects that cannot be easily transported or packaged may be processed in the field. Processing may be performed by powdering the surface with an appropriately colored fingerprint powder and lifting any visible latent prints. If possible, a photo of the latent print should be acquired prior to lifting. Multiple prints in close proximity should be collected on the same lift, if possible. In some instances, one may need to perform multiple lifts of the same print to obtain the best quality lift. The location, orientation and any other pertinent information (e.g. multiple lifts of the same impression) should be recorded clearly on the back of the lift card. If it is unlikely that the latent print can be lifted, then attempt to collect and package the evidence for submission to the Laboratory.



Submission of Inked Prints for Comparison Purposes

The officer should take inked prints from all persons known to have handled the evidence (elimination prints) to permit comparison with any latent prints located on the submitted evidence. If the individual already has prints on file, their full name, date of birth, and SID number or FBI/UCN number must be listed on the Form 49.

Toxicological Evidence Identification and Collection

During investigations when there is cause to believe that an individual may have been under the influence of alcohol and/or drugs, efforts should be made to obtain blood and/or urine for toxicological analysis.

- Alcohol - In cases where it is necessary to determine the level and effect of alcohol on the individual, blood is the specimen of choice. Urine may be tested for the presence of alcohol, however it is not a legally recognized testing medium for blood alcohol determinations and therefore a percentage of alcohol will not be reported.
- Drugs - In cases where the use of controlled substances or other drugs is in question, urine is the specimen of choice.

Many drugs leave the blood very rapidly and may be difficult or impossible to detect unless the blood is collected expeditiously. Generally, drugs are present in the urine in greater abundance than in blood, and are therefore more readily detected. When there is a question as to which medium is best, collect both blood and urine.



Packaging Blood. Do not place evidence tape or other seals over the stopper of the vial, as the tape can obstruct the information on the vial label, and can interfere with resealing of the tube. Instead, the packaging containing the blood tube(s) should be securely sealed with evidence tape. Care must be taken to maintain proper chain of custody. Blood should be submitted to the laboratory as soon as reasonably possible, and should be refrigerated during any delay in submission. Blood evidence returned to the submitting agency should be stored under refrigeration.

Packaging Urine. If a Drug Recognition Evaluation (DRE) has been completed, include a copy of the DRE face sheet when submitting the evidence to the Laboratory. If drug use is known or if the suspect has offered statements regarding drug use, it is recommended to include that on the request form. Detection of some drugs (see below) requires specialized analytical techniques beyond the routine analysis and it is useful for the analyst to know about those in advance of testing. If you suspect that lorazepam (Ativan), psilocin (mushrooms), or a date rape drug (e.g. GHB, etc.), was used, this should be specifically noted on the Forensic Services Request (Form 49). These drugs may not be detected in a routine toxicology analysis, and notice ensures that specialized detection methods can be utilized if necessary. Urine samples should be collected in the plastic screw-top container provided in the kit. Be sure the lid is tightly secured and label the container with the following information:

- The individual's name (not just initials)
- The date of collection
- The time of collection

Do not place evidence tape over the lid of the container, as this can obstruct the information on the label and interfere with reclosing. Secure the urine cup in the plastic bag provided. It should be noted that urine that leaks into the plastic bag will not be analyzed. The packaging containing the urine specimen should be securely sealed.

Care must be taken to maintain proper chain of custody. Urine should be submitted to the laboratory as soon as reasonably possible, and should be refrigerated during any delay in submission. Urine evidence returned to the submitting agency should be stored in a secure freezer or in a refrigerator if freezer space is limited.



Firearms Evidence Identification and Collection

Firearm examinations compare marks or impressions which result when two objects make contact with each other. These resulting impressions are characteristic of the “tool”, which is usually the harder of the two objects. When a bullet, which is composed of relatively soft metals, travels through the harder barrel of a firearm the barrel leaves markings on the bullet. These markings are unique and can often be associated with a specific firearm. Fired cartridge cases can also be identified to a firearm in a similar manner.

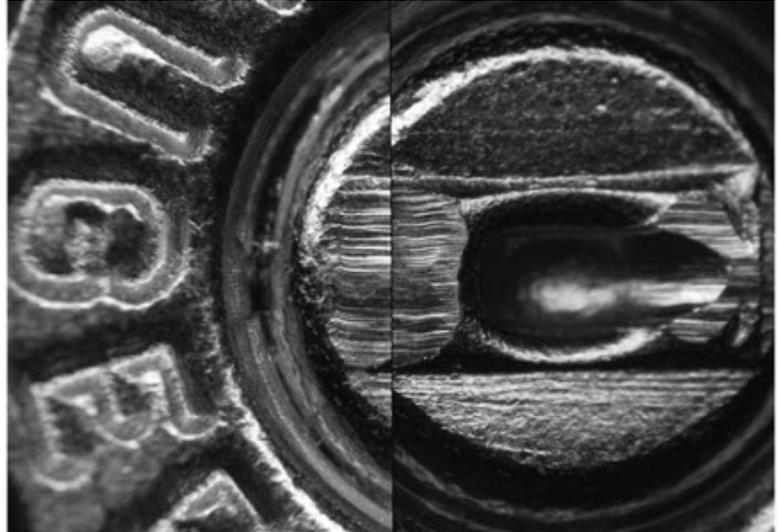


Image from FBI.gov

Image depicts two test-fired cartridge cases from the same firearm compared side-by-side using a comparison microscope. The marks from each cartridge show significant correspondence.

Some examples of analysis of physical evidence by Firearm Examiners include:

- Determining functionality/operability of a firearm.
- Determining if a firearm has been altered/modified into a machine gun.
- Determining the presence/functionality of a sound suppressor.
- Generating a list of possible firearm(s) based on the class characteristics found on fired bullets and/or cartridge cases.
- Comparison of bullets, cartridge cases, or fired shot shells to determine if they were fired in a particular firearm.
- Serial number restorations.
- Determination of distance from muzzle to target proximity based upon gunshot residues and/or shot patterns.
- Manufacturer and type of ammunition.
- Examinations and conclusions regarding the identification of gunpowder.



Integrated Ballistics Identification System (IBIS). IBIS is a system that captures and compares images of known test-fires and unknown fired cartridge cases. These images are searched against a database. When similarities are observed a notification report will be sent to the agency about the potential for links to other cases within the database.

Collection and Packaging of Firearms Evidence. The primary concerns when packaging firearms are safety and the preservation of the evidence including blood, trace evidence, and latent prints that may be present.

- When submitting loose cartridges, cartridge cases, bullets, fired bullets, waddings, shell, etc., the number of each type needs to be included on the Form 49.
- Never insert anything into the barrel of a firearm.
- Minimize handling because it is possible to recover latent prints from firearms and ammunition.
- Do not remove cartridges from magazines when latent prints will be requested; however, do remove the magazine. Ensure magazines and recovered ammunition are both submitted with the firearm. The submission of ammunition used with the firearm is essential to give accurate results in muzzle-to-target proximity test. When latent prints is not needed, remove the cartridges from the magazine to obtain a count for the Form 49.
- Absent special circumstances, recovered firearms and ammunition components should not be physically marked in any manner. Label the packaging instead.
- Mark the position of the cylinder on both sides of the top strap before opening the cylinder of a revolver and make note of the position of fired and unfired cartridges in the cylinder. This is the position of the cylinder, as recovered, can be determined after the cylinder is opened.
- Store and transport firearms unloaded and rendered safe. If unable to do so, hand-deliver the firearm to the laboratory and inform lab personnel immediately of the firearm's condition.
- Any evidence with possible blood or body fluids should be air-dried, then packaged in paper bags, envelopes, or cardboard boxes labeled as containing a biohazard. It is preferred that a "BIOHAZARD" label is attached.
- For firearms recovered from bodies of water, submit the firearm in a container that will keep it submerged in the water it was recovered from. Do not dry the firearm out prior to submitting to the lab.



Serial Number Restoration. The obliteration of serial numbers and manufacturer's marks is often done to prevent tracing ownership of articles. The laboratory uses mechanical and chemical processes that may restore the original marking in whole or part. Firearms, bicycles, motorcycles, chainsaws, boats, and cameras are all evidence items where serial numbers have been restored. Package the evidence in a manner that will protect the area where the serial number has been obliterated.

Tool Mark Evidence Collection

Tool marks are impressions or marks produced when a tool comes into contact with an object; the tool is generally the harder of the two objects. Physical contact between a tool and the surface of an object produces marks not only characteristic of the type of tool used, but marks that may be unique to a single tool.

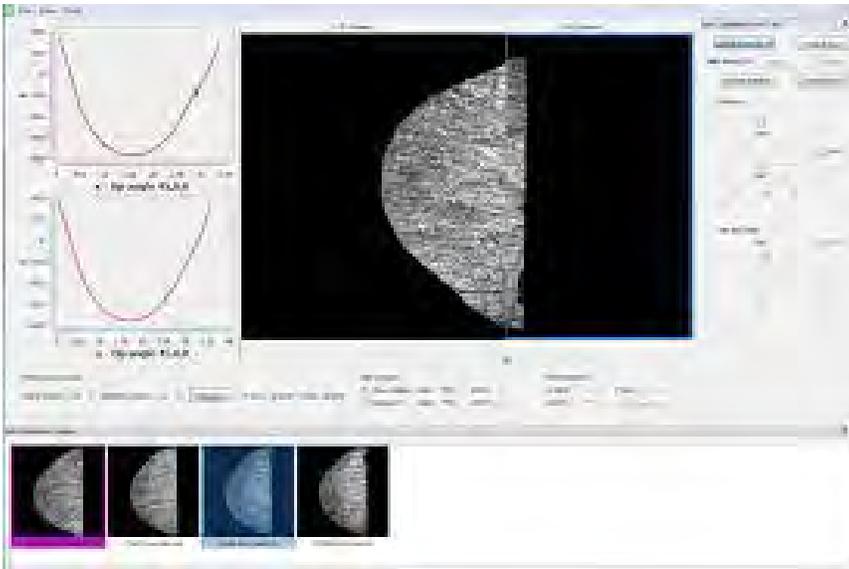


Image from National Crime Justice Reference Service

Image shows a comparison of surfaces from wires that had been severed using by-pass pliers.

In the absence of a suspect tool, tool mark impressions can be examined in an attempt to determine the type of tool(s) that may have produced them. Examples of tools that may be encountered include: hammers, screwdrivers, pry bars, knives, bolt cutters, pliers, tin snips, pipe wrenches, axes, and hatchets.

Do not attempt to determine if a found tool fits in the tool mark. This may alter or obliterate the tool mark and trace evidence may be lost or added.



Collection and Packaging of Tool Mark Evidence. The recovered tool should be carefully packaged to prevent the prying blade or cutting edges from having contact with any other objects that may cause an alteration of the tool. Send the whole object containing the tool marks to the laboratory. If this is not possible, photograph the tool mark, then cut out the area with the tool mark or make a cast of the mark. Information about casting material that is appropriate for tool marks may be obtained by contacting the laboratory. Mark the cast or cut object with appropriate information indicating its orientation such as up/down, inside/outside, and left/right directions. Package the object containing the tool mark in such a manner as to prevent alteration or damage during shipment and storage.

Other Types of Evidence

Refer to the current version of the Oregon State Police Forensic Services Division Physical Evidence Manual for information regarding other types of evidence. A partial list includes:

- Glass Evidence
 - Glass is one of the more important types of physical evidence that is commonly overlooked. Glass is frequently encountered in burglaries and hit and run cases, and glass fragments may be found adhering to garments, hair, embedded in shoe soles, or may be transferred to other property belonging to the victims and suspects.

- Paint Evidence
 - Many crimes, such as burglaries, hit and run vehicle investigations, and others involve forceful activities that can result in the transfer of paint from the original source to another place, person, or object. Paint transfer may also occur if wet paint is applied in the commission of a crime.

- Fiber Evidence
 - Textile fibers can be exchanged between individuals, between individuals and objects and between objects. When fibers are associated with a possible source, such as fabric from the victim, suspect or scene, it can help corroborate case information and/or provide a potential link between items, persons, and/or places.



- **Hair Evidence**
 - Hair evidence can be obtained from the victim, the suspect, a crime scene, or from other evidence such as clothing. Hair is valuable evidence, particularly in cases where the perpetrator is a stranger to the victim or an environment.

- **Impression Evidence**
 - Shoe, tire and fabric impressions are routinely present at crime scenes. Examination of these impressions may provide the investigator with valuable leads such as the type, make/model, and approximate size of the footwear or tire. If properly documented and collected, almost every impression left by a shoe or tire has value for forensic comparison to a suspected source. Even when suspect footwear is not available, images of impressions from scenes may be submitted to the laboratory for search in the SICAR (Shoeprint Image Capture and Retrieval) database for make/model determination and comparison to impressions from other scenes. The make/model of tire responsible for a tire impression may also be possible.

- **Computer Evidence**
 - The Forensic Services Division does not examine this type of evidence. The Federal Bureau of Investigation (FBI) accepts this type of evidence at its regional laboratory in Portland, Oregon. Please refer to the FBI's Northwest Regional Computer Forensics Laboratory website: <http://www.nwrcfl.org/>.



Packaging Evidence

Appropriate packaging depends on the type of evidence, the condition of the evidence, and the laboratory examination(s) requested. The Oregon State Police Physical Evidence Manual will provide current methods of packaging.

- Paper bags or envelopes- Most biological material and clothing (marijuana, psilocybin mushrooms, blood or semen stained items, condoms, etc.). If unable to air dry prior to packaging, submit to the laboratory as soon as possible and notify them that it is a wet sample.
- Plastic bags or Ziplocs Dry- non-biological material such as powder
- Metal cans, specialized plastic bags, static-proof bags- Arson evidence, Explosives evidence
- Plastic buckets- Samples from clandestine laboratories that are individually packaged in glass vials and set in an absorbent material (e.g. vermiculite, kitty litter, etc.) in the plastic bucket
- Glass or plastic container- Liquid drug samples, syringe contents, samples from clandestine laboratory (glass containers only), miscellaneous trace samples, etc.
- Paper folds and Post-It notes, then placed into a clean envelope- Small pieces of trace evidence, hairs, fibers, minute glass particles, paint chips, residue amounts of powder drugs, etc. Place inside a larger paper envelope. Use of Post-It notes: use either gloved fingers or a tool (e.g., forceps, tweezers, etc.) to collect the trace evidence, place on the adhesive of a post-it note, and then fold the note over on itself and label.
- Cardboard boxes- Firearms, knives, large pieces of plate glass, a piece of flooring with a shoeprint, etc. Offers protection from sharp edges and the depth protects one surface of the evidence from rubbing.
- Sharps tube- Syringes, broken glass



Evidence Seals A proper seal ensures that evidence has not been accessed, altered, compromised, or lost during storage/transportation. Evidence seals must be tamper-evident (e.g., heat seals, tamper-evident adhesive seals, tamper-evident tape, combination of packing tape and tamper-evidence tape, etc.) and span the approximate length of the potential opening. Sealed evidence must be initialed and, when possible, the initials (or equivalent unique identifier) should cross over the seal in such a way as to provide visual indication of entry into the evidence packaging if the seal is broken. Staples and other sealing techniques can be used in addition to the acceptable tamper-evident seal.

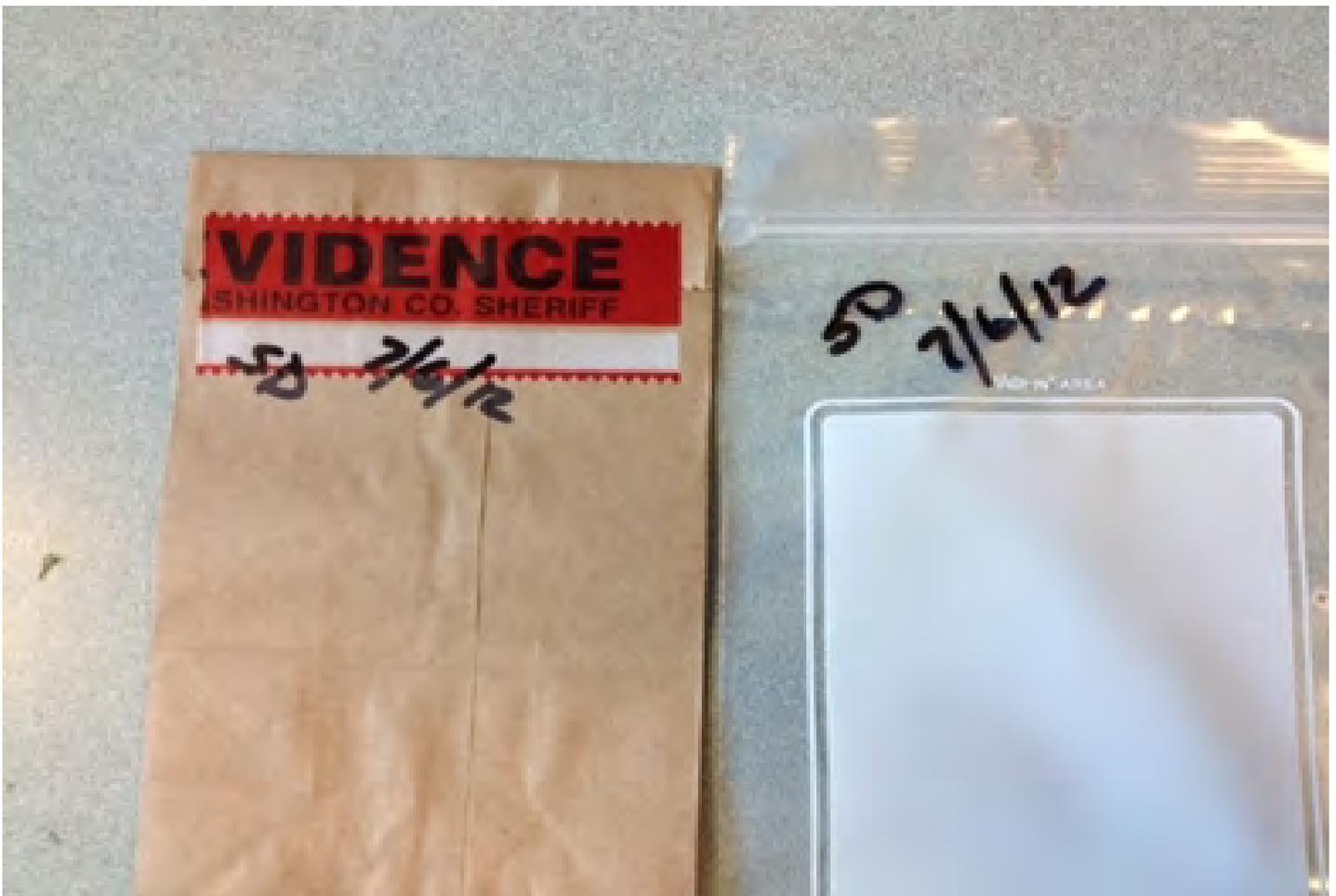


Image from Washington County Sheriff's Office

<https://www.co.washington.or.us/sheriff/fightingcrime/criminalinvestigations/evidencemanual>



Chain of Custody (COC) The FSD maintains a chain of custody for all evidence from time of receipt at the lab to when it is returned to the agency.

Laboratory Analysis Requests A Forensic Services Request Form (Form 49) or equivalent documents the agency’s request for service and must be submitted with the evidence. A single Forensic Services Request Form may document multiple requests for service in any of the disciplines available through the FSD.

Additional requests for service may be generated by the FSD as a result of communication with the submitting agency or DA.

There are different laboratory request forms based on the type of analysis.

- General Request
- Sexual Assault Case
- DRE
- IBIS only request

The form is titled "Oregon State Police Forensic Services Request" and includes fields for Agency, Agency Case #, Secondary Agency, Offense, and individual evidence items. It also contains a table for listing evidence items with columns for Lab/Exhibit, Agency/Exhibit, Description of Evidence, and Requested Service. The bottom section includes submission information and a "LAB USE ONLY" area.



Digital Evidence

Digital evidence is information and data stored on, received or transmitted by an electronic device. It can be found on any piece of technology that processes information, for example computer hard drives, game consoles, mobile phones, smart watches, flash drives, or Secure Digital cards, among many other places. Digital evidence can be obtained when electronic devices are seized and submitted for analysis.

Digital evidence is commonly associated with electronic crime, or e-crime, such as child pornography or credit card fraud. However, digital evidence is used to prosecute all types of crimes, not just e-crime. For example, a suspect's messages or phone might contain critical evidence regarding their intent, their whereabouts at the time of a crime, and their relationship with other suspects.

Investigation Considerations:

- What computers, mobile devices, digital media, or internet accounts do the victims, witnesses, and suspects use? How and where do these individuals access these systems and/or devices?
- Is evidence of the crime also held by a third-party internet, cellular, or remote computing service provider? If so, collection of the information may be subject to the provisions of federal and state statutes pertaining to law enforcement access to records and communications held by these providers. Preserve any records, communications, or subscriber information held by these providers using a preservation order, then consult with legal counsel or your local prosecutor.

Examples:

Photos
Videos
Audio Files
Documents
Spreadsheets
Social Media Activity
Search History
Emails
Text Messages
Instant Messages
Cell Phone Records
Location Settings
GPS Tracking
Computer Memory

Preservation Letters

Many social media companies work with law enforcement and have persons available to contact for assistance. Contact them directly to find out their protocol for submission of a preservation letter to protect evidence that can otherwise be deleted.



- When interviewing/interrogating for crimes involving digital evidence, always obtain passwords and/or security codes for all pieces of digital evidence.
- For computer systems, what is the name of each person who uses the computer? What are each users' account name(s), privileges, passwords, and usage habits?
- If you reasonably believe that the computer is involved in the crime you are investigating, take immediate steps to preserve the evidence.
- Do you have a legal basis to seize this computer (plain view, search warrant, consent, etc.)?
- Do not access any computer files. If the computer is off, leave it off. If it is on, do not start searching through the computer.



Photographing Evidence

One final method of collecting and documenting evidence is to photograph the evidence. For example, photographs might include capturing damage to property, injuries to a person, as well as images of the overall crime scene.

When photographing, take overall, mid-range, and close-up photos as demonstrated below.

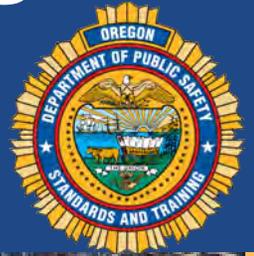
Overall	Mid-Range	Close-Up
<p>Encompass the entire large scene and be overlapping</p> <p>Represent a 360-degree perspective and include a landmark</p> <p>Include identifying marks, such as house number(s) or license plate(s)</p>	<p>Establish the relationships of objects or reference points in the scene.</p>	<p>Might include injuries to persons (bruising, cuts, etc.), fingerprint/footprint/shoeprint /tire track evidence.</p> <p>Carefully place the ruler and camera perpendicular to each other, relative to what you are photographing.</p> <p>Photograph both with and without a measurement scale.</p>
		

General Considerations:

- Never delete a photograph from camera or digital media memory.
- Photograph transient objects, such as bloodstains or latent prints, as soon as possible.
- Move from the exterior to the interior of the crime scene, and from general to specific focus.

Criminal Investigations 5: Complex Investigations

BASIC POLICE ACADEMY





Criminal Investigations 5: Complex Cases

Instructional Goal:

This course is designed to introduce a new officer to complex criminal investigations and crime scene procedures.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Articulate safe crime scene practices.
2. Identify practices to protect crime scenes.
3. Identify constitutional eyewitness identification practices.

Content Outline:

Part 1: Introduction to Criminal Investigations (2 hours)

Part 2: Investigative Interviewing (4 hours)

Part 3: Evidence Collection (2 hours)

Part 4: Criminal Investigations Lab (3 hours)

Part 5: Complex Investigations (2 hours)



Part 5: Complex Investigations

Scenario

You have been dispatched to conduct a welfare check at the residence of an elderly female. You arrive at the residence, and through the window, you see a body lying on the floor. After gaining entry, the victim appears deceased based on the severity of the injuries. You quickly determine you are now at the scene of a homicide.

There will be circumstances where you will respond to and even investigate complex cases as a patrol officer. The initial responding officer has control of the scene until relieved by a supervisor or the assigned investigator.

In addition to applying the general investigation procedures you have been covering, there are some special considerations in complex and specialty cases. While this course will not prepare you to be a major crimes detective, it will prepare you for the initial response for any complex cases for which you may respond.

The first responder on the scene has several important tasks.

- Priority 1- Safety of those involved, both officer and the public.
- Priority 2- Render aid to victims or others.
- Priority 3- Secure the scene
- Priority 4- Begin documentation



Responding Officer Responsibilities

Priority 1- Safety

The safety and physical well-being of officers and other individuals in and around the crime scene is the initial responding officer's top priority. Numerous safety considerations must be attended to, for example:

- Is there/could there be a dangerous suspect on the scene?
- Has the suspect fled? Are others at risk of being victimized?
- Are there hazards in the environment?

Officers should promptly yet cautiously approach and enter the scene with these safety considerations in mind. During this initial approach and entry, the officer should make some additional observations, for example:

- What persons or vehicles are in the area?
- What is potential evidence?

Priority 2- Render Aid

After controlling any dangerous situations or persons, the responding officer's next priority is to assess the need for and provide medical attention to any injured persons. Making this more complex is the importance of assessing and render aid while also minimizing contamination of the scene. Consider establishing a defined route in and out of the scene to help minimize contamination.

Officer Tasks:

- Assess the victim(s) for signs of life and medical needs.
- Provide immediate medical attention.
- Call for medics.

Begin controlling entry to the scene. Try to limit access to the crime scene to only essential medical personnel. However, if it restricts or limits care to the victim, do not limit this access. Using the defined route, guide medics to the victim. To help minimize contamination, point out potential physical evidence and ask them to minimize contact with it.



Priority 3- Secure the scene

Once the scene is safe, and aid is rendered, the next priority is defining the boundaries and securing the scene.

When taping off a scene, it's a good idea to make it larger than you think it needs to be.

Define Boundaries

Defining and controlling boundaries provide a means for protecting and securing the crime scene. Colored crime scene tape is the most commonly used way to keep people out of the scene.

Source: Crime Scene Response for the Patrol Officer - Patrol
<https://www.policemag.com/339486/crime-scene-response-for-the-patrol-officer>

It is up to the officer/investigator to determine the size of the perimeter. Establish boundaries beyond the initial scope of the crime scene. Boundaries can be reduced in size if necessary but cannot be expanded. Establish boundaries by starting at the focal point and extending outward to include:

- Where the crime occurred.
- Potential points and paths of exit and entry of involved persons.
- Places where the victim and evidence may have been moved.

Control Entry

Controlling and limiting the number of persons who enter the crime scene is an important function of the initial responding officer. Controlling and limiting persons on the scene helps prevent individuals from altering or destroying physical evidence. Once boundaries have been established, the officer should document the entry/exit of all people entering and leaving the scene.

The officer should identify all individuals at the scene, such as:

- Suspects- Secure and separate.
- Witnesses- Secure and separate.
- Bystanders- Determine whether they are a witness. If so, treat as above. If not, remove them from the scene.
- Victims/family/friends- Control while showing compassion.



Protect and Preserve Evidence

In addition to protecting evidence from damage by persons on scene, securing the scene means taking steps to preserve and protect evidence that may be lost or compromised by other means, for example, from the elements (rain, snow, wind), footsteps, tire tracks, sprinklers, etc.

Consider taking some photographs early and calling for specific resources (canopies, etc.) to capture this evidence.

Priority 4- Documentation

All activities conducted and observations made at the crime scene must be documented as soon as possible to preserve information.

Actions include your own actions and the movement of persons or items by medical personnel.

Observations include your observations of the crime scene, including the location of persons and items within the crime scene and the appearance and condition of the scene upon your arrival. Document:

- Evidence of criminal activity
- Forced entry or lack thereof
- Evidence of a struggle
- Evidence of ransacking
- Evidence suggesting missing items
- Evidence or injury, such as blood on floor or surfaces



Observations for Indoor Scenes	
Entry/Exit	<p>Are doors open or closed?</p> <p>Are doors locked or unlocked?</p> <p>What types of locks are on doors?</p> <p>Are the doors bolted from inside?</p> <p>Is there any evidence of forced entry?</p> <p>Who has keys or a passkey, and are all keys accounted for?</p>
Windows	<p>Are the windows open or closed?</p> <p>Are the windows locked or unlocked?</p> <p>What types of locks are on the windows?</p> <p>Are there screens on the windows? Are the screens in place?</p> <p>Is there any evidence of forced entry?</p> <p>What window covering (e.g., curtains, blinds, and shades) are in place, and what are their positions?</p> <p>Continuity aspects of windows and screens (e.g., the presence or absence of cobwebs or dirt on the sill)</p>
Kitchen and Dining Room	<p>Is there food preparation indicating recent eating before, during, or after the crime?</p> <p>Are there indications of cleanup after a meal?</p> <p>Does food preparation indicate multiple parties present at the scene?</p> <p>Is the oven on, and if so, what is the status of the food within (raw, undercooked, overcooked, burnt)?</p> <p>Are there dated or spoiled foodstuffs in the pantry or refrigerator?</p>
Environmental Controls	<p>What is the temperature in the room?</p> <p>What is the thermostat setting? If there is a program mode, how far into the cycle is it?</p> <p>Is the thermostat on a timer, and what are the settings?</p>
Laundry and Utility Areas	<p>Are appliances running or warm (to include washer/dryer)?</p> <p>Is there clothing in the washer or dryer, wet or damp?</p> <p>If the suspect's clothes were believed to be laundered, consider the lint trap as evidence.</p>



Lighting (in each room and outside)	Are the lights on or off? Are the lights working?
Telephones and Cellular Phones	Is there any record of incoming and outgoing calls? Attempt to determine those calls. Are there any voice mail messages? Is there an off-site answering service? What does it take to ascertain those messages? Can mapping of cellular towers indicate the location of where a call was made? Are there text messages? Ensure a charger is included with the mobile phone.
Mail	What is the date on any outgoing mail? Are there any time-dated receipts? What is the date of mail outside the home or in the box? What is the date of mail brought in or opened?
Wastebaskets and Ashtrays	Check and document the contents of wastebaskets and trashcans if appropriate. Check ashtrays. If there are indications of multiple parties being present, consider collecting cigarette butts for DNA analysis.
Bath and Toilet Areas	Are there damp or bloodstained towels or washcloths? Is there evidence of recent bathing or washing activity (e.g., wet tubs, towels)? If the victim is a single female living alone, is the toilet seat raised? Is there evidence of suspect cleanup? What drugs or medicines are in medicine cabinets? What are the dates on prescription medication and the number of tablets missing?
Calendars and Planners	What are the entries on any calendars for the period before and contemporaneous to the crime? What are the diary or day planner entries for the period before and contemporaneous to the crime?
Computers and Internet	When was the victim last on the computer? Is there computer activity after the suspected time of the crime? Is there email, chat, or telephone activity near the time of the crime?



Observations for Outdoor Scenes	
Environmental Conditions	<p>What is the temperature?</p> <p>What is the humidity?</p> <p>Is there ongoing precipitation or evidence of recent precipitation?</p> <p>What are the past temperatures, precipitation, and humidity covering the time since the crime?</p> <p>Is it daylight, nighttime, or evening?</p> <p>What time was sunrise or sunset (if applicable)?</p> <p>What are the moon phase and cloud cover?</p> <p>What is the ambient lighting? Consider streetlights, porch lights, and even city sky glow.</p>
Immediate Area	<p>Is there evidence of a struggle?</p> <p>Are there footwear impressions, scuff marks, or tire marks?</p> <p>Is there any video coverage of the area? Consider ATMs, surrounding store video, and traffic surveillance systems.</p> <p>Is there evidence discarded in nearby trash receptacles?</p>
Extended Area	<p>What are the likely paths of travel to and from the scene?</p> <p>Is there evidence discarded in trash receptacles, ditches, underpasses, etc.?</p> <p>Is there any video coverage of avenues of approach to the area?</p> <p>Are there nearby convenience stores or gas stations that might have video coverage and trash receptacles that could be searched for evidence?</p>



Observations for Motor Vehicle Scenes	
Exterior	<p>Are there signs of damage, particularly signs of recent damage, to include indications of collision, bullet holes, etc.?</p> <p>If the vehicle was suspected of being involved in a personal injury, do the mirrors, bumpers, grill, or undercarriage have possible human hairs, fibers, blood, etc., present?</p> <p>Are there areas likely handled/touched by suspects that need to be protected for possible latent fingerprint detection/touch DNA recovery?</p> <p>Record VIN, plate number, and any other identifying feature of the vehicle, to include the make, model, color, and distinguishing features.</p> <p>For pickups, record the contents of the bed.</p> <p>Observe tires, rims, and wheel well areas for possible mud, dirt, etc., that would indicate the presence of materials that might be needed for subsequent alibi comparisons.</p> <p>Is there a need for later towing and raising the vehicle to search for evidence of the crime deposited on the undercarriage?</p>
Interior	<p>Is blood or other evidence of personal injury present?</p> <p>Are tools present that might have been used in the crime?</p> <p>Are items present (mail, written messages, other objects with names on them) that would indicate the identity of passengers/drivers of the vehicle?</p> <p>Are items missing from any separate but related scene present in the vehicle?</p> <p>Are there items in the trunk that are related to the crime or that help identify persons?</p>

*Table Source: Crime Scene Investigation Procedural Guide
by Michael Maloney and Donald Housman*



The Responding Officer as Investigator

Depending on your agency, you may find yourself responsible for the investigation beyond the initial response. Under these circumstances, you will have additional tasks and considerations, for example:

- Initial assessment- Is there a crime? What is it?
- Consider search and seizure issues- Is consent to search needed? Is a search warrant needed?
- Is there a suspect? Is there a need for an immediate arrest? Do you have probable cause? Have you given the Miranda warning?
- Is a command post necessary? What resources are needed to set this up?
- Do you need to assign officers to canvass the area, locate and obtain statements from witnesses, or search for the suspect?
- Do you need to assign officers to search for an additional crime scene?
- Do you need to call the medical examiner? (Note- you will have a later class on death investigations)



Identifying the Suspect

You will arrive to conduct your investigation in some circumstances, and the suspect will be gone, either having left prior to your arrival or due to a cold case. Under these circumstances, utilizing a police lineup can help identify who your suspect is. Additionally, eyewitness identification is extremely compelling evidence at trial. The reliability of such testimony is extremely important, and officers should take due diligence in evaluating the use of a lineup. Oregon has a model policy regarding eyewitness identification procedures.

Eyewitness Identification Procedures – Oregon's Model Policy

Source: Oregon's Model Policy, adopted by the Eyewitness Identification Work Group. See Attachment A for the complete policy.

When a photo lineup is used for suspect identification, a blind or blinded sequential presentation should be made. Consequently, those procedures which appear in the Model Policy are designed primarily for blind or blinded sequential presentations. However, identification procedures are still evolving for children and those challenged by mental illness. Therefore, the Model Policy leaves room for presentations other than blind or blinded sequential presentations. If another method of identification is used, the reasons for using that method **shall** be documented.

Get a thorough description of the subject from the eyewitness before attempting to construct a simultaneous photo lineup.

Simultaneous or "Six Pack" Photo Lineup

A presentation at the same time of photographs arrayed together, either manually constructed or computer generated.



Standards:

- Use a minimum of six photos; face only, not full-body photos
- Same sex, race, age (approximate) of the suspect
- Record how quickly the eyewitness identifies the suspect
- Ask only if the eyewitness recognizes anyone. Do not indicate that the suspect is included.
- Accept the answer. You do not need certainty.
- Note the eyewitness's statement verbatim.
- If the eyewitness cannot ID the suspect, do not indicate to them which one it was.
- All other directions in the Model Policy, including the admonitions, shall be followed.



Attachment A: Eyewitness Identification- Oregon's Model Policy

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 their selection and confidence that their 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 shall also include the witnesses' affirmation of their confidence statements.
- B. In addition to documentation in the incident report(s) and *Eyewitness Identification* forms, presenters should record their presentations when it is reasonable and practicable.
- 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

Suppose a witness to a criminal offense does not fluently speak the English language or otherwise has difficulty communicating (e.g., hard of hearing). In that case, officers should make reasonable efforts to arrange for an interpreter before proceeding with 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 description of the suspect. Because all photographs possess both common and variable features, the common features should be those that match the witness's description, whereas the remaining (i.e., nonrecalled or undescribed) features may vary.
 2. When there is a limited or insufficient suspect description or when the suspect description differs significantly from the suspect's available photograph(s), 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

Before 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 the witness asks to see one or more photos during the same presentation 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. 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 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 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 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

Criminal Law

Parts 1 & 2: Property

BASIC POLICE ACADEMY





Criminal Law 1: Property Offenses

Instructional Goal:

This course is designed to develop a new officer's understanding of property offenses defined by the Oregon Criminal Code.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify the type of offense using the Oregon Criminal Code Book
2. Distinguish level of offense using the Oregon Criminal Code Book
3. Articulate the elements of a given crime
4. Analyze a situation and determine if there is an applicable ORS offense represented

Content Outline:

- Theft and Related Offenses
- Fraud or Deception
- Other Offenses
- Identity Theft



Theft and Related Offenses

Theft – ORS 164.015

A person commits theft when, with intent to deprive another of property or to appropriate property to the person or a third person, the person:

- (1) Takes, appropriates, obtains or withholds such property from an owner thereof;
- (2) Commits theft of property lost, mislaid or delivered by mistake as provided in ORS 164.065;
- (3) Commits extortion as provided in ORS 164.075 by compelling or inducing another person to deliver property;
- (4) Commits theft by deception as provided in ORS 164.085; or
- (5) Commits theft by receiving as provided in ORS 164.095.

Definitions

Appropriate – ORS 164.005 (1)	Deprive another of property or deprive – ORS 164.005 (2)
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Theories/means of committing theft – ORS 164.015

- “Taking” ORS 164.015 (1)
- Theft of Property Lost, Mislaid or Delivered by Mistake – ORS 164.065
- Extortion – ORS 164.075
- Theft by Deception – ORS 164.085
- Theft by Receiving – ORS 164.095



Theft III – ORS 164.043

A person commits the crime of theft in the third degree if:

- i. By means other than extortion, the person commits theft as defined in ORS 164.015; and
- ii. The total value of the property in a single or an aggregate transaction is less than \$100.

Example:

William stops at a convenience store on his way home to buy a soda. While there, he slips two candy bars valued at \$1.29 each for a total value of \$2.58 into his pocket and leaves the store after paying for the soda but not the candy bars.

Theft II – ORS 164.045

A person commits the crime of theft in the second degree if:

- i. By means other than extortion, the person commits theft as defined in ORS 164.015; and
- ii. The total value of the property in a single or aggregate transaction is \$100 or more and less than \$1,000.

Example:

Peter enters a music store, takes ten CDs, and leaves the store without intending to pay. The total value of the CDs is \$150.

Theft I – ORS 164.055

A person commits the crime of theft in the first degree if, by means other than extortion, the person commits theft as defined in ORS 164.015 and:

- i. The total value of the property in a single or aggregate transaction is \$1,000 or more;
- ii. The theft is committed during a riot, fire, explosion, catastrophe or other emergency in an area affected by the riot, fire, explosion, catastrophe or other emergency;
- iii. The theft is theft by receiving committed by buying, selling, borrowing or lending on the security of the property;
- iv. The subject of the theft is a firearm or explosive;



- v. The subject of the theft is a livestock animal, a companion animal or a wild animal removed from habitat or born of a wild animal removed from habitat, pursuant to ORS 497.308 (2)(c); or
- vi. The subject of the theft is a precursor substance.

Examples:

Susan takes \$1,200 from the petty cash drawer at work to help pay for her gambling debts. Initially, when she decided to take the money, she intended to pay it back. However, after she gets home, Susan decides to fix the books and hide the fact that she took the money.

While visiting his cousin Joe, Bob finds a gun worth \$125 in Joe's bedroom. Bob takes the gun without Joe's permission.

Aggravated Theft I – ORS 164.057

A person commits the crime of aggravated theft in the first degree, if:

- i. The person violates ORS 164.055 with respect to property, other than a motor vehicle used primarily for personal rather than commercial transportation; and
- ii. The value of the property in a single or aggregate transaction is \$10,000 or more.

Examples:

A wall safe at a local grocery store is left unsecured, and Stewart happens upon it. He decides to help himself to the cash, which totals \$13,750.00. The value is more than \$10,000.00, so he has committed aggravated theft I.

Dorothy places her wedding ring worth \$9,000 in the ashtray of her car before she goes jogging. While jogging, Steve breaks into Dorothy's car, takes her ring, and the \$1,000 car stereo. The aggregate value of the two stolen items is at least \$10,000.00. The crime is aggravated theft I.



Aggregation / Value of Property – ORS 164.115

The value of single theft transactions may be added together if the thefts were committed:

- i. Against multiple victims by similar means within a 30-day period; or
- ii. Against the same victim, or two or more persons who are joint owners, within a 180-day period.

Theft of Services – ORS 164.125

A person commits the crime of theft of services if:

- i. With intent to avoid payment therefor, the person obtains services that are available only for compensation, by force, threat, deception or other means to avoid payment for the services; or
- ii. Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, the person uses or diverts to the use of the person or a third person such labor, equipment or facilities with the intent to derive for the person or the third person a commercial benefit to which the person or the third person is not entitled.

Example:

Eric goes to a restaurant for dinner. After dinner, Eric leaves the restaurant without paying for his meal.

Unauthorized Use of a Vehicle – ORS 164.135

A person commits the crime of unauthorized use of a vehicle when:

- i. The person **knowingly** *takes, operates, exercises control over or uses* another's vehicle, boat or aircraft; and
The person is **aware of and consciously disregards a substantial and unjustifiable risk* that the owner does not consent** to the taking, operation, other use of or exercise control over the vehicle, boat or aircraft; and
The owner did not consent; or
- ii. The person **knowingly** *rides in* another's vehicle, boat or aircraft; and
The person **knows that the owner does not consent** to the person riding in the owner's vehicle, boat or aircraft; and
The owner did not consent; or



- iii. Having custody of a vehicle, boat or aircraft pursuant to an agreement between the person or another and the owner thereof whereby the person or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of such vehicle, boat or aircraft, the person intentionally uses or operates it, without consent of the owner, for the person’s own purpose in a manner constituting a gross deviation from the agreed purpose; or
- iv. Having custody of a vehicle, boat or aircraft pursuant to an agreement with the owner thereof whereby such vehicle, boat or aircraft is to be returned to the owner at a specified time, the person knowingly retains or withholds possession thereof without consent of the owner for so lengthy a period beyond the specified time as to render such retention or possession a gross deviation from the agreement.

NOTE: In 2019, the legislature amended the UUV statute as to state of mind. The person who takes, operates, etc. the vehicle does not have to actually know that the owner of the vehicle had not given consent. The language in “i.” above shows that while the person has to take, operate, etc. the vehicle knowingly, the State only has to prove that the person had a reckless state of mind about the owner not consenting to the taking. Compare that to “ii.” above where someone who simply “rides in” the vehicle must know the owner did not consent to the taking.

<p>Public Transit Vehicle - ORS 166.116 (c)</p> <p>A vehicle that is used for public transportation or operated by or under contract to any public body in order to provide public transportation.</p>	<p>Vehicle</p> <p>The Oregon Supreme Court has ruled, in <i>State v. Eastep</i>, 361 Or 746 (2017), that the ordinary meaning of the word “vehicle” is broad enough to include cars and trucks that may not currently be in operating condition, even if in need of extensive repairs. The Court so ruled after observing, “The statute does not define the term ‘vehicle’” and then proceeded to “assume that the legislature intended [the term vehicle] to have [its] plain, ordinary meaning.”</p>
<p>Public Transportation - ORS 166.116 (d)</p> <p>Means transportation provided by a city, county, special district, or any other political subdivision or municipal or public corporation.</p>	



Mail Theft or Receipt of Stolen Mail – ORS 164.162

A person commits the crime of mail theft or receipt of stolen mail if the person intentionally:

- i. Takes or, by fraud or deception, obtains mail from a post office, postal station, mail receptacle, authorized depository or mail carrier;
- ii. Takes from mail any article contained therein;
- iii. Secrets, embezzles or destroys mail or any article contained therein;
- iv. Takes or, by fraud or deception, obtains mail that has been delivered to or left for collection on or adjacent to a mail receptacle or authorized depository; or
- v. Buys, receives, conceals, or possesses mail or any article contained therein knowing that the mail or article has been unlawfully taken or obtained.

Example:

Suzanne drives around a neighborhood and stops at each mailbox. At each mailbox, she opens it and takes the mail that has been delivered by the post office.

Unauthorized Entry Into a Motor Vehicle - ORS 164.272

A person commits the crime of unlawful entry into a motor vehicle if the person enters a motor vehicle, or any part of a motor vehicle, with the intent to commit a crime.

Example:

Neil sees a purse in plain view inside an unlocked vehicle. He opens the car door, reaches in, and steals the purse. Neil opened and entered the car with the intent to commit the crime of at least Theft III.



Fraud or Deception

Definitions

Written instrument – ORS 165.002 (1)	Falsely make – ORS 165.002 (4)	Falsely complete – ORS 165.002 (5)
Falsely alter – ORS 165.002 (6)	Utter – ORS 165.002 (7)	Forged instrument – ORS 165.002 (8)

Forgery II – ORS 165.007

A person commits the crime of forgery in the second degree if, with intent to injure or defraud the person:

- i. Falsely makes, completes or alters a written instrument; or
- ii. Utters a written instrument that the person knows to be forged.

Example:

Without Nancy's permission, Jason takes one of Nancy's checks and makes it out to himself for \$10.



Forgery I – ORS 165.013

A person commits the crime of forgery in the first degree if the person violates ORS 165.007:

- i. And the written instrument is or purports to be any of the following:
 - a. Part of an issue of money, securities, postage or revenue stamps, or other valuable instruments issued by a government or governmental agency;
 - b. Part of an issue of stock, bonds or other instruments representing interests in or claims against any property or person;
 - c. A deed, will, codicil, contract or assignment;
 - d. A check for \$1,000 or more, a credit card purchase slip for \$1,000 or more, or a combination of checks and credit card purchase slips that, in the aggregate, total \$1,000 or more, or any other commercial instrument or other document that does or may evidence, create, transfer, alter, terminate or otherwise affect a legal right, interest, obligation or status; or
 - e. A public record; or
- ii. By falsely making, completing, or altering, or by uttering, at least 15 retail sales receipts, Universal Product Code labels, EAN-8 labels, or EAN-13 labels or a combination of at least 15 retail sales receipts, Universal Product Code labels, EAN-8 labels or EAN-13 labels.

Examples:

Without Nancy's permission, Jason takes three of Nancy's checks and makes them out to himself for \$500 each. (Aggregate transaction)

Without Nancy's permission, Jason takes three of Nancy's checks, and makes them out to his brother Bill, for \$500 each. Bill, knowing that his brother filled in the information on each check without Nancy's permission, deposits the checks into his bank account.

Mark has a warrant for his arrest. He takes his roommate's driver's license without permission. Mark cuts out his roommate's picture and replaces it with his own.



Fraudulent Use of a Credit Card – ORS 165.055

A person commits the crime of fraudulent use of a credit card if, with intent to injure or defraud, the person uses a credit card for the purpose of obtaining property or services with the knowledge that:

- i. The card is stolen or forged;
- ii. The card has been revoked or canceled; or
- iii. For any other reason, the use of the card is unauthorized by either the issuer or the person to whom the credit card is issued.

Example:

Lucy buys a stolen credit card from Mike. In the next two hours, Lucy makes \$2,000 worth of purchases on the stolen credit card.

Negotiating a Bad Check – ORS 165.065

A person commits the crime of negotiating a bad check if the person makes, draws, or utters a check or similar sight order for the payment of money, knowing that the drawee will not honor it.

For purposes of this section, unless the check or order is postdated, it is prima facie evidence of knowledge that the check or order would not be honored if:

- i. The drawer has no account with the drawee at the time the check or order is drawn or uttered;
or
- ii. Payment is refused by the drawee for lack of funds, upon presentation within 30 days after the date of utterance, and the drawer fails to make good within ten days after receiving notice of refusal.

Example:

Doug writes a check at a local department store for \$1,850, on an account he knows he closed two years ago.



Other Offenses

Improper use of an Emergency Communications System – ORS 165.570

A person commits the crime of improper use of the emergency communications system if the person knowingly:

- i. Makes an emergency call or calls the tip line for a purpose other than to report a situation that the person reasonably believes requires prompt service in order to preserve human life or property; or
- ii. Allows another person to use communications equipment owned, rented or leased by or under the control of the person to make an emergency call or call the tip line for a purpose other than to report a situation that the other person reasonably believes requires prompt service in order to preserve human life or property.

“Emergency call” – defined in ORS 403.105	Emergency communication system” – defined in ORS 403.105	“Tip line” means the statewide tip line established under ORS 339.329
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Interference with Making a Report – ORS 165.572

A person commits the crime of interference with making a report if the person, by removing, damaging or interfering with a telephone line, telephone or similar communication equipment, intentionally prevents or hinders another person from making a report to a law enforcement agency, a law enforcement official or an agency charged with the duty of taking public safety reports or from making an emergency call as defined in ORS 403.105.

Example:

Lonnie is having a physical dispute with his live-in girlfriend. She attempts to call the police to report a possible crime, and Lonnie takes the phone away then breaks the phone, so it cannot be used.



Identity Theft and Related Crimes

Identity Theft – ORS 165.800

A person commits the crime of identity theft if the person, with the intent to deceive or to defraud, obtains, possesses, transfers, creates, utters or converts to the person's own use the personal identification of another person.

Example:

Seth has obtained the name, date of birth, and address of a classmate from college. Using this information, he creates a false identification then applies for and receives a credit card in that name.

Aggravated Identity Theft - ORS 165.803

A person commits the crime of aggravated identity theft if:

- i. The person violates ORS 165.800 in 10 or more separate incidents within a 180-day period;
- ii. The person violates ORS 165.800, and the person has a previous conviction for aggravated identity theft;
- iii. The person violates ORS 165.800, and the losses incurred in a single or aggregate transaction are \$10,000 or more within a 180-day period; or
- iv. The person violates ORS 165.800 and has in the person's custody, possession, or control ten or more pieces of personal identification from 10 or more different persons.

Example:

Using the same example from above, Seth incurs charges on the above credit card in excess of \$10,000.00.



Misrepresentation of Age by a Minor – ORS 165.805

A person commits the crime of misrepresentation of age by a minor if:

- i. Being less than a certain, specified age, the person knowingly purports to be of any age other than the true age of the person with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain, specified age; or
- ii. Being unmarried, the person knowingly represents that the person is married with the intent of securing a right, benefit, or privilege, which by law is denied to unmarried persons.

Example:

Keri is 19 years old, and she borrowed her older sister’s Oregon Driver License to use for identification to gain access to a night club and consume alcohol.

Note- This use is an affirmative defense to identity theft.

Preliminary Investigation for Identity Theft

Victim’s Report	Try to Discover Motive
Gather information: <ul style="list-style-type: none"> • DOB • Driver’s license • Social Security Number • Telephone numbers • Email addresses • Original documents (if possible) • Account numbers • Details on when and how • Names of everyone involved • Financial institutions involved • Chronological log of the theft 	<ul style="list-style-type: none"> • Drugs • Money • Revenge



Continued Investigation

- Examine all financial and credit bureau documents
- Use developed informants or other intelligence
- Gain access to privileged information
 - Federal cooperation and funds
 - State and federal RICO statute investigations
 - Forfeiture statutes
 - Follow the money
- Contact other involved law enforcement agencies
 - Prevent duplication
 - Collaboration
- Obtaining financial information
 - Search warrant
 - Subpoena
 - Consent – simplest and most cost-effective
- Identifying additional victims
 - To identify a larger, organized ring
- Contact other agencies
 - Combine resources
 - Combine personnel



Case Preparation

- DAs are very selective, and the key is the organization of case
- Have the victim play a key role
 - Keep notes / diary
 - Request / collect financial information
 - Interest/partnership in case
- Use binders and tabs to organize logically
 - Search warrants
 - All financial account numbers
 - Names and address of all financial institutions
 - Documentation of subpoena
 - Outline of expected testimony from victims and witnesses
 - The report

Patrol prevention

- “Dumpster diving”
- Cooperative efforts between:
 - Law enforcement
 - Consumer protection agencies
 - Financial institutions



STATE OF OREGON
 DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
 Basic Police

CRIME	MEANS / INTENT	VALUE / SPECIAL CIRCUMSTANCE
Theft III	Means other than extortion <ul style="list-style-type: none"> • Taking • Lost / mislaid • Deception • Receiving 	Under \$100
Theft II	Means other than extortion <ul style="list-style-type: none"> • Taking • Lost / mislaid • Deception • Receiving 	\$100 or more but under \$1000
Theft I	Means other than extortion <ul style="list-style-type: none"> • Taking • Lost / mislaid • Deception • Receiving 	\$1000 or more During a riot, fire, explosion, etc. By buying, selling, borrowing or lending on the security of property Theft of firearm or explosive Theft of livestock animal, companion animal Theft of precursor substance
Agg Theft I	Commits Theft I	Value \$10,000 or more and Other than private vehicle
Theft of Services	Intent to avoid payment	Value of service under \$100 (C misdemeanor) Value of service over \$100, less than \$1000 (A misdemeanor) Value of service \$1000 or more (C felony) Value of service \$10,000 or more (B felony)
Mail Theft		Class C felony
Forgery II	Make, complete, alter or utter	Any amount
Forgery I	Make, complete, alter or utter	\$1000 or more Written instrument is money, securities, postage, government-issued Stocks/bonds Deed, will, contract Public record At least 15 retail sales receipts, UPC labels, etc.
Fraudulent Use of Credit Card	Intent to injure/defraud	Under \$1000 (misdemeanor) \$1000 or more (felony)



Criminal Law 2: Property Offenses

Instructional Goal:

This course is designed to develop a new officer's understanding of property offenses defined by the Oregon Criminal Code.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify the type of offense using the Oregon Criminal Code Book
2. Distinguish level of offense using the Oregon Criminal Code Book
3. Articulate the elements of a given crime
4. Analyze a situation and determine if there is an applicable ORS offense

Content Outline:

- Arson and Related Offenses
- Criminal Mischief
- Criminal Trespass and Burglary
- Robbery



Arson and Related Offenses

Definitions

“Protected property” means any structure, place, or thing customarily occupied by people, including “public buildings” as defined by ORS 479.168 and “forestland,” as defined by ORS 477.001.

“Property of another” means property in which anyone other than the actor has a legal or equitable interest that the actor has no right to defeat or impair, even though the actor may also have such an interest in the property.

When we see references to “property” below, whether protected property or property of another, consider this definition:

ORS 164.005 (5) “Property” means any article, substance or thing of value, including, but not limited to, money, tangible and intangible personal property, real property, ...[etc.]

Now consider this case law, which we can safely assume would apply to all the fire crimes, not just Arson I:

The state must prove property had “value” as defined by ORS 164.005, and neither “symbolic value” or “value in use” is sufficient; therefore, burning a rag could not support a conviction of first-degree arson.

State v. Whitley, 295 Or 455, 666 P2d 1340 (1983).



Arson II – ORS 164.315 – Class C Felony

1. By starting a fire or causing an explosion, the person intentionally damages:
 - a. Any building of another that is not protected property; or
 - b. Any property of another and the damages to the property exceed \$750; or

2. By knowingly engaging in the manufacture of methamphetamine, the person causes fire or causes an explosion that damages property described in 1 above.

For this theory of Arson II, you don't need intentional damage, but you do need to prove the knowing manufacture of methamphetamine.

Arson I – ORS 164.325 – Class A Felony

1. By starting a fire or causing an explosion, the person intentionally damages:
 - a. Protected property of another;
 - b. Any property, whether the property of the person or another, and such act recklessly places another person in danger of physical injury or protected property of another in danger of damage;
 - c. Any property, whether the property of the person or another, and recklessly causes serious physical injury to a firefighter or peace officer acting in the line of duty relating to the fire; or

2. By knowingly engaging in the manufacture of methamphetamine, the person causes fire or causes an explosion that damages property described in 1 above.

For this theory of Arson I, you don't need intentional damage, but you do need to prove the knowing manufacture of methamphetamine.



Consider these Arson crimes not found in Chapter 164, but instead in ORS 475B – Cannabis Regulation.

Arson incident to manufacture of cannabinoid extract in first degree ORS 475B.359 – Class A felony

The person, by knowingly engaging in the manufacture of a cannabinoid extract, causes a fire or causes an explosion that intentionally damages:

- a. Protected property of another;
- b. Any property, whether the property of the person or another, and such act recklessly places another person in danger of physical injury or the protected property of another person in danger of damage; or
- c. Any property, whether the property of the person or another, if the fire or explosion recklessly causes serious physical injury to a firefighter or peace officer acting in the line of duty relating to the fire or explosion.

Arson incident to manufacture of cannabinoid extract in second degree – ORS 475B.363 – Class C felony

The person, by knowingly engaging in the manufacture of a cannabinoid extract, causes a fire or causes an explosion that damages:

- a. Any building of another that is not protected property; or
- b. The property of another, if the damages to the property exceed \$750.

Reckless Burning – ORS 164.335 - Class A Misdemeanor

Recklessly damages property of another by fire or explosion.

Remember, the “property of another” in question will need to have “some value demonstrably.”

Keep in mind the definition of “recklessly,” found in ORS 161.085.
“Aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists.”



Criminal Mischief

Criminal Mischief III – ORS 164.345 – Class C Misdemeanor

With intent to cause substantial inconvenience to the owner or another person and having no right to do so nor reasonable ground to believe that the person has such right, the person tampers or interferes with the property of another.

Criminal Mischief II – ORS 164.354 – Class A Misdemeanor

1. Violates ORS 164.345, damage exceeds \$500, or
2. Having no right to do so, nor reasonable ground to believe that the person has such right:
 - a. The person intentionally damages property of another; or
 - b. The person recklessly damages the property of another in an amount exceeding \$500.

The Criminal Mischief II statute can be tough to interpret. A common mistake is to think you need more than \$500 damage, even if it's intentional damage. Not true! If you can prove intentional damage of \$3.75, it is still Criminal Mischief II. But, if you can only prove reckless damage, you need at least \$500 damage. If it is reckless damage, and less than \$500, and you can't prove the unique elements of Criminal Mischief III, you might not have a crime at all! If a fire was used, look at Reckless Burning. Otherwise, you might not be able to prove a crime was committed.

Intentional damage to property of another in any amount is criminal mischief in second degree. State v. Washburn, 54 Or App 64 (1981)



Criminal Mischief I – ORS 164.365 – Class C Felony

With intent to damage property and having no right to do so, nor reasonable ground to believe that the person has such right:

1. Damages or destroys the property of another:
 - a. In amount exceeding \$1000
 - b. By means of an explosive
 - c. By starting a fire in an institution while committed to and confined in an institution
 - d. Livestock (“Livestock” is defined in ORS 164.055, and it’s the same definition used in Theft I.)
 - e. Property of public utility, telecommunications utility, railroad, public transportation facility or medical facility used in direct service to the public
 - f. Intentionally interfering with, obstructing, or adulterating in any manner the service of a public utility, etc.
2. Intentionally uses, manipulates, arranges, or rearranges the property of a public utility, etc. so as to interfere with its efficiency.



Criminal Trespass and Burglary

164.205 Definitions for ORS 164.205 to 164.270

<p>(1) “Building,” in addition to its ordinary meaning, includes any booth, vehicle, boat, aircraft, or other structure adapted for overnight accommodation of persons or for carrying on business therein. Where a building consists of separate units, including, but not limited to, separate apartments, offices or rented rooms, each unit is, in addition to being a part of such building, a separate building.</p>	<p>(2) “Dwelling” means a building which regularly or intermittently is occupied by a person lodging therein at night, whether or not a person is actually present.</p>	<p>(3) “Enter or remain unlawfully” means:</p> <ul style="list-style-type: none">(a) To enter or remain in or upon premises when the premises, at the time of such entry or remaining, are not open to the public and when the entrant is not otherwise licensed or privileged to do so;(b) To fail to leave premises that are open to the public after being lawfully directed to do so by the person in charge;(c) To enter premises that are open to the public after being lawfully directed not to enter the premises; or(d) To enter or remain in a motor vehicle when the entrant is not authorized to do so.
<p>(4) “Open to the public” means premises which, by their physical nature, function, custom, usage, notice or lack thereof or other circumstances at the time, would cause a reasonable person to believe that no permission to enter or remain is required.</p>	<p>(5) “Person in charge” means a person, a representative, or employee of the person who has lawful control of premises by ownership, tenancy, official position, or other legal relationship. “Person in charge” includes, but is not limited to the person, or holder of a position, designated as the person or position-holder in charge by the Governor, board, commission, or governing body of any political subdivision of this state.</p>	<p>(6) “Premises” includes any building and any real property, whether privately or publicly owned.</p>



Criminal Trespass II – ORS 164.245 – Class C Misdemeanor

Person enters or remains unlawfully in a motor vehicle or in or upon premises.

Criminal Trespass I – ORS 164.255

1. Enters or remains unlawfully in a dwelling;
2. Having been denied future entry to a building pursuant to merchant's notice of trespass re-enters building during hours when the building is open to the public with the intent to commit theft therein;
3. Enters or remains unlawfully upon railroad yards, tracks, bridges or rights-of-way; or
4. Enters or remains unlawfully in or upon premises determined to be "not fit for use." (ORS 453.855 to 453.912) (Toxic contamination from a drug lab.) Not apply to the owner of record of premises if:
 - a. Notifies law enforcement agency having jurisdiction over premises that the owner intends to enter;
 - b. On premises for purposes of inspecting or decontaminating, or lawfully removing items; or
 - c. Has not been arrested for, charged with, or convicted of a criminal offense contributing to "not fit for use" determination.

Be sure to read the theory of Criminal Trespass I under #2 above carefully! It seems like it should be burglary, but the Oregon Legislature said it's not. So, what if you were trespassed, but you go back in when the building is closed? Different story!

Consider what it means to enter or remain in a dwelling. Here is some helpful case law:

Vacant apartment entered by the defendant was "dwelling" for purposes of this section where it had previously been occupied, and the owner expected to rent it once remodeling was complete.
State v. Ramey, 89 Or App 535 (1988)



Criminal Trespass with a Firearm – ORS 164.265 – Class A Misdemeanor

Person who, while in possession of a firearm, enters or remains unlawfully in or upon premises.

Burglary II – ORS 164.215 – Class C Felony

Person enters or remains unlawfully in a building with the intent to commit a crime therein.

A common mistake is to think that all burglaries involve a completed theft. Not true! The crime intended to be committed therein can be ANY crime, and it need not be complete. Here are some case law examples of Burglary II:

Evidence that the defendant and others entered farm shed of another, and that keys were removed from trucks parked therein during the occupation of the shed, was sufficient to prove that defendant entered shed with intent to commit criminal mischief.

State v. Essig, 31 Or App 639 (1977).

To commit a crime under this section, the defendant must commit criminal trespass for the purpose of committing a crime. Criminal trespass may begin either when the defendant unlawfully enters the building or when the defendant unlawfully remains in the building, so the court must focus on the defendant's intent when trespass begins. State v. JNS, 258 Or App 310 (2013).

Where the defendant stole property from a house in which the defendant had permission to be, the defendant's commission of crime did not convert lawful entry into unlawful remaining. State v. Werner, 281 Or App 154 (2016).



Burglary I – ORS 164.225 – Class A Felony

Violates ORS 164.215 and building is a dwelling; OR

If in effecting entry or while in a building or in immediate flight from the person:

1. Is armed with a “burglary tool or theft device” or deadly weapon; or

<p>“Burglary tool or theft device” means an acetylene torch, electric arc, burning bar, thermal lance, oxygen lance or other similar device capable of burning through steel, concrete or other solid material, or nitroglycerine, dynamite, gunpowder or any other explosive, tool, instrument or other article adapted or designed for committing or facilitating a forcible entry into premises or theft by a physical taking.</p>	<p>“Adapted” means that an object actually has been altered or modified in some way for the purpose of facilitating a forcible entry or theft. State v. Warner, 298 Or. 640, (1985). Neither its actual use nor its capability for use to commit or facilitate a forcible entry or theft is relevant to the issue of adaptation.</p>	<p>“Armed with” doesn’t mean anyone has to see it during the commission of the crime. Displaying it might suggest another crime in addition to the burglary.</p>
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2. Causes or attempts to cause physical injury to any person; or

3. Uses or threatens to use a dangerous weapon.

Here, unlike the “armed with” discussion above, you will need proof of a “dangerous weapon” used, displayed, etc.



Here are some case law examples of Burglary I. Like Criminal Trespass I, a good deal of burglary case law concerns what is considered a “dwelling”:

The defendant committed burglary in the first degree when he unlawfully entered a boat, which was a dwelling, with intent to steal the entire boat. State v. Spenser, 24 Or App 385 (1976).

A mobile home parked in the driveway and used intermittently by guests for sleeping was a “dwelling” within the meaning of ORS 164.205 (Definitions for ORS 164.205 to 164.270). State v. McDonald, 77 Or App 267 (1986).

The defendant entered a breezeway that is attached to a home, was covered, permits access to the garage, and in which homeowners stored food and other items. The defendant entered “dwelling” as used in this section and as defined in ORS 164.205...State v. Taylor, 271 Or App 292 (2015).

To convict under this section does not require proof that the defendant had the intent to use the burglar tool, but only proof that the defendant possessed a tool described as a burglary tool in ORS 164.235. State v. Johnson, 55 Or App 98 (1981).

The homeowner allowed the defendant to enter the home to perform repairs in certain rooms of the house. When the defendant went into an area he did not have permission to be in, and he took property, the defendant committed burglary. State v. Angelo, 282 Or App 403 (2016).



Possession of Burglary Tool or Theft Device – ORS 1164.235 - Class A misdemeanor

1. A person commits the crime of possession of a burglary tool or theft device if the person possesses a burglary tool or theft device and the person:
 - a. Intends to use the tool or device to commit or facilitate a forcible entry into premises or a theft by a physical taking; or
Knows that another person intends to use the tool or device to commit or facilitate a forcible entry into premises or a theft by a physical taking.

For purposes of this section, “burglary tool or theft device” means an acetylene torch, electric arc, burning bar, thermal lance, oxygen lance or other similar device capable of burning through steel, concrete or other solid material, or nitroglycerine, dynamite, gunpowder or any other explosive, tool, instrument or other article adapted or designed for committing or facilitating a forcible entry into premises or theft by a physical taking.

Remember the definition of “adapted” above under Burglary I. The key to understanding “what is a burglary tool or theft device” is accepting that “adapted or designed for” means what it says. Therefore, these case law examples are what does NOT meet the definition:

A beer bottle used to break a jewelry store window was not a burglar’s tool, as defined in this section. State v. Reid, 36 Or App 417 (1978)

A rock or a brick is not a burglary tool. State v. O’Keefe, 40 Or App 685 (1979).

We hold that the trial court erred in convicting the defendant of burglary in the first degree on the basis of his use of a screwdriver to gain entry to the gun shop. State v. Bennett, 79 Or App 267 (1986).



Robbery

Robbery III – ORS 164.395 – Class C Felony

In the course of committing or attempting to commit theft or unauthorized use of a vehicle, the person uses or threatens the immediate use of physical force upon another person with the intent to:

1. Prevent or overcome resistance to the taking of property or retention of property immediately after the taking; or
2. Compel the owner or another to deliver property or engage in other conduct, which might aid in the commission of theft, or unauthorized use of a vehicle.

A common problem with proving robbery involves the use of force and its connection to the defendant's objective. For example:

The physical force employed by the defendant was sufficiently close in space and time to theft to be characterized as an attempt to prevent or overcome resistance to his retention of the stolen property immediately after taking. State v. Rios, 24 Or App 393 (1976).

But compare the above to this:

Where the defendant abandoned his attempt to commit theft prior to the use of force against the owner of the property, acts did not come within the definition of robbery. State v. Jackson, 40 Or App 759 (1979).



Robbery II – ORS 164.405 – Class B Felony

Violates ORS 164.395, plus:

1. Represents by word or conduct that the person is armed with what purports to be a dangerous or deadly weapon; or
2. Is aided by another person actually present.

When the facts include “represents by word or conduct...” the focus is on the defendant’s conduct, not the effect on the victim:

Person may represent that person is armed with what purports to be dangerous or deadly weapon regardless of whether victim believes representation. State v. Oliver, 221 Or App 233 (2008).

“Aided by another person actually present” means more than proving another person is present during the robbery:

Only the person who actually engages in active conduct constituting third degree robbery may be directly culpable for violation of this section. State v. Rennells, 213 Or App 423 (2007).

However, a person who does not actively engage in conduct constituting third degree robbery may still be culpable under an aiding and abetting theory. State v. Smith, 229 Or App 243 (2009).

Where the person knew defendant tried on clothing in store and security officers attempted to stop defendant from leaving, then person drove car with passenger defendant away from officers, jury could find that person aided defendant with intent to facilitate robbery and that defendant was therefore “aided by another person actually present.” State v. Morgan, 361 Or 47 (2017).

Bottom line: We need more proof than simply establishing another person stood there and watched someone else commit a Robbery III. The second person needs to be involved.



Robbery I – ORS 164.415 – Class A Felony

Violates ORS 164.395, plus:

1. Armed with a deadly weapon; or
2. Uses or attempts to use a dangerous weapon; or
3. Causes or attempts to cause serious physical injury to any person.

Reference our discussion above under Burglary I, regarding the difference between “armed with” and “uses or attempts to use.”

The use of or attempted use of a dangerous weapon includes the use of a dangerous weapon to threaten the victim. State v. Osborne, 242 Or App 85 (2011).

Criminal Law

Parts 3 & 4: Persons

BASIC POLICE ACADEMY





Criminal Law 3: Person Offenses

Instructional Goal:

This course is designed to develop a new officer's understanding of person offenses defined by the Oregon Criminal Code.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify the type of offense using the Oregon Criminal Code Book
2. Distinguish level of offense using the Oregon Criminal Code Book
3. Articulate the elements of a given crime
4. Analyze a situation and determine if there is an applicable ORS offense represented

Content Outline:

- Criminal Code Definitions
- Assault Offenses
- Criminal Homicide Defined
- Criminal Homicide Offenses
- Other Person Offenses



Criminal Code Definitions

Many of the most frequently used criminal code definitions are found in ORS 161.015 titled “General definitions.” Several examples of these are found below, starting with Physical Injury – ORS 161.015 (7).

Additionally, each “statutory scheme” defining related crimes usually begins with a statute providing all necessary definitions (see, e.g., “Burglary and Criminal Trespass”). The first statute, ORS 164.205, is titled, “Definitions for ORS 164.205 to 164.270.” This structure is commonly found throughout the criminal code.

Physical Injury – ORS 161.015 (7) - An injury that impairs a person’s physical condition or causes substantial pain.

<p><u>“Impairment of physical condition</u> Harm to the body that results in a reduction in one’s ability to use the body or a bodily organ for less than a protracted period of time.” <u>State v. Higgins</u>, 165 Or App 442 (2000).</p>	<p>“The term ‘<u>substantial pain</u>’ refers to the degree and duration of pain suffered by the victim. To be substantial, pain must be ‘ample’...or considerable,’...that requirement excludes pain that is fleeting or inconsequential.” <u>State v. Poole</u>, 175 Or App 258 (2001).</p>	<p>“Bruising alone, without evidence of physical impairment, is not sufficient to establish impairment of physical condition.” <u>State v. Wright</u>, 253 Or App 401 (2012).</p>
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Serious Physical Injury – ORS 161.015 (8)

A physical injury which:

1. Creates a substantial risk of death; or
2. Causes serious and protracted disfigurement; or
3. Causes protracted impairment of health; or
4. Causes protracted loss or impairment of the function of a bodily organ.



Dangerous Weapon – ORS 161.015 (1)

Any weapon, device, instrument material or substance which under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury.

<p>“That an instrument constitutes a dangerous weapon is not established by what injury did result, but what injury could have resulted under the circumstances.”</p> <p><u>State v. Wier</u>, 22 Or App 549 (1975)</p>	<p>As a matter of law, a bare human hand cannot be a dangerous weapon.</p> <p><u>State v. Wier</u>.</p>	<p>As a matter of law, a defendant’s own teeth are not a dangerous weapon.</p> <p><u>State v. Kuperus II</u>, 241 Or App 605 (2011).</p>
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Deadly Weapon – ORS 161.015 (2)

Any instrument, article, or substance specifically designed for and presently capable of causing death or serious physical injury.

Physical Force – ORS 161.015 (6)

Includes, but is not limited to, the use of an electrical stun gun, tear gas or mace.

Deadly Physical Force – ORS 161.015 (3)

Means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

The threat of deadly force does not constitute the use of deadly force.

State v. Taylor, 182 OR App 243 (2002).



Peace Officer – ORS 161.015 (4)

Means a member of the Oregon State Police; a sheriff, constable, marshal, or municipal police officer; a reserve officer as defined in ORS 133.005 (4); a police officer commissioned by a university under ORS 352.121 or 353.125; an investigator of the Criminal Justice Division of the DOJ or a DA's office; an authorized tribal police officer as defined in ORS 181A.680; a regulatory specialist exercising authority described in ORS 471.775 (2); a humane special agent as defined in ORS 181A.345, and such other persons as may be designated by law.



Describe the differences between physical injury and serious physical injury.

Describe the differences between dangerous weapon and deadly weapon.



Assault

Assault IV – ORS 163.160

- Occurs when someone
 - Intentionally, knowingly or recklessly causes physical injury to another; or
 - With criminal negligence causes physical injury to another by means of a deadly weapon.
- Assault IV is a Class C felony when a person commits Assault in the Fourth Degree and
 - The person has been previously convicted of assault, strangulation or menacing, or under equivalent laws of another jurisdiction, against the same victim; or
 - The person has previously been convicted at least three times of assault, strangulation or menacing, or under equivalent laws of another jurisdiction, against any victim; or
 - Assault is committed in the immediate presence of, or is witnessed by the person's or the victim's minor child or stepchild or a minor child residing within the household of the person or victim; or

Definitions: An assault is “witnessed” if the assault is seen or directly perceived in any manner by the child. “The state must prove that the child personally saw or through some other firsthand sense or sensation was conscious of and recognized the assaultive conduct as it occurred.” State v. Bivins, 191 Or App 460 (2004).

A child “directly perceives” an assault “if the child contemporaneously is aware through any of the child's senses that an assault is occurring, i.e., that one person is causing injury to another.” State v. Rader, 348 Or 81 (2010).

- The person knew the victim was pregnant.



Assault III – ORS 163.165 – Class C Felony

Is the charge when the person:

- Recklessly causes serious physical injury to another by means of a deadly or dangerous weapon. If the assault resulted from the operation of a motor vehicle, and the defendant was DUII, this is a Class B felony.
- Recklessly causes serious physical injury to another under circumstances manifesting extreme indifference to the value of human life. If the assault resulted from the operation of a motor vehicle, and the defendant was DUII, this is a Class B felony.
- Recklessly causes physical injury to another by means of a deadly or dangerous weapon under circumstances manifesting extreme indifference to the value of human life;
- Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical injury to the operator of a “public transit vehicle,” while the operator is in control of or operating the vehicle;
- While being aided by another person actually present, intentionally or knowingly causes physical injury to another;
- While committed to a youth correction facility, intentionally or knowingly causes physical injury to another knowing the other person is a staff member while the other person is acting in the course of official duty;
- Intentionally, knowingly or recklessly causes physical injury to a paramedic or EMT while paramedic or EMT performing official duties;
- A person at least 18 years old intentionally or knowingly causes physical injury to a child 10-years old or younger; or
- Intentionally, knowingly or recklessly causes, by means other than a motor vehicle, physical injury to the operator of a taxi while the operator is in control of the taxi; or



- Intentionally, knowingly or recklessly causes physical injury to a flagger or a highway worker while the flagger or highway worker is performing official duties.

Definitions:

<p style="text-align: center;"><u>“Public Transit Vehicle”</u></p> <p>A vehicle used for public transportation or operated by or under contract to any public body in order to provide public transportation. (ORS 166.116)</p>	<p style="text-align: center;"><u>“Staff Member”</u></p> <p>A corrections officer (ORS 181A.355), a youth correction officer, a youth correction facility staff member, a DOC or OYA staff member or a person employed pursuant to a contract with the department or youth authority to work with, or in the vicinity of, inmates, youth or youth offenders; and a volunteer authorized by the department or youth authority or other entity in charge of a correctional facility to work with, or in the vicinity of, inmates, youth or youth offenders.</p>
<p style="text-align: center;"><u>“Aided by another person actually present”</u></p> <p>In <u>State v. Hesedahl</u>, 247 Or App 285 (2011) the Court of Appeals ruled that a defendant is “aided” by a person if the person was “at hand, or within reach, sight or call during” the assault and “presented an added threat to the victim’s safety.” Hesedahl had argued that “verbal encouragement” to the person committing the assault does not constitute “aiding” within the meaning of that term as previously defined by case law to include: “to support, help, assist or strengthen...act in cooperation with, supplement the efforts of others.” The court disagreed, ruling that the legislature’s use of the word “aided,” when accompanied by the other person’s (defendant’s companion) proximity, encompasses verbal encouragement.</p>	<p style="text-align: center;"><u>“Extreme indifference to the value of human life”</u></p> <p>Oregon courts have held this additional language does not create an additional culpable mental state. Instead, “it imputes a heightened degree of blameworthiness to the defendant’s conduct by reference to the attendant circumstances.” <u>State v. Cook</u>, 163 Or App 578 (1999). It refers to a “state of mind where an individual cares little about the risk of death of a human being.” <u>State v. Forrester</u>, 203 Or App 151 (2005).</p> <p>Several Oregon court opinions have addressed the “extreme indifference” element in the context of driving while intoxicated and support the proposition that a jury may find extreme indifference based on a defendant’s intoxication <i>combined with</i> other evidence of his or her conduct.</p>



Assault II – ORS 163.175 – Class B Felony

Is the charge when the person:

- Intentionally or knowingly causes serious physical injury; or
- Intentionally or knowingly causes physical injury with a deadly/dangerous weapon; or
- Recklessly causes serious physical injury with a deadly or dangerous weapon under circumstances manifesting an extreme indifference to the value of human life.

Assault I – ORS 163.185 – Class A Felony

Is the charge when the person:

- Intentionally causes serious physical injury to another with a deadly or dangerous weapon; or
- Intentionally or knowingly causes serious physical injury to a child under six years of age, or;
- Violates ORS 163.175 (Assault II) knowing that the victim is pregnant: or
- Intentionally, knowingly, or recklessly causes serious physical injury to another while operating a motor vehicle under the influence of intoxicants and the person has either:
 - At least three previous convictions for driving while under the influence of intoxicants in the 10 years prior to the date of the current offense; or
 - A prior conviction of manslaughter in the first or second degree, criminally negligent homicide, or assault in the first, second, or third degree, in which the death or serious physical injury was caused by the person driving a motor vehicle.

Assaulting a Public Safety Officer – ORS 163.208 – Class C Felony

Requires a person to intentionally or knowingly cause physical injury to a PSO, knowing the victim to be a PSO, and while the PSO (defined as a peace officer, corrections officer, youth corrections officer, parole and probation officer, animal control officer, firefighter or staff member) is acting in the course of his or her official duty.



CRIME	MENTAL STATE	INJURY	WEAPON	SPECIAL CIRCUMSTANCE
Assault IV	Intentionally, Knowingly, or Recklessly	Physical Injury		Elevated to Felony if: 1. A prior conviction for assaulting the same victim 2. Three prior similar convictions 3. In the immediate presence of OR witnessed (perceived by any of the senses) by a child (victim's, suspect's or child residing in home) 4. The suspect knows the victim is pregnant
	Criminal Negligence	Physical Injury	Deadly	
Assault III	Recklessly	Serious Injury	Deadly or Dangerous	
	Reckless + Extreme Indifference	Serious Injury		
	Reckless + Extreme Indifference	Physical Injury	Deadly or Dangerous	
	Intentionally, Knowingly, or Recklessly	Physical Injury		By means other than motor vehicle To the operator of public transit or taxi while the operator is in control of the vehicle
	Intentionally or Knowingly	Physical Injury		While aided by another person actually present
	Intentionally or Knowingly	Physical Injury		By person committed to a juvenile facility To Person known to be staff member while performing official duties



	Intentionally, Knowingly, or Recklessly	Physical Injury		To paramedic or EMT while performing official duties
	Intentionally or Knowingly	Physical Injury		Suspect at least 18 to child ten or <
Assault II	Intentionally or Knowingly	Serious Injury		
	Intentionally or Knowingly	Physical Injury	Deadly/ Dangerous	
	Reckless + Extreme Indifference	Serious Injury	Deadly/ Dangerous	
Assault I	Intentionally	Serious Injury	Deadly/ Dangerous	
	Intentionally or Knowingly	Serious Injury		To child under 6 years of age
	Commits Assault II			Knowing the victim is pregnant
	Intentionally/ Knowingly/ Recklessly	Serious Injury		While operating vehicle as DUII and has three prior DUII's in last ten years, or prior Man I/II, Criminal Negligent, Assault I/II/III by means of driving



 *Check Your Understanding*

Describe the differences between Assault IV and Assault III.

Provide some examples of each of the following offenses that you might encounter in the field:

Assault IV	
Assault III	
Assault II	
Assault I	
Assaulting a Public Safety Officer	



Criminal Homicide Defined – ORS 163.005

Occurs if without justification or excuse the person intentionally, knowingly, recklessly, or with criminal negligence causes the death of another human being.

Definitions:

<u>Criminal homicide</u>	<u>Human being</u>
Murder, manslaughter, criminally negligent homicide, or aggravated vehicular homicide.	A person who has been born and was alive at the time of the criminal act (does not apply to fetuses).

Criminal Homicide Offenses

Murder in the Second Degree – ORS 163.115

- Is an intentional homicide.
- Felony Murder/ An alternative theory of Murder 2 – ORS 163.115 (1)(b)
 - Is the charge when a death occurs while the person is committing, attempting to commit, or during immediate flight from the commission of a designated felony crime. The death must be of a non-participant. The qualifying felonies are Arson I, Criminal Mischief I by means of an explosive, Burglary I, Escape I, Kidnapping I or II, Robbery I, First Degree felony sex crimes, or compelling prostitution. Assault I, as defined in ORS 163.185, and the victim is under 14 years of age, or Assault II, as defined in ORS 163.175 (1)(a) or (b) and the victim is under 14 years of age.
 - An affirmative defense to felony murder may apply if all of the following are met:
 - There is more than one participant; and
 - The person did not commit homicidal act or in any way solicit, request, command, importune, cause or aid in the commission of homicidal act; and
 - Was not armed with a dangerous or deadly weapon; and
 - Had no reasonable ground to believe that any other participant was armed with a dangerous or deadly weapon; and
 - Had no reasonable ground to believe that any other person intended to engage in conduct likely to result in death.



- Murder by Abuse/ An alternative theory of Murder 2 – ORS 163.115 (1) (c)
 - Occurs when the person recklessly, under circumstances indicating an extreme indifference to the value of human life, causes the death of a child under 14 or a dependent person; and
 - The person must have previously engaged in a pattern or practice of assault or torture the victim or another child under 14 years of age or dependent person; or
 - The death was caused by neglect or maltreatment.

Definitions:

<p style="text-align: center;"><u>Dependent person (ORS 163.205)</u></p> <p>A person who because of either age or a physical or mental disability is dependent upon another to provide for the person’s physical needs</p>	<p style="text-align: center;"><u>Assault (ORS 163.115 (6)(a))</u></p> <p>To intentionally, knowingly or recklessly cause physical injury to another person.</p>	<p style="text-align: center;"><u>Neglect or maltreatment (ORS 163.115 (6)(b))</u></p> <p>Failing to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child under 14 years of age or dependent person; or a violation of ORS 163.535 (Abandonment of child under 15), ORS 163.545 (Leaving a child under 10 unattended), or ORS 163.547 (Allowing child under 16 in area of controlled substance delivery or manufacture).</p>
<p style="text-align: center;"><u>Pattern or practice (ORS 163.115 (1)(c))</u></p> <p>One or more previous episodes.</p>	<p style="text-align: center;"><u>Torture (ORS 163.115 (6)(d))</u></p> <p>To intentionally inflict intense physical pain upon an unwilling victim as a separate objective apart from any other purpose.</p>	



Murder in the First Degree – ORS 163. _ _ _ (yet to be determined by the legislature)

Occurs when one of the following “special circumstances” is present. The maximum penalty possible for Murder is the death penalty. Another possibility is life without the possibility of release or parole or life with the possibility of parole after a minimum of 30 years.

Special circumstances:

- Murder for hire
- Solicited murder
- Prior homicide conviction (Murder in the First Degree or “old” Aggravated Murder statute)
- More than one victim in the same criminal episode
- During the course of intentional maiming or torture
- The victim of the intentional homicide was a person under the age of 14 years old.
- The victim was one of the following, and the murder was related to the performance of the victim’s official duties in the justice system:
 - A police officer;
 - A correctional, parole or probation officer or other person charged with the duty of custody, control or supervision of convicted persons;
 - A member of the Oregon State Police;
 - A judicial officer as defined in ORS 1.210;
 - A juror or witness in a criminal proceeding;
 - An employee or officer of a court justice;
 - A member of the State Board of Parole and Post-Prison Supervision; or
 - A regulatory specialist.
- The defendant was confined in a state, county, or municipal penal or correctional facility or was otherwise in custody when the murder occurred.
- Caused by explosives
- Felony murder committed intentionally and personally by the defendant
- Effort to conceal crime or identity of the perpetrator
- After an escape from a state, county or municipal penal or correctional facility and before defendant had been returned to the custody of the facility



Alternative proof of certain victims of Murder in the First Degree or Aggravated Murder

- ORS 163.098

“Notwithstanding ORS 163.095, when an element of a crime charged is that the victim of the crime is a police officer as defined in ORS 181A.355 and the crime was related to the officer’s performance of official duties, the state may alternatively prove that the victim of the crime is a certified reserve officer or a reserve officer, as those terms are defined in ORS 181A.355, and the crime was related to the officer’s performance of official duties.”

Aggravated Murder – ORS 163.095 – Unclassified Felony

The 2019 legislature in SB 1013 amended the crime of Aggravated Murder to include only the following circumstances:

- Criminal homicide of two or more persons that is premeditated and committed intentionally and with the intent to:
 - Intimidate, injure or coerce a civilian population,
 - Influence the policy of a government by intimidation or coercion, or
 - Affect the conduct of a government through destruction of property, murder, kidnapping or aircraft piracy;or
- Murder in the Second Degree
 - Committed while the defendant was confined in a correctional facility or was otherwise in custody, and after the defendant had been previously convicted of Murder in the First Degree (what used to be Aggravated Murder);or
- That is premeditated and committed intentionally against a
 - Person under 14 years of age,
 - Law enforcement officer and is related to the performance of the victim’s performance of his/her official duties,or
- Correctional or P&P officer or other person with the duty of custody, control, or supervision of convicted persons related to the victim’s performance of his/her official duties.



Manslaughter I – ORS 163.118 – Class A Felony

Criminal homicide committed:

- Recklessly under circumstances manifesting an extreme indifference to the value of human life;
or
- Intentionally by a defendant under the influence of an extreme emotional disturbance, as provided in ORS 163.135, which constitutes a mitigating circumstance reducing the homicide that would otherwise be murder to manslaughter in the first degree and need not be proved in any prosecution; or
- Which constitutes a “Murder by Abuse” recklessly caused, but not under circumstances manifesting extreme indifference to the value of human life; or
- Recklessly or with criminal negligence while driving a motor vehicle under the influence of intoxicants and the person has either:
 - At least three prior convictions for DUII within 10 years of the current offense, or
 - A prior conviction of Assault I, II, or III in which serious physical injury was caused by the person driving a motor vehicle.

Manslaughter II – ORS 163.125 – Class B Felony

Criminal homicide committed:

- Recklessly; or
- When a person intentionally causes or aids another in committing suicide, except as authorized by the Assisted Suicide Law; or
- “Murder by Abuse” when caused with criminal negligence.

Criminally Negligent Homicide – ORS 163.145 – Class B Felony

Is the charge when someone causes the death of another with criminal negligence.



Explain how you would distinguish between manslaughter offenses and murder offenses.

What examples of Criminally Negligent Homicide can you think of that you've heard about, known about, seen on the news, or that you might encounter in the field?



Other Person Offenses

Strangulation – ORS 136.187 – Class A Misdemeanor

Is the charge when a person:

- Knowingly impedes the normal breathing or circulation of the blood of another person by:
 - Applying pressure on the throat, neck or chest of the other person; or
 - Blocking the nose or mouth of the other person.
- * Note: This does not apply to legitimate medical or dental procedures or good faith practices of a religious belief.

- Strangulation is a Class C felony when a person commits strangulation and
 - Strangulation is committed in the immediate presence of, or is witnessed by, the person's or the victim's minor child or stepchild or a minor child residing within the household of the person or the victim;

 - The victim is under 10 years of age;

 - The victim is a family or household member (see ORS 135.230);

 - During the commission of the crime, the person used attempted to use or threatened to use a dangerous or deadly weapon unlawfully against another person;

 - The person has been previously convicted of strangulation, assault, or menacing, or under equivalent laws of another jurisdiction, against the same victim;

 - The person has at least three prior convictions for strangulation, assault, or menacing, or under equivalent laws of another jurisdiction, against any victim; or

 - The person commits the strangulation knowing that the victim is pregnant.



Menacing – ORS 163.190 – Class A Misdemeanor

Occurs when a person, by word or conduct, intentionally attempts to place another 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.

Recklessly Endangering Another – ORS 163.195 – Class A Misdemeanor

Occurs when a person recklessly engages in conduct, which creates a substantial risk of serious physical injury to another person.

Criminal Mistreatment II – ORS 163.200 – Class A Misdemeanor

A person commits the crime of criminal mistreatment in the second degree if, with criminal negligence and:

- In violation of a legal duty to provide care for another person, the person withholds necessary and adequate food, physical care or medical attention from that person; or
- Having assumed the permanent or temporary care, custody, or responsibility for the supervision of another person, the person withholds necessary and adequate food, physical care, or medical attention from that person.
- “Legal duty” includes, but is not limited to, a duty created by familial relationship, court order, contractual agreement, or statutory or case law.



Criminal Mistreatment I – ORS 163.205 – Class C Felony

A person commits the crime of criminal mistreatment in the first degree if:

- The person, in violation of a legal duty to provide care for another person, or having assumed the permanent or temporary care, custody or responsibility for the supervision of another person, intentionally or knowingly withholds necessary and adequate food, physical care or medical attention from that other person; or
- The person, in violation of a legal duty to provide care for a dependent person or elderly person, or having assumed the permanent or temporary care, custody or responsibility for the supervision of a dependent person or elderly person, intentionally or knowingly:
 - Causes physical injury or injuries to the dependent person or elderly person.
 - Deserts the dependent person or elderly person in a place with the intent to abandon that person;
 - Leaves the dependent person or elderly person unattended at a place for such a period of time as may be likely to endanger the health or welfare of that person;
 - Hides the dependent person's or elderly person's money or property or takes the money or property for, or appropriates the money or property to, any use or purpose not in the due and lawful execution of the person's responsibility;
 - Takes charge of a dependent or elderly person for the purpose of fraud; or
 - Leaves the dependent person or elderly person, or causes the dependent person or elderly person to enter or remain, in or upon premises where a cannabinoid extract is being processed and that have not been licensed under ORS 475B.090; or
 - Leaves the dependent person or elderly person, or causes the dependent person or elderly person to enter or remain, in or upon premises where a chemical reaction involving one or more precursor substances:
 - Is occurring as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance; or
 - Has occurred as part of unlawfully manufacturing a controlled substance or grinding, soaking or otherwise breaking down a precursor substance for the unlawful manufacture of a controlled substance and the premises have not been certified as fit for use under ORS 453.885.



Criminal Mistreatment Definitions:

<p align="center"><u>“Dependent person”</u></p> <p>A person who because of either age or physical or mental disability is dependent upon another to provide the person’s physical needs.</p>	<p align="center"><u>“Elderly person”</u></p> <p>A person 65 years of age or older.</p>
<p align="center"><u>“Legal duty”</u></p> <p>Includes, but is not limited to, a duty created by familial relationship, court order, contractual agreement, or statutory or case law.</p>	<p align="center"><u>“Withhold necessary and adequate physical care”</u></p> <p>A person withholds necessary and adequate physical from a dependent person when the person keeps back from the dependent person those physical services and attention that are necessary to provide for the dependent person’s bodily needs. <u>State v. Baker-Krofft, et al., 348 Or 655 (2010).</u></p>

 *Check Your Understanding*

Provide some examples of each of the following offenses that you might encounter in the field:

Menacing	
Recklessly Endangering Another Person	
Criminal Mistreatment I	
Criminal Mistreatment II	



Subjecting Another to Involuntary Servitude I-II and Trafficking in Persons

Subjecting another person to Involuntary Servitude II – ORS 163.263 – Class C Felony

A person commits the crime of subjecting another person to involuntary servitude in the second degree when the person:

- Knowingly and without lawful authority forces or attempts to force the other person to engage in services by:
 - Abusing or threatening to abuse the law or legal process;
 - Destroying, concealing, removing, confiscating or possessing an actual or purported passport or immigration document or another actual or purported government identification document of a person;
 - Threatening to report a person to a government agency for the purpose of arrest or deportation;
 - Threatening to collect an unlawful debt; or
 - Instilling in the other person a fear that the actor will withhold from the other person the necessities of life, including but not limited to lodging, food, and clothing.

Subjecting another person to Involuntary Servitude I – ORS 163.264 – Class B Felony

A person commits the crime of subjecting another person to involuntary servitude in the first degree if the person:

- Knowingly and without lawful authority forces or attempts to force the other person to engage in services by:
 - Causing or threatening to cause the death of or serious physical injury to a person; or
 - Physically restraining or threatening to physically restrain a person.

Definition:

“Services”

Activities performed by one person under the supervision or for the benefit of another person.



Trafficking in Persons – ORS 163.266

A person commits the crime of trafficking in persons when the person:

- Knowingly recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person and one of the following:
 - The person knows that the other person will be subjected to involuntary servitude (Class B Felony); or
 - The person knows or recklessly disregards the fact that force, fraud or coercion will be used to cause the other person to engage in a commercial sex act (Class A Felony); or
 - The person knows or recklessly disregards the fact that the other person is under 18 years of age and will be used in a commercial sex act (Class A Felony).

Or

- Knowingly benefits financially or receives something of value from participation in a venture that involves an act of trafficking or subjecting another person to involuntary servitude.

Definition:

“Commercial sex act”
Sexual conduct or sexual contact, as those terms are defined in ORS 167.002, performed in return for a fee or anything of value.



Criminal Law 4: Person Offenses

Instructional Goal:

This course is designed to develop a new officer's understanding of person offenses defined by the Oregon Criminal Code.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify the type of offense using the Oregon Criminal Code Book
2. Distinguish level of offense using the Oregon Criminal Code Book
3. Articulate the elements of a given crime
4. Analyze a situation and determine if there is an applicable ORS offense represented

Content Outline:

- Kidnapping
- Custodial Interference
- Sexual Offenses
 - Rape
 - Sodomy
 - Unlawful Sexual Penetration
 - Sexual Abuse
 - Indecency
- Offenses Against Family
 - Abandonment
 - Child Neglect
 - Endangering the Welfare of a Minor



Kidnapping and Related Offenses

Kidnapping

A suspect commits <u>kidnapping</u> by:	
1) Taking the victim from one place to another, or secretly confining the victim in a place where the victim is not likely to be found; and	2) Doing so with the intent to substantially interfere with the victim's personal liberty.

A suspect does not commit kidnapping when the suspect has consent from the victim, or the suspect has legal authority to move or confine the person.

Looking at the first element, the phrase “secretly confining the victim” has the common meaning. When determining if the suspect took the victim from one place to another, the suspect must have changed the position of the victim such that the victim's ending place is qualitatively different from the victim's starting place. Given this, if a suspect is assaulting a victim and moving her from one room to another as the suspect assaults her, this does not satisfy the asportation (i.e., movement) element, because nothing about the different rooms increased the control over or further isolated the victim. State v. Kinslow, 257 Or App 295 (2013). Conversely, moving a victim 15 feet from an open driveway into the trunk of a car satisfies asportation, because the ending location – more mobile and isolated – is qualitatively different than the beginning location. State v. Walch, 346 Or 463 (2009).

Turning to the second element, the suspect must have the intent (i.e., conscious objective) to either move the victim a substantial distance or confine the victim for a substantial period of time. Said, in another way, there is no minimum required distance or amount of time, rather the focus is on the suspect's intent when he or she commits the act. State v. Wolleat, 338 Or 469 (2005).



Degrees

- ORS 163.225, Kidnapping in the Second Degree requires proof of both of the above elements.
- ORS 163.235, Kidnapping in the First Degree requires proof of both of the above elements, as well as proof that the suspect acted with any of the following purposes:
 - To compel any person to pay or deliver money or property as ransom;
 - To hold the victim as a shield or hostage;
 - To cause physical injury to the victim;
 - To terrorize the victim or another person; or
 - To further the commission or attempted commission of any of the following crimes against the victim: Rape I, Sodomy I, Unlawful Sexual Penetration I.

Examples:

- A suspect points a gun at two people and orders them to go inside the bar so he can rob the bar – Kidnapping II
- Once inside the bar, the suspect points his gun at everyone and tells them to put their hands on the bar. The suspect then orders the bartender to move to the other end of the bar and open the cash register – not kidnapping as the ending location of the victims is not qualitatively different than the beginning
- A suspect lures a 10-year-old victim into his van with a ruse about a lost dog so that he can forcibly commit sexual intercourse on her – Kidnapping I
- While running away from the police, a suspect scoops up a small child and holds the child up to prevent the police from shooting him as the suspect continues to move away from the police – Kidnapping I



Custodial Interference

A suspect commits <u>custodial interference</u> by:	
1) the suspect knows he or she has no legal right to do so while the suspect takes, entices, or keeps another person from that person's lawful custodian, and	2) the suspect has the intent to hold the victim permanently or for a protracted period of time.

The first element is satisfied when the suspect knows she or he has no legal right to custody of the victim. Additionally, even if the person has equal custody rights with another person, the suspect may not keep the child from the other person with joint custody. This is equally true if there is a valid joint custody order.

In the second element, the term “keep” means “to maintain something or somebody in a particular place, situation, or condition.” State v. Adicho, 197 Or App 394 (2005). Given this, if the suspect allows a runaway to stay overnight at the suspect's house, the suspect has committed custodial interference even if the suspect did not prevent the runaway from leaving.

Degrees

- ORS 163.245, Custodial Interference in the Second Degree – requires proof of both of the above elements.
- ORS 163.257, Custodial Interference in the First Degree – requires proof of both of the above elements and the suspect:
 - Causes the victim to be removed from the state; or
 - Exposes the victim to a substantial risk of illness or physical injury.



Examples:

- Suspect, who is the 15-year-old's grandfather, picks up the minor from school without the parent's permission with the intent to go camping for a week – Custodial Interference II
- Suspect, who is the child's father, picks up the child from daycare with the intent to take the child on a 3-day vacation to the coast without the child's mother's permission - Custodial Interference II
- Suspect, who is the child's mother, picks up the child from the foster parent with the intent to flee to Canada, because the court placed the child in the temporary legal custody of the Department of Human Services (DHS) - Custodial Interference I

Sexual Offenses

Rape

A suspect commits rape when the suspect has sexual intercourse with another person without the consent of that person.

Sexual intercourse “has its ordinary meaning and occurs upon penetration, however slight; emission is not required.” ORS 163.305(7). Additionally, beyond the ordinary meaning of without consent, a person is legally incapable of consenting to a sexual act if the person is: under 18 years of age (yoa), mentally defective, mentally incapacitated, or physically helpless. ORS 163.315.

When charging specific acts of sexual offenses, if the basis of the lack of consent is not found in the statute, Sexual Abuse in the Second Degree (see below) provides a general charging statute for all other behavior. For example, if a suspect has sexual intercourse with a victim who is 13 yoa, the suspect would be charged with Rape II. Still, if a suspect has sexual intercourse without the consent of a victim who is 24 yoa, the suspect would be charged with Sex Abuse II so long as the victim was not mentally defective, mentally incapacitated, or physically helpless.



Degrees

- ORS 163.355, Rape in the Third Degree – sexual intercourse with a victim under 16 yoa.
- ORS 163.365, Rape in the Second Degree – sexual intercourse with a victim under 14 yoa.
- ORS 163.375, Rape in the First Degree – sexual intercourse with a victim who is:
 - Subjected to forcible compulsion;
 - Under 12 yoa;
 - Under 16 yoa and is the suspect’s sibling, of the whole or half-blood, or the suspect’s child or the suspect’s spouse’s child; or
 - Incapable of consent by reason of mental defect, mental incapacitation, or physical helplessness.

Forcible Compulsion Means:

- To compel by physical force or a threat (express or implied)
- Places the victim in fear of (immediate or future) death or physical injury
- Regarding the victim or another person
- Or in fear that the victim, or another person, will (immediately or in the future) be kidnapped

A suspect must knowingly subject the victim to forcible compulsion. State v. Wier, 260 Or App 341 (2013). Furthermore, forcible compulsion must be greater in degree or different in kind than the force inherent in subjecting a victim to sexual contact, and, while it must compel the victim to engage in the contact, it need not rise to the level of violence; considerations include the victim’s age, the differences in the parties’ age, size and strength, and their relationship. State v. Marshall, 350 Or 208 (2011).

Examples:

- Suspect has sex with a girl who is 15 yoa – Rape III
- Suspect has sex with his sister who is 15 yoa – Rape I
- Suspect tells the victim that he will shoot her in the head if she does not let him have sex with her – Rape I



Sodomy

A suspect commits sodomy when the suspect has oral or anal sexual intercourse with another person without the consent of that person.

Oral and anal sexual intercourse means sexual conduct between persons consisting of contact between the sex organs of one person and the mouth or anus of another. ORS 163.305(4). The same definition of consent applies to all sexual offenses, as discussed in rape above.

Degrees

- ORS 163.385, Sodomy in the Third Degree – oral or anal sexual intercourse with a victim under 16 yoa, or causing the victim to engage in oral or anal intercourse.
- ORS 163.395, Sodomy in the Second Degree – oral or anal sexual intercourse with a victim under 14 yoa, or causing the victim to engage in oral or anal intercourse.
- ORS 163.405, Sodomy in the First Degree – oral or anal sexual intercourse with a victim who is:
 - Subjected to forcible compulsion;
 - Under 12 yoa;
 - Under 16 yoa and is the suspect’s sibling, of the whole or half-blood, or the suspect’s child or the suspect’s spouse’s child; or
 - Incapable of consent by reason of mental defect, mental incapacitation, or physical helplessness.

Examples:

- Suspect performs oral sex on a girl who is 13 yoa – Sodomy II
- Suspect has a girl who is 11 yoa perform oral sex on him – Sodomy I
- Suspect performs anal intercourse on a female who is passed out due to intoxication – Sodomy I

Unlawful Sexual Penetration



A suspect commits unlawful sexual penetration when the suspect penetrates the vagina, anus or penis of another with any object other than the penis or mouth of the suspect without consent of that person. See the section on rape for the topic of consent.

Degrees

- ORS 163.408, Unlawful Sexual Penetration (USP) in the Second Degree – penetration as described above with a victim under 14 yoa.
- ORS 163.411, USP in the First Degree – penetration as described above and the victim is:
 - Subjected to forcible compulsion;
 - Under 12 yoa;
 - Incapable of consent by reason of mental defect, mental incapacitation, or physical helplessness.

Examples:

- Suspect puts a sex toy in the anus of a boy who is 13 yoa – USP II
- Suspect asks the victim if he can put a sex toy in her vagina and when she says no, he smacks her in the face before forcing her legs apart and inserting the object in her vagina – USP I



Sexual Abuse

In its most common form, a suspect commits sexual abuse when the suspect subjects the victim to sexual contact, and the victim does not consent.

Sexual contact means any touching of the sexual or intimate parts of a person or causing the victim to touch the same parts of the suspect for a sexual purpose. A sexual purpose means to arouse or gratify the sexual desire of any person. As previously mentioned, see the rape section for a discussion on consent.

Sexual abuse also includes sexual activity with victims over 18 yoa who do not consent to the activity. This sexual activity is outlined below but includes the acts discussed in rape, sodomy, and USP, as well as propelling a dangerous substance (i.e., semen, blood, urine, feces) at a victim for a sexual purpose.

Degrees

- ORS 163.415, Sexual Abuse in the Third Degree – the suspect subjects the victim to sexual contact and:
 - The victim does not consent;
 - The victim is under 18 yoa; or
 - The suspect propels a dangerous substance at the victim without consent for a sexual purpose.
- ORS 163.425, Sexual Abuse in the Second Degree – the suspect subjects the victim to sexual, oral or anal sexual intercourse, USP without consent, or the suspect, who is 21 yoa or older, commits Sex Abuse III and at any time before the act, the suspect was the victim's coach.



- **ORS 163.427, Sexual Abuse in the First Degree** – the suspect subjects the victim to sexual contact and:
 - The victim is less than 14 yoa;
 - The victim is subject to forcible compulsion;
 - The victim is incapable of consent by reason of mental defect, mental incapacitation, or physical helplessness; or
 - The suspect intentionally causes the victim, who is under 18 yoa, to touch or contact the mouth, anus, or sex organs of an animal for a sexual purpose.

Examples:

- Suspect caresses the victim, who is 46 yoa, on the buttocks without consent – Sex Abuse III
- Suspect has sex without the consent of the victim, who is 34 yoa – Sex Abuse II
- Suspect has the victim, who is 12 yoa, stroke his penis – Sex Abuse I
- Suspect tells the victim, who is 17 yoa, to masturbate a dog because it sexually excites him and the victim performs the act – Sex Abuse I

Sexual Delinquency and Misconduct

<p>A suspect commits Contributing to the Sexual Delinquency of a Minor when the suspect is 18 yoa or older, and the suspect has sexual, oral, or anal intercourse with a person who is under 18 yoa. ORS 163.435</p>	<p>A suspect commits Sexual Misconduct when the suspect has sexual, oral, or anal intercourse with an unmarried person who is under 18 yoa. ORS 163.445.</p>
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Note the difference between contributing and misconduct is the age of the suspect. Contributing requires the suspect to be 18 or older, and misconduct is for a suspect who is under 18 yoa.



Defenses	
Ignorance or mistake as a defense	<p>ORS 163.325: When the lack of consent is based solely on the age of the victim, there may be a defense to the crime.</p> <p>If the statutory element requires the victim to be under 16 yoa, it is not a defense if the suspect did not know the age of the victim, or reasonably believed the victim was over 16.</p> <p>However, if the crime is based on the age of the victim, other than an age under 16 yoa, then it is a defense that the suspect reasonably believed the victim was older than the specified age.</p>
Age as a defense	<p>ORS 163.345: When the lack of consent is based solely on the age of the victim, it may be a defense if the suspect is less than three years older than the victim at the time of the offense.</p> <p>This defense may be used when the suspect commits: Rape III, Rape II, Sodomy III, Sodomy II, Sex Abuse III, Sex Abuse II, Sex Abuse I, and Contributing to Sexual Delinquency.</p>

In an investigation of USP II, the three-year age defense applies only when the object used for penetration was the hand. In an investigation for sexual misconduct, the three-year age defense applies only when the victim was at least 15 yoa.

Examples:

- 20 yoa suspect has sexual intercourse with 15 yoa girl, whom the suspect reasonably believed was 17 yoa and within three years of the suspect's age. Not a defense given the victim is under 16 yoa.
- 30 yoa suspect has oral sexual intercourse with a 17 yoa victim. The victim told the suspect that she was 18 yoa, and the suspect reasonably believed her. While this conduct is Sex Abuse II, Contributing to Sexual Delinquency, or Sexual Misconduct, the suspect, may assert a defense based on the reasonable belief that the victim was over 18.



- 18 yoa suspect has sexual intercourse with victim 16 yoa victim who, except for the legal incapacity, is otherwise consenting. While this conduct is Sex Abuse II, Contributing to Sexual Delinquency, or Sexual Misconduct, the suspect, may assert a defense based on the three-year age difference.
- 18 yoa suspect has anal sodomy with 16 yoa victim, who does not give consent. Sex Abuse II – the three-year age defense only applies when the lack of consent is based solely on the age of the victim.

Indecency

ORS 163.465: A suspect commits public indecency when the suspect engages in sexual, oral, or anal intercourse in, or in view of, a public place.

A suspect also commits this offense when the suspect exposes her or his genitals in, or in view of, a public place with the intent to arouse the sexual desire of the suspect or another person. So, if a couple had sex on a park bench, their intent does not matter. However, if a person was riding a bicycle naked down the street, it is not public indecency if the person did not intend to arouse the sexual desire of anyone.

ORS 163.467 A suspect commits private indecency when:

1) the suspect exposes her or his genitals with the intent to arouse the sexual desire of the suspect or another person;	2) the suspect is in a place where another person has a reasonable expectation of privacy;	3) the suspect is in view of the victim;	4) the exposure would be expected to alarm or annoy the victim, and the suspect knows that the victim did not consent to the exposure.
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So, if a suspect is standing in his living room window masturbating with the curtain open while the victim walks by on the sidewalk, the suspect commits private indecency if he knows the victim did not consent.



Offenses against Family

Abandonment

A suspect commits <u>abandonment</u> of a child if:		
1) the suspect is the child’s parent, guardian, or other person charged with the care or custody of a child;	2) the child is under 15 yoa; and	3) the suspect deserts the child in any place with the intent to abandon the child.

The courts have been very particular about proof of the intent to abandon. In one Oregon case, the mother of a 3-year old agreed to sell her daughter for \$1,500. The mother never liked the child, and a neighbor suggested that she give the girl up for adoption. The mother said she wouldn’t give her up without getting some money. The neighbor told the police. An officer then posed as a person interested in “buying” a child. The mother visited with the officer and his “wife” for 45 minutes to get a feel for her daughter’s new home. After 45 minutes, she agreed to sell her child. She took the cash and left her daughter. She was arrested outside the house and prosecuted for child abandonment. The appellate court reversed the decision of the trial court because it found that the mother did not “intend to abandon” the child. She spent 45 minutes assuring herself that the new home was right for her daughter. The court reasoned that the mother, in her own way, was trying to place her daughter in a good home and did not desert her with the intent to abandon her. (Note: this case could have been investigated as selling a person under 18 yoa – ORS 163.537).

Given this court interpretation, to prove the intent to abandon, it often requires admission by the suspect or obvious proof like when the suspect leaves a child playing with toys in a store and then moves out of state with her boyfriend.

Additionally, it is an affirmative defense that the suspect left the child at an authorized facility. ORS 418.017. This applies to a parent who leaves an infant, who is 30 days old or younger and without evidence of abuse, with an employee at a hospital, birthing center, physician’s office, sheriff’s office, police station, or fire station.



Child Neglect

ORS 163.545 A suspect commits Child Neglect in the Second Degree when the suspect:

- | | |
|------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| 1) has custody and control of a child under 10 yoa,
and | 2) leaves the child unattended in or at any place
for a period of time that is likely to endanger the
health or welfare of a child. |
|------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|

Examples:

- A sleeping infant left in a closed car on a 90-degree day to run into the house to make a phone call. The parent is gone for 10 minutes. The temperature inside the car reaches over 125 degrees upon the parent's return.
- Hearing-impaired 4-year old child left alone at home for 30 minutes while babysitter runs to market.
- Parent currently using drugs passes out, and the child wanders outside and is found by police.

ORS 163.547 A suspect commits Child Neglect in the First Degree when the suspect:

- | | |
|------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1) has custody and control of a child under 16 yoa,
and | 2) the suspect knowingly leaves the child, or
allows the child to stay:

a) in a vehicle where controlled substances or
marijuana extracts are being criminally delivered
or manufactures;

b) in or upon premises, or in the immediate
proximity of premises, where a marijuana extract
is being processed at an unlicensed facility;

c) in or upon premises and in the immediate
proximity of DCS/MCS for consideration. |
|------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



The court interpreted section (a) on DCS/MCS in a vehicle to mean an actual delivery. Therefore, if you only have evidence of an intent to deliver without proof of an actual deal that was occurring or arranged to occur in a vehicle with a child under 16 yoa present, this is not Child Neglect I.

The court interpreted section (c) on DCS/MCS in or upon premises and in the immediate proximity slightly more broadly. When determining the “immediate proximity,” it is sufficient if the DCS occurs in the garage, and the children are in the house itself. The court has not made a ruling specifically on constructive deliveries. However, given the difference in the wording of the sections, it is still arguably Child Neglect I for a constructive delivery in the presence of a child under 16 yoa in a residence.

Endangering

ORS 163.575: A suspect commits <u>Endangering the Welfare of a Minor</u> if the person knowingly:			
1) induces, causes or permits an unmarried person under 18 yoa to witness an act of sexual conduct or sadomasochistic abuse;	2) permits a person under 18 yoa to enter or remain in a place where unlawful activity involving controlled substances or cannabis is maintained or conducted;	3) induces, causes or permits a person under 18 yoa to participate in gambling; or	4) sells to a person under 18 yoa controlled substance or cannabis paraphernalia.

The Supreme Court has interpreted section (2) very narrowly. Specifically, “a place where unlawful activity involving controlled substances is maintained or conducted” means that the principal or substantial use of the place is to facilitate unlawful drug activity. In most cases, it is challenging to show that the primary purpose of a residence is for an unlawful activity involving controlled substances, rather than eating, sleeping, etc. Therefore, since this court decision, many District Attorney’s Offices have been unable to file charges under this section even when a young child is exposed to controlled substances. Until the legislature amends this section, try to determine if the risk to the child is of such a degree that it would be sufficient to charge as a Recklessly Endangering Another Person.

Criminal Law Part 5: Public Order & Weapons

BASIC POLICE ACADEMY





Criminal Law 5: Public Order and Weapons Offenses

Instructional Goal:

This course is designed to develop a new officer's understanding of behavioral offenses defined by the Oregon Criminal Code.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify the type of offense using the Oregon Criminal Code Book
2. Distinguish level of offense using the Oregon Criminal Code Book
3. Articulate the elements of a given crime
4. Analyze a situation and determine if there is an applicable ORS offense represented

Content Outline:

- Public Order Offenses
 - Disorderly Conduct II
 - Disorderly Conduct I
 - Harassment
 - Aggravated Harassment
 - Telephonic Harassment
 - Interfering with Public Transportation
- Bias Crime
 - Bias Crime II
 - Bias Crime I
- Bias Crime Reporting Requirements
 - Reporting of Crime Statistics
 - For Felony Sentencing
- Weapons
 - Unlawful Use of a Weapon
 - Carrying a Concealed Weapon
 - Unlawful Possession of a Firearm
 - Possession of Firearm or Ammunition by Certain Persons Prohibited
 - Felon in Possession of a Firearm or Restricted Weapon
 - Possession of a Firearm or Dangerous Weapon in Public Building or Court Facility
 - Felon in Possession of Body Armor
 - Unlawful Possession of Body Armor



Public Order Offenses

Disorderly Conduct II – ORS 166.025

A person commits the crime of disorderly conduct in the second degree if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, the person:

- (a) Engages in fighting or violent, tumultuous or threatening behavior;

This subsection is directed "violent, tumultuous or threatening behavior describe only physical acts of aggression, not speech," and have "their commonly understood referents to physical force." State ex rel Juv. Dept. V. Krieger, 177 Or App 156 (2001). Additionally, the courts have found that actions taken in legal self-defense do not qualify.

- (b) Makes unreasonable noise;

- (c) Disturbs any lawful assembly of persons without lawful authority;

The two subsections above may only be applied to speech if the speech presents a clear and present danger of violence or the speech being punished is content-neutral. The first prong allows for content consideration, while the second does not. The second focuses on the volume, duration, place, manner, and circumstances involved as opposed to what was said.

- (d) Obstructs vehicular or pedestrian traffic on a public way;

- (e) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or

- (f) Creates a hazardous or physically offensive condition by any act which the person is not licensed or privileged to do.

Note that there are two possible ways to prove the mens rea for Disorderly Conduct, and that the inconvenience must be to the public. This does not require that anyone actually be present or inconvenienced, or that the act take place in public. The defendant must intend to do so or recklessly create the risk.

Class B misdemeanor, unless the crime is committed within 200 feet of the real property on which the person knows a funeral service is being conducted.



Disorderly Conduct I – ORS 166.023

A person commits the crime of disorderly conduct in the first degree if, with intent to cause public inconvenience, annoyance or alarm, or knowingly creating a risk thereof, the person initiates or circulates a report, knowing it to be false:

- (a) Concerning an alleged hazardous substance or an alleged or impending fire, explosion, catastrophe or other emergency; and
- (b) Stating that the hazardous substance, fire, explosion, catastrophe, or other emergency is located in or upon a court facility or a public building, as those terms are defined in ORS 166.360.

Disorderly conduct in the first degree is a Class A misdemeanor.

"Court facility" means a courthouse or that portion of any other building occupied by a circuit court, the Court of Appeals, the Supreme Court or the Oregon Tax Court or occupied by personnel related to the operations of those courts, or in which activities related to the operations of those courts take place.

"Public building" means a hospital, a capitol building, a public or private school, as defined in ORS 339.315, a college or university, a city hall, or the residence of any state official elected by the state at large, and the grounds adjacent to each such building. The term also includes that portion of any other building occupied by an agency of the state or a municipal corporation, as defined in ORS 297.405, other than a court facility.

Examples:

Disorderly Conduct I	Disorderly Conduct II



Harassment – ORS 166.065

1. A person commits the crime of harassment if the person intentionally:

A. Harasses or annoys another person by:

Suspect must intend to harass or annoy and must succeed. However, attempted harassment may have been committed in the case where the defendant intends to harass or annoy but fails.

a. Subjecting such other person to offensive physical contact;

Whether physical contact is offensive or not is an objective standard, not based on what the victim's subjective response was. Additionally, no "flesh on flesh" contact is required.

b. Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response; or

This subsection (1)(a)(B) relating to publicly insulting another person has been found unconstitutional by Oregon courts. DO NOT ENFORCE

B. Distributing a visual recording, as defined in ORS 163.665 (Definitions), of the other person engaged in sexually explicit conduct, as defined in ORS 163.665 (Definitions), or in a state of nudity, as defined in ORS 163.700 (Invasion of personal privacy in the second degree), when the other person is under 18 years of age at the time of the recording;

a. Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or

b. Subjects another to alarm by conveying a telephonic, electronic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm.

Note that both of the (b) and (c) subsections require the victim to be alarmed, but also that the alarm be a reasonable reaction. This does NOT require that the suspect intended to or actually be able to carry out the threat.



2. (a) A person is criminally liable for harassment if the person knowingly permits any telephone or electronic device under the person's control to be used in violation of subsection (1) of this section.

(b) Harassment that is committed under the circumstances described in subsection (1)(c) of this section is committed in either the county in which the communication originated or the county in which the communication was received.

As used in this section, "electronic threat" means a threat conveyed by electronic mail, the Internet, a telephone text message, or any other transmission of information by wire, radio, optical cable, cellular system, electromagnetic system, or other similar means.

Class B misdemeanor except for harassment is a Class A misdemeanor if a person violates:

(a) Subsection (1)(a)(A) of this section by subjecting another person to offensive physical contact and:

(A) The offensive physical contact consists of touching the sexual or other intimate parts of the other person; or

(B) (i) The victim of the offense is a family or household member of the person; and
(ii) The offense is committed in the immediate presence of, or is witnessed by, the person's or the victim's minor child or stepchild or a minor child residing within the household of the person or victim;

(b) Subsection (1)(a)(C) of this section; or

(c) Subsection (1)(c) of this section and:



- (A) The person has a previous conviction under subsection (1)(c) of this section, and the victim of the current offense was the victim or a member of the family of the victim of the previous offense;
- (B) At the time the offense was committed, the victim was protected by a stalking protective order, a restraining order as defined in ORS 24.190 or any other court order prohibiting the person from contacting the victim;
- (C) At the time the offense was committed, the person reasonably believed the victim to be under 18 years of age and more than three years younger than the person; or
- (D) (i) The person conveyed a threat to kill the other person or any member of the family of the other person;
(ii) The person expressed the intent to carry out the threat; and
(iii) A reasonable person would believe that the threat was likely to be followed by action.

Examples:

- a) Fred spits in Mark's face.
- b) Ken grabs Michelle by the buttocks and squeezes.
- c) Joan slaps Al in the face, without causing physical injury.
- d) Sam is very angry with Ted, his supervisor. Sam calls Ted, and after disguising his voice, Sam purports to be an emergency room physician at a hospital near Ted's home. Sam then tells Ted that Ted's toddler daughter has been seriously injured in an accident and is not expected to live more than an hour. Sam knows that Ted works 1.5 hours from his home and the hospital where he believes his daughter is being treated. Ted experiences extreme anguish and alarm.
- e) Ken intends to cause Julie to experience alarm and calls Stacey. Ken's friend James knows what Ken plans to do and allows Ken to use his telephone to make the call.



Aggravated Harassment – ORS 166.070

Occurs when the person knowing the other person is a:

<p><u>Staff member</u> Knowingly propels saliva, blood, urine, semen, feces, or other dangerous substance at the person while the person is acting in the course of official duty.</p>	<p><u>Public safety officer</u> Knowingly propels a dangerous substance as above, with the exception of saliva.</p>	<p><u>Public safety officer</u> Intentionally propels saliva at the person, and the saliva comes into physical contact with the person.</p>
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How is "staff member defined in ORS 163.165?	Who is included under "Public safety officer" as defined in ORS 682.025

Telephonic Harassment – ORS 166.090

(1) A telephone caller commits the crime of telephonic harassment if the caller intentionally harasses or annoys another person:

- (a) By causing the telephone of the other person to ring, such caller, having no communicative purpose;
- (b) By causing such other person's telephone to ring, knowing that the caller has been forbidden from so doing by a person exercising lawful authority over the receiving telephone;
- or
- (c) By sending to, or leaving at, the other person's telephone a text message, voice mail, or any other message, knowing that the caller has been forbidden from so doing by a person exercising lawful authority over the receiving telephone.



Class B Misdemeanor except the following are a class A Misdemeanor:

- The defendant was previously convicted of a DV Harassment, and the victim/member of the victim's family was the victim of the previous offense
- At the time the offense was committed victim was protected by a stalking protective order/ restraining order/ court order prohibiting the defendant from contacting the victim
- At the time of the offense, the defendant reasonably believed that the victim was under 18 and more than three years younger than the defendant
- The defendant conveyed a threat to kill the victim/member of the victim's family, AND the defendant expressed the intent to carry out the threat, AND a reasonable person would believe that the threat was likely to be followed by action.

Examples:

- a) The subject repeatedly calls the victim every ten minutes during the night. Every time the victim answers the phone, the subject hangs up. Upon contact by police, the subject admits calling the victim and hanging up.
- b) The subject used to date the victim's daughter. After the two broke up, the victim told the subject he was not to come to the house or call on the phone. The victim is the person with lawful authority over the phone. The subject continues to call, and the victim answers the phone.



Interfering with Public Transportation – ORS 166.116

- (1) A person commits the crime of interfering with public transportation if the person:
- (a) Intentionally or knowingly enters or remains unlawfully in or on a public transit vehicle or public transit station;
 - (b) Intentionally or knowingly interferes with the provision or use of public transportation services by, among other things, interfering with the movement of, or access to, public transit vehicles;
 - (c) While in or on a public transit vehicle or public transit station, engages in disorderly conduct in the second degree as defined in ORS 166.025 (Disorderly conduct in the second degree); or
 - (d) Subjects a public transportation passenger, employee, agent, or security officer or transit police officer to offensive physical contact.

As used in this section:

- (a) "Enter or remain unlawfully" has the meaning given that term in ORS 164.205 (Definitions for ORS 164.205 to 164.270).
- (b) "Public transit station" includes all facilities, structures, lands and rights of way that are owned, leased, held or used for the purposes of providing public transportation services.
- (c) "Public transit vehicle" means a vehicle that is used for public transportation or operated by or under contract to any public body in order to provide public transportation.
- (d) "Public transportation" means transportation provided by a city, county, special district, or any other political subdivision or municipal or public corporation.

Interfering with public transportation as provided in subsection (1)(a) of this section is a Class C misdemeanor, except when a Class A misdemeanor if the person has three or more prior convictions for interfering with public transportation as provided in subsection (1)(a) of this section.



Weapons

Unlawful Use of Weapon – ORS 166.220

(1) A person commits the crime of unlawful use of a weapon if the person:

(a) Attempts to use unlawfully against another, or carries or possesses with intent to use unlawfully against another, any dangerous or deadly weapon...; or

(b) Intentionally discharges a firearm, blowgun, bow and arrow, crossbow or explosive device within the city limits of any city or within residential areas within urban growth boundaries at or in the direction of any person, building, structure or vehicle within the range of the weapon without having legal authority for such discharge.

Unlawful use of a weapon is a Class C felony.

Carrying a Concealed Weapon – ORS 166.240

- 1) Except as provided in subsection (2) of this section, any person who carries concealed upon the person any knife having a blade that projects or swings into position by force of a spring or by centrifugal force, any dirk, dagger, ice pick, slungshot, metal knuckles, or any similar instrument by the use of which injury could be inflicted upon the person or property of any other person, commits a Class B misdemeanor.
- 2) Nothing in subsection (1) of this section applies to any peace officer as defined in ORS 133.005, whose duty it is to serve process or make arrests. Justice courts have concurrent jurisdiction to try any person charged with violating any of the provisions of subsection (1) of this section.

“... carries concealed upon the person,” means to transport or convey such that if the suspect moves, the weapons also moves, in such a manner as the weapon is not exposed from a normal, external view of the person, or not discernable by normal observation.

This statute is not enforceable inside a person's residence.

<p>Dirks and daggers do not include all fixed blade knives. These are defined as "slender, straight and coming to a point," and intended for stabbing.</p>	<p>"...or any similar instrument" has been defined as an object that is 1) similar to one of the enumerated items, AND 2) designed and intended to be a weapon.</p>
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Unlawful Possession of a Firearm – ORS 166.250

Note: See Student Resource for Mental Health: Legal Considerations for statutory language governing commitment hearings, assisted outpatient treatment, etc.

Note: Openly carried in a belt holster is not concealed.

Except as otherwise provided in this section or ORS 166.260 (Persons not affected by ORS 166.250), 166.270 (Possession of weapons by certain felons), 166.273 (Relief from firearm prohibitions related to mental health), 166.274 (Relief from prohibition against possessing or receiving firearm), 166.291 (Issuance of concealed handgun license), 166.292 (Procedure for issuing) or 166.410 (Manufacture, importation or sale of firearms) to 166.470 (Limitations and conditions for sales of firearms), a person commits the crime of unlawful possession of a firearm if the person knowingly:

- (a) Carries any firearm concealed upon the person;
- (b) Possesses a handgun that is concealed and readily accessible to the person within any vehicle; or

What does "concealed" mean?	What does "readily accessible" mean?

- (c) Possesses a firearm and:
 - (A) Is under 18 years of age;
 - (B) (i) While a minor was found to be within the jurisdiction of the juvenile court for having committed an act which, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470 (Limitations and conditions for sales of firearms); and



- (ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being charged under this section;
- (C) Has been convicted of a felony;
- (D) Was committed to the Oregon Health Authority under ORS 426.130 (Court determination of mental illness);
- (E) Was found to be a person with mental illness and subject to an order under ORS 426.130 (Court determination of mental illness) that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;
- (F) Is presently subject to an order under ORS 426.133 (Assisted outpatient treatment) prohibiting the person from purchasing or possessing a firearm;
- (G) Has been found guilty except for insanity under ORS 161.295 (Effect of mental disease or defect) of a felony; or
- (H) The possession of the firearm by the person is prohibited under ORS 166.255

Possession of Firearm or Ammunition by Certain Persons Prohibited – ORS 166.255

It is unlawful for a person to knowingly possess a firearm or ammunition if:

The person is the subject of a court order that:		
<p>(A) Was issued or continued after a hearing for which the person had actual notice and during the course of which the person had an opportunity to be heard;</p>	<p>(B) Restrains the person from stalking, intimidating, molesting or menacing [an intimate partner] a family or household member of the person, a child of [an intimate partner] a family or household member of the person or a child of the person; and</p>	<p>(C) Includes a finding that the person represents a credible threat to the physical safety of [an intimate partner] a family or household member of the person, a child of [an intimate partner] a family or household member of the person or a child of the person;</p>

Or



The person has been convicted of a qualifying misdemeanor and, at the time of the offense, the person was:		
(A) A family or household member of the victim of the offense.; or	(B) A parent or guardian of the victim of the offense; or	(c) The person has been convicted of stalking under ORS 163.732.

"Family or household members" means any of the following:

- Persons cohabiting with each other
- Spouses or former spouses
- Adult persons related by blood or marriage
- Persons who have cohabited with each other or who have been involved in a sexually intimate relationship
- Unmarried parents of a minor child

"Qualifying misdemeanor" means a 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.

Felon in Possession of a Firearm or Restricted Weapon – ORS 166.270

- 1) Any person who has been convicted of a felony under the law of this state or any other state, or who has been convicted of a felony under the laws of the Government of the United States, who owns or has in the person's possession or under the person's custody or control any firearm commits the crime of felon in possession of a firearm.
- 2) Any person who has been convicted of a felony under the law of this state or any other state, or who has been convicted of a felony under the laws of the Government of the United States, who owns or has in the person's possession or under the person's custody or control any instrument or weapon having a blade that projects or swings into position by force of a spring or by centrifugal force or any blackjack, slingshot, sandclub, sandbag, sap glove, metal knuckles or an Electro-Muscular Disruption Technology device as defined in ORS 165.540, or who carries a dirk, dagger or stiletto, commits the crime of felon in possession of a restricted weapon.

Felon in possession of a firearm is a Class C felony. Felon in possession of a restricted weapon is a Class A misdemeanor



What is the ORS definition of body armor (ORS 166.641 (1))?	What is the ORS definition of a deadly weapon (ORS 161.015)?

Possession of firearm or dangerous weapon in public building or court facility – ORS 166.370

(1) Any person who intentionally possesses a loaded or unloaded firearm or any other instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be guilty of a Class C felony.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection, a person who intentionally possesses:

(A) A firearm in a court facility is guilty, upon conviction, of a Class C felony. A person who intentionally possesses a firearm in a court facility shall surrender the firearm to a law enforcement officer.

(B) A weapon, other than a firearm, in a court facility may be required to surrender the weapon to a law enforcement officer or to immediately remove it from the court facility. A person who fails to comply with this subparagraph is guilty, upon conviction, of a Class C felony.

(C) A firearm in a local court facility is guilty, upon conviction, of a Class C felony if, prior to the offense, the presiding judge of the local court facility entered an order prohibiting firearms in the area in which the court conducts business and during the hours in which the court operates.



(b) The presiding judge of a judicial district or a municipal court may enter an order permitting the possession of specified weapons in a court facility.

(c) Within a shared court facility, the presiding judge of a municipal court or justice of the peace district may not enter an order concerning the possession of weapons in the court facility that is in conflict with an order entered by the presiding judge of the circuit court.

(3) Subsection (1) of this section does not apply to:

- (a) A sheriff, police officer, other duly appointed peace officers, or a corrections officer while acting within the scope of employment.
- (b) A person summoned by a peace officer to assist in making an arrest or preserving the peace while the summoned person is engaged in assisting the officer.
- (c) An active or reserve member of the military forces of this state or the United States, when engaged in the performance of duty.
- (d) A person who is licensed under ORS 166.291 (Issuance of concealed handgun license) and 166.292 (Procedure for issuing) to carry a concealed handgun.
- (e) A person who is authorized by the officer or agency that controls the public building to possess a firearm or dangerous weapon in that public building.
- (f) An employee of the United States Department of Agriculture, acting within the scope of employment, who possesses a firearm in the course of the lawful taking of wildlife.
- (g) Possession of a firearm on school property if the firearm:
 - (A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and
 - (B) Is unloaded and locked in a motor vehicle.

(5)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges or attempts to discharge a firearm at a place that the person knows is a school shall upon conviction be guilty of a Class C felony.



(b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:

- (A) As part of a program approved by a school in the school by an individual who is participating in the program;
- (B) By a law enforcement officer acting in the officer's official capacity; or
- (C) By an employee of the United States Department of Agriculture, acting within the scope of employment, in the course of the lawful taking of wildlife.

NOTE: The exceptions listed only exempt from subsection (1) public buildings, but are not exceptions for courthouses. It may be a class C felony for you as a police officer to carry a weapon in a courthouse off-duty absent orders of the presiding judge allowing it.

Felon in Possession of Body Armor – ORS 166.642

A person commits the crime of felon in possession of body armor if the person:

- (a) Has been convicted of a felony or misdemeanor involving violence under the law of any state or the United States; and
- (b) Knowingly is in possession or control of body armor.

Felon in possession of body armor is a Class C felony.

Unlawful Possession of Body Armor – ORS 166.643

A person commits the crime of unlawful possession of body armor if the person while committing or attempting to commit a felony or misdemeanor involving violence, knowingly:

- (a) Wears body armor; and
- (b) Possesses a deadly weapon.

Unlawful possession of body armor is a Class B felony.



How is Federal Weapons Law Different from State Law?

Federal Law:

- Provides more categories of prohibited persons
- Makes illegal possession of ammunition by those persons
- Does not require an operable firearm
- Requires that the firearm have a nexus with interstate commerce
- Generally, it involves larger penalties

18 USC 922(g) - Unlawful Possession of a Firearm by a Prohibited Person

Three required elements:

1. Defendant knowingly possessed a firearm (or ammo)
2. The defendant was a "prohibited person" at the time of possession, and
3. The firearm/ammo had previously moved in interstate commerce (the Federal nexus requirement)

Prohibited Persons – The possession of firearms or ammunition by:

- A felon
- A fugitive
- A drug user or addict
- A person who has been committed to a mental institution
- An illegal alien
- A person who has been dishonorably discharged from the Armed Forces
- A person who has renounced U.S. citizenship
- A person subject to a restraining or stalking order, involving an intimate partner or child, where there was a hearing and actual notice
- A person who has been convicted of a misdemeanor crime of domestic violence (Assault IV in Oregon)

18 USC 924(c)

Using or carrying a firearm while committing the federal crimes of selling controlled substances or a violent offense (5 to 30-year mandatory minimums).

Armed Career Criminal- 18 USC 922(g) + 924e

Requires: Felon in Possession of a Firearm (922g) and the felon has three or more prior convictions for violent felonies (Robbery I or II, Assault I or II and some III, Arson) or drug trafficking crimes (DCS/MCS, Conspiracy to commit DCS/MCS). Carries a 15-year mandatory minimum prison sentence.

Federal Prosecution Initiation

Most cases are referred by county District Attorneys and are initially state cases. Some direct referrals from ATF and police agencies.



Bias Crime

In 2019, the Oregon Legislature amended the crimes of Intimidation II/I and renamed them Bias Crime II/I. Other changes included adding protection for *gender identity*, and eliminating the requirement that there be more than one actor for a felony level crime.

Bias Crime II – ORS 166.155

- (1) A person commits bias crime II if the person, **because of the person's perception of the other person's race, color, religion, gender identity, sexual orientation, disability or national origin,**
- (a) Tamper or interferes with property, having no right to do so nor reasonable ground to believe that the person has such right, with the intent to cause substantial inconvenience to another person [See Criminal Mischief III];
 - (b) Intentionally subjects another person to offensive physical contact [See harassment]; **or**
 - (c) **or because of the person's perception of the race, color, religion, gender identity, sexual orientation, disability or national origin member of the other person's family,** subjects the other person to alarm by threatening:
 - (A) To inflict serious physical injury upon or to commit a felony affecting the other person or a member of the other person's family; or
 - (B) To cause substantial damage to the property of the other person or a member of the other person's family.
- (2) Bias Crime in the Second Degree is a Class A misdemeanor.

“Gender identity” means an individual’s gender-related identity, appearance, expression or behavior, regardless of whether the identity, appearance, expression or behavior differs from that associated with the gender assigned to the individual at birth.



Practice Examples: Is it a Bias Crime? If so, is it Bias Crime II or I?

1) Adult, female suspect is walking through the parking lot of a large department store and sees a Native American teenage boy in a parked car. The suspect walks in front of the Native American teen's car, displays a small knife, and says to him, "I'll be shoppin' for about 10 minutes. If you're here when I come out, I'm gonna tell my husband to get outta the car and come over and scalp you. Go back to your casino." The suspect then puts the knife back into her pocket and walks into the store. Once she's gone, he drives around to the other side of the store and calls police. He tells police he was not actually scared he would be hurt, but he was alarmed enough to call the police.

Bias Crime: Yes No

If Yes: Bias Crime I or Bias Crime 2

2) Suspect enters a convenience store carrying a gun and a bag. He approaches a Hispanic clerk, points the gun at her, and tells her to put all the money in the bag. After she does, on his way out the door, he yells at her, "You and your Mexican friends should stay south of the border."

Bias Crime: Yes No

If Yes: Bias Crime I or Bias Crime 2

The suspect in Example 1 clearly acted because of her perception that the victim was Native American. What would the correct crime be? Bias Crime II or I, and why?

The suspect in Example 2, however, is motivated to commit the Robbery I / Menacing in order to obtain money, rather than to menace or rob the victim based upon his perception of her national origin. It is appropriate to charge suspect #1 with Bias Crime II. Suspect #2 should be charged with Robbery I and Menacing.



Bias Crime I – ORS 166.165

- (1) A person commits bias crime I if the person, **because of the person's perception of the other person's race, color, religion, gender identity, sexual orientation, disability or national origin,**
- (a) Intentionally, knowingly or recklessly causes physical injury to another person
[See Assault IV];
 - (b) With criminal negligence causes physical injury to another person by means of a deadly weapon [See Assault IV]; or
 - (c) Intentionally places another person in fear of imminent serious physical injury [Note: this is more than Menacing, i.e., this requires actually placing the other person in fear; Menacing requires attempting to do so].
- (2) Bias Crime in the first degree is a Class C felony.

Bias Crime II/I are unique because they reclassify certain acts or other crimes based on WHY the suspect committed them.

Also note the wording, "perception of the other person's race, color, religion, gender identity, sexual orientation, disability or national origin." *Perception* allows for the suspect to be incorrect. Also note that age, political affiliation, and occupation are not listed.

Example:

An adult male proclaiming himself to be a member of the Skinheads grabs a Black male from behind, and the defendant punches the Black male in the face, breaking his nose. While the "Skinhead" was punching the victim, he kept calling the victim a "Spade." The suspect should be charged with Bias Crime I because he caused physical injury and was motivated by his perception of the victim's race.



Bias Crime Reporting Requirements

Reporting of Crime Statistics – ORS 181A.225

- (1) All law enforcement agencies shall report to the Dept. of State Police statistics concerning crimes:
- (a) As directed by the department, for purposes of the Uniform Crime Reporting System of the Federal Bureau of Investigation.
 - (b) As otherwise directed by the Governor concerning general criminal categories of criminal activities *but not individual criminal records*.
 - (c) **Motivated by prejudice based on the perceived race, color, religion, national origin, sexual orientation, disability, or gender identity of the victim.**
 - (d) And other incidents arising out of domestic disturbances under ORS 133.055(2) [Mandatory Arrest for DV] and ORS 133.310(3) [Stalking, TRO, etc. Order violations].
- (2) The department shall prepare:
- (a) Quarterly and annual reports for the use of agencies reporting under subsection (1) of this section, and others having an interest therein;
 - (b) An annual public report of the statistics on the incidence of crime motivated by prejudice based on the perceived race, color, religion, national origin, sexual orientation, disability or gender identity of the victim;
 - (c) Quarterly and annual reports of the statistics on the incidence of crimes and incidents of domestic disturbance; and
 - (d) Special reports as directed by the Governor.



(3) In addition, the department shall report all data in (1) above to the Oregon Criminal Justice Commission (CJC). *This data is only to be used for statistical purposes, not for any other purposes, and public disclosure of personal identifiers is prohibited.*

For Felony Sentencing - OAR 213-008-0002:

The CJC shall also add **gender identity** as a characteristic that may constitute an aggravating factor when gender identity was a motivation for a felony crime (other than Bias Crime I, as it is an element of that crime). If proven or admitted by the defendant, this aggravating factor may be used by the prosecution to seek one of two types of enhanced sentences:

- A "dispositional departure" (from a presumptive term of probation to a prison sentence); or
- A "durational departure" (from a presumptive prison sentence to up to double that presumptive prison sentence).

The Oregon Criminal Justice Commission shall consult with the Oregon District Attorney's Association and the department to develop and implement a standardized method for district attorneys to record the data described above and report the data to the Oregon Criminal Justice Commission. The commission will analyze this data to identify gaps or weaknesses in the investigation, presentation, prosecution and sanctioning of crimes motivated by bias.

The data law enforcement officers must collect and report includes at least the following:

- (a) Charge(s) for which you arrested the suspect(s);
- (b) When and what charge(s) the district attorney files;
- (c) What charge(s) the district attorney did not file for such cases and the reason(s) for declining to file;
- (d) Charges for which the suspect is indicted;
- (e) Sentence enhancements the prosecutor seeks;
- (f) What sentence(s), including supervision conditions, the court imposes;
- (g) Charges to which a defendant pleads; and
- (h) Trial outcomes.



On July 1, 2020, Multnomah County and two other counties will begin to submit this data to act as a pilot program. The Oregon Criminal Justice Commission will analyze this data and produce a report in July 2021. Then, the Oregon District Attorney's Association and the department will make refinements to the data reporting, recording and analysis methods. After that, no later than July 1, 2022, the district attorney of every county will record this data and submit it to the Oregon Criminal Justice Commission.

Another duty imposed on law enforcement officers is that upon responding to a report of a bias incident, the law enforcement officer shall refer the victim of the bias incident to local victims' services. If local victims' services are not available, then the law enforcement officer shall refer the victim to the hate crimes hotline established by the Oregon Department of Justice.

Criminal Law Part 6: State and Public Justice

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATKINS 1960-1980
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY INDEED



Criminal Law 6: State, Public Health and Animal Offenses

Instructional Goal:

This course is designed to develop a new officer's understanding of behavioral offenses defined by the Oregon Criminal Code.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify the type of offense using the Oregon Criminal Code Book
2. Distinguish level of offense using the Oregon Criminal Code Book
3. Articulate the elements of a given crime
4. Analyze a situation and determine if there is an applicable ORS offense represented

Content Outline:

- State and Public Justice Offenses
 - Escape
 - Failure to Appear
 - Obstructing Governmental or Judicial Administration
 - Interfering with a Peace Officer or Parole and Probation Officer
 - Interfering with a Firefighter or Emergency Medical Technician
 - Resisting Arrest
 - Hindering Prosecution
 - Initiating a False Report
 - Giving False Information to a Police Officer in Connection with a Citation or Warrant
 - Official Misconduct
- Prostitution Offenses
- Obscenity and Related Offenses
- Animal Offenses



State and Public Justice Offenses

Escape III – ORS 162.145 – Class A misdemeanor

A person commits the crime of escape in the third degree if the person escapes from custody. It is a defense to a prosecution that the person escaping or attempting to escape was in custody pursuant to an illegal arrest.

<p>“Custody” means the imposition of actual or constructive restraint by a peace officer pursuant to an arrest or court order, but does not include detention in a correctional facility, youth correction facility or a state hospital.</p>	<p>“Constructive restraint” means when an officer lawfully asserts authority to control a person’s actions or freedom of movement, even if the officer does not have physical control of the person. State v. Davis, 360 Or 201 (2016).</p>	<p>“Pursuant to arrest” means the offense occurs when a person escapes custody during the course of an arrest or when police attempt to restrain that person pursuant to their authority to make such an arrest. If an officer were to say, “Stop, police! You are under arrest,” the statute would apply if a defendant were to keep running from the officer.</p>
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Escape II – ORS 162.155 – Class C felony

A person commits the crime of escape in the second degree if:

- The person uses or threatens to use physical force escaping from custody; or
- Having been convicted or found guilty of a felony, the person escapes from custody imposed as a result thereof; or
- The person escapes from a correctional facility; or
- While under the jurisdiction of the Psychiatric Security Review Board under ORS 161.315 to 161.351, the person departs, is absent from, or fails to return to this state without authorization of the board.



State v. Metcalfe, 172 Or App 501 (2001) – The Oregon Court of Appeals ruled a person “escapes from custody” when a person subject to actual or constructive restraint or control by a peace officer sets out on a course of action and that setting out results, even momentarily, in the person no longer being within the peace officer’s restraint or control.

State v. Lonergan, 344 Or 15 (2008) - The Oregon Supreme Court considered whether, when an escapee uses physical force in response to the officer’s attempt to re-establish custody, he has “used physical force escaping from custody.” The defendant had been arrested and placed against a patrol car. When he stood up and ran away, the court found he had “unlawfully departed from custody.” However, the court found “in escaping,” the defendant did not use or threaten to use physical force. “It was only later after the officer had tackled him, that the defendant used physical force, kicking the officer...The defendant was not escaping; the defendant had already escaped.”

Escape I – ORS 162.165 – Class B felony

A person commits the crime of escape in the first degree if:

- a) Aided by another person actually present, the person uses or threatens to use physical force in escaping from custody or a correctional facility; or
- b) The person uses or threatens to use a dangerous or deadly weapon escaping from custody or a correctional facility.

Failure to Appear II – ORS 162.195 – Class A misdemeanor

A person commits the crime of failure to appear in the second degree if the person knowingly fails to appear as required after:

- a) Having by court order been released from custody or a correctional facility under a release agreement or security release upon the condition that the person will subsequently appear personally in connection with a charge against the person of having committed a misdemeanor; or
- b) Having been released from a correctional facility subject to a forced release agreement under ORS 169.046 in connection with a charge against the person of having committed a misdemeanor.



Failure to Appear I – ORS 162.205 – Class C felony

A person commits the crime of failure to appear in the first degree if the person knowingly fails to appear as required after:

- a) Having by court order been released from custody or a correctional facility under a release agreement or security release upon the condition that the person will subsequently appear personally in connection with a charge against the person of having committed a felony; or
- b) Having been released from a correctional facility subject to a forced release agreement under ORS 169.046 in connection with a charge against the person of having committed a felony.

“Forced release” definition for failure to appear crimes- ORS 169.005 (2) means temporary freedom of an inmate from lawful custody before a judgment of conviction due to a county jail population emergency.

Question-

What is the main difference between failure to appear in the first and second degree?

Obstructing Governmental or Judicial Administration – ORS 162.235 – Class A misdemeanor

A person commits the crime of obstructing governmental or judicial administration if the person:

- a) Intentionally obstructs, impairs or hinders the administration of law or other governmental or judicial function by means of intimidation, force, physical or economic interference or obstacle;
- b) With intent to defraud, engages in the business of or acts in the capacity of a notary public as defined in ORS 194.215 without having received a commission as a notary public from the Secretary of State; or
- c) With intent to defraud, engages in the business of or acts in the capacity of an immigration consultant, as defined in ORS 9.280, in violation of ORS 9.160.

This section shall not apply to the obstruction of unlawful governmental or judicial action or interference with the making of an arrest.



Interfering with a Peace Officer or Parole and Probation Officer – ORS 162.247 – Class A misdemeanor

The person, knowing that another person is a peace officer or parole and probation officer as defined in ORS 181A.355:

- Intentionally acts in a manner that prevents, or attempts to prevent, a peace officer or parole and probation officer from performing the lawful duties of the officer with regards to another person; or
- Refuses to obey a lawful order by the peace officer or parole and probation officer.

Does not apply in situations in which the person is engaging in:

- Activity that would constitute resisting arrest under ORS 162.315; or
- Passive resistance

State v. Lam, 176, Or App 149 (2001) - Subsection (a) does not prohibit speech alone. In Lam, the court ruled the defendant, who instructed a companion “to not tell” a police officer the location of suspected probation violator, could not be convicted of interfering.

State v. McNally, 361 Or 314 (2017) - The term, “passive resistance” refers to noncooperation with a peace officer that does not involve violence or other active measures, whatever the motivation for the noncooperation and regardless of whether the noncooperation takes the form of acts, techniques, or methods commonly associated with civil rights or other organized protest.

This is a significant departure from previous case law, which held that the passive resistance exception was only available to those who “were performing specific acts or techniques commonly associated with governmental protest or civil disobedience.”

Refusal to obey an officer’s lawful order requires that the defendant consciously intends to disobey an officer’s lawful order, and does not include a mere failure to obey the order. State v. Enyeart, 266 Or App 763 (2014).



“An order is lawful if it is authorized by, and is not contrary to, substantive law...When examining whether an order is ‘lawful,’ ...we look at whether the order at issue was lawful on its face...Of critical importance here, ‘lawfulness of the order disobeyed is to be judged independently of the validity of the initial police-citizen confrontation.’...Thus, even if the defendant was stopped unconstitutionally, the officer-safety doctrine could provide [the officer] with the lawful authority to order [the defendant] to get out of the vehicle.” State v. Wilson, 283 Or App 823 (2017).

Interfering with a Firefighter or Emergency Medical Technician – ORS 162.257 – Class A misdemeanor

The person, knowing that another person is a firefighter or emergency medical services provider, intentionally acts in a manner that prevents or attempts to prevent, a firefighter, or emergency medical services provider from performing the lawful duties of the firefighter or emergency medical services provider.

Speech alone does not constitute acting in a manner that prevents or attempts to prevent firefighter or emergency medical services provider from performing a duty. DeNucci v. Henningsen, 248 Or App 59 (2012).

Resisting Arrest – ORS 162.315 – Class A misdemeanor

A person commits the crime of resisting arrest if the person intentionally resists a person known by the person to be a peace officer or parole and probation officer in making an arrest.

<p>“For a conviction under ORS 162.315, the ...trier of fact...had to find that the defendant knew that he was under arrest.” <u>State v. Olive</u>, 259 Or App 104 (2013).</p>	<p>Resisting – Using or threatened use of violence or force that creates a substantial risk of injury to any person.</p> <p>To constitute resisting arrest, the behavior must be intended to resist custodial status. <u>State v. Powell</u>, 209 Or App 255 (2006).</p>	<p>“Arrest” includes being taken into custody for violating parole. <u>State v. McClure</u>, 256 Or App 200 (2013), Or 704 (2014).</p>
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Hindering Prosecution – ORS 162.325 – Class C felony

A person commits the crime of hindering prosecution if, with intent to hinder the apprehension, prosecution, conviction or punishment of a person who has committed a crime punishable as a felony, or with the intent to assist a person who has committed a crime punishable as a felony in profiting or benefiting from the commission of the crime, the person:

- Harbors or conceals such person; or
- Warns such person of impending discovery or apprehension; or
- Provides or aids in providing such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension; or
- Prevents or obstructs, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person; or
- Suppresses by any act of concealment, alteration or destruction physical evidence which might aid in the discovery or apprehension of such person; or
- Aids such person in securing or protecting the proceeds of the crime.

Be sure to take note of the requirement that the crime being hindered is a felony. No hindering charge if the underlying crime is a misdemeanor.

To prove that the defendant hindered prosecution by concealing a person, the state must present evidence from which the jury could reasonably conclude that the defendant concealed that person's physical presence, and something more than attempting to obscure that person's identity through deception. Therefore, where the defendant and another person both spoke to law enforcement officers from inside a building, and the defendant subsequently failed to provide officers with information about the identity of the other person or to open the door, the state did not present sufficient evidence that the defendant concealed a person who was a fugitive. State v. Hutchins, 281 Or App 495 (2016).



Initiating a False Report – ORS 162.375 – Class A misdemeanor

A person commits the crime of initiating a false report if the person knowingly initiates a false alarm or report that is transmitted to a fire department, law enforcement agency, or other organization that deals with emergencies involving danger to life or property.

Initiating false report requires supplying false information at time incident is initially reported. State v. McCrorey, 216 Or App 301 (2007).

Giving False Information to a Police Officer in Connection with a Citation or Warrant – ORS 162.385 – Class A misdemeanor

A person commits the crime of giving false information to a peace officer in connection with a citation or warrant if the person knowingly uses or gives a false or fictitious name, address or date of birth to any peace officer when:

- The peace officer is issuing or serving the person a citation under the authority of ORS 133.055 to 133.076 or ORS chapter 153; or
- There is an outstanding warrant for the person's arrest.

Not all lies are punishable under this offense; in fact, very few are. You might find that your city/county has an ordinance that is more expansive than this state statute. You also should note that there is no crime if the suspect lies pursuant to a probable cause arrest.



Official Misconduct in the second degree – ORS 162.405 – Class C misdemeanor

A public servant commits the crime of official misconduct in the second degree if the person knowingly violates any statute relating to the office of the person.

Official Misconduct in the first degree – ORS 162.415 – Class A misdemeanor

A public servant commits the crime of official misconduct in the first degree if:

- With intent to obtain a benefit or to harm another:
 - The public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office; or
 - The public servant knowingly performs an act constituting an unauthorized exercise in official duties; or

- The public servant, while acting as a supervisory employee, violates ORS 162.405 and is aware of and consciously disregards the fact that the violation creates a risk of:
 - Physical injury to a vulnerable person;
 - The commission of a sex crime as defined in ORS 163A.005 against a vulnerable person;
or
 - The withholding from a vulnerable person of necessary and adequate food, physical care, or medical attention.

“Unauthorized exercise in official duties” requires that public servant is acting in an official capacity and must knowingly perform an act that is an abuse of powers, responsibilities, or opportunities of office while in that capacity. State v. Florea, 296 Or 500 (1984); State v. Davis, 189 Or App 436 (2003).

“Benefit” can be for the actor’s or a third party’s benefit and includes personal sexual gratification. State v. Rodda 56 Or App 580 (1982); State v. Moffitt, 104 Or App 340 (1990).



Prostitution Offenses

Definitions:

<p>Prostitute – ORS 167.002 (2) means a male or female person who engages in sexual conduct or sexual contact for a fee.</p>	<p>Sexual conduct – ORS 167.002 (4) means sexual intercourse or oral or anal sexual intercourse.</p>	<p>Sexual contact – ORS 167.002 (5) means any touching of the sexual organs or other intimate parts of a person not married to the actor for the purpose of arousing or gratifying the sexual desire of either party</p>
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Prostitution – ORS 167.007 - Class A misdemeanor

A person commits the crime of prostitution if the person engages in or offers or agrees to engage in sexual conduct or sexual contact in return for a fee.

*Affirmative defense available if at time of the crime the person was a victim of trafficking in persons.

Commercial Sexual Solicitation – ORS 167.008 – Class A misdemeanor

A person commits the crime of commercial sexual solicitation if the person pays, or offers or agrees to pay, a fee to engage in sexual conduct or sexual contact.

Promoting Prostitution – ORS 167.012 – Class C felony

A person commits the crime of promoting prostitution if, with intent to promote prostitution, the person knowingly:

- Owns, controls manages, supervises or otherwise maintains a place of prostitution or a prostitution enterprise;
- Induces or causes a person to engage in prostitution or to remain in a place of prostitution;
- Receives or agrees to receive money, goods, property, services or something else of value, other than as a prostitute being compensated for personally rendered prostitution services, pursuant to an agreement or understanding that the money, goods, property, services or something else of value is derived from a prostitution activity; or
- Engages in any conduct that institutes, aids, or facilitates an act or enterprise of prostitution.



Compelling Prostitution – ORS 167.017 – Class B felony

A person commits the crime of compelling prostitution if the person knowingly:

- Uses force or intimidation to compel another to engage in prostitution or attempted prostitution;
- Induces or causes a person under 18 years of age to engage in prostitution;
- Aids or facilitates the commission of prostitution or attempted prostitution by a person under 18 years of age; or
- Induces or causes the spouse, child, or stepchild of the person to engage in prostitution.

Consider that you must be able to prove an act of prostitution in order to have a complete crime of compelling. If not, consider attempt.

Obscenity and Related Offenses

Luring a Minor – ORS 167.057 – Class C Felony

- Person furnishes to or uses with, a minor, a police officer posing as a minor or an agent of a police officer posing as a minor, a visual representation or explicit verbal description or narrative account of sexual conduct for the purpose of inducing the minor or purported minor to engage in sexual conduct.
- Does not include conduct where a person furnishes or uses a representation, description or account of sexual conduct that forms merely an incidental part of an otherwise non-offending whole and serves some purpose other than titillation



Definitions:

<p>“Furnishes” means:</p> <ul style="list-style-type: none">• To sell, give, rent, loan, or otherwise provide.	<p>“Minor” means:</p> <ul style="list-style-type: none">• A person under 18 years of age.	<p>“Sexual conduct” means:</p> <ul style="list-style-type: none">• Human masturbation or sexual intercourse;• Genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex or between humans and animals;• Penetration of the vagina or rectum by any object other than as part of a medical diagnosis or as part of a personal hygiene practice; or• Touching of the genitals, pubic areas or buttocks of the human male or female or the breasts of the human female.
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The crime of Luring a Minor is still relatively new, and there are not many case law examples to provide. Here is one:

The defendant sent the victim text message stating the defendant wished to “bang” victim. The defendant’s text was an explicit verbal description of sexual conduct for purposes of this section because the text included explicit identification of sexual conduct that intended to bring a graphic sexual image to the mind of the recipient. State v. King, 278 Or App 65 (2016).



Animal Offenses

Duty to Arrest – ORS 133.379 - It shall be the duty of any peace officer to arrest and prosecute any violator of ORS 167.315 to 167.333, 167.340, 167.355, 167.365, or 167.428 for any violation which comes to the knowledge or notice of the officer.

Animal Abuse II – ORS 167.315 – Class B misdemeanor

A person commits the crime of animal abuse in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly causes physical injury to an animal.

“Physical injury” ORS 167.310 (10) means physical trauma, impairment of physical condition, or substantial pain.

Note that this definition is different than the definition that would apply to crimes against persons.

“Physical trauma” ORS 167.310 (11) means fractures, cuts, punctures, bruises, burns, or other wounds.

Animal Abuse I – ORS 167.320 – Class A misdemeanor or Class C felony

A person intentionally, knowingly, or recklessly:

- Causes serious physical injury to an animal; or
- Cruelly causes the death of an animal.

“Serious physical injury” ORS 167.310 (13) means physical injury that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of a limb or bodily organ. Notice that this definition is different than the definition that would apply to crimes against persons.

Be sure to note the circumstances present that could elevate this Class A misdemeanor offense to a Class C felony.



Aggravated Animal Abuse I – ORS 167.322 – Class C felony

A person

- Maliciously kills an animal; or
- Intentionally or knowingly tortures an animal.

Maliciously - means intentionally acting with depravity of mind and reckless and wanton disregard of life.

Torture - means an action taken for the primary purpose of inflicting pain.

Animal Neglect II – ORS 167.325 – Class B misdemeanor or Class C felony

The person intentionally, knowingly, recklessly, or with criminal negligence:

- Fails to provide minimum care (ORS 167.310 (9)) for an animal in such person’s custody or control; or
- Tethers (ORS 167.310 (14) (a)(b)) a domestic animal in the person’s custody or control, and the tethering results in physical injury to the domestic animal.

Be sure to note the circumstances present that could elevate this Class B misdemeanor offense to a Class C felony.

Evidence that the defendant lived in the home, fed dogs, took dogs to veterinary visits, and was part of decision-making about whether to keep dogs and exercised power over dogs by breaking up dog fights, was sufficient for a reasonable juror to find the defendant had “control” over dogs for the purpose of this statute. State v. Crosswhite, 273 Or App 605 (2015).

Animal Neglect I – ORS 167.330 – Class A misdemeanor or Class C felony

The person intentionally, knowingly, recklessly, or with criminal negligence:

- Fails to provide minimum care for an animal in the person’s custody or control and the failure to provide care results in serious physical injury or death to the animal; or
- Tethers a domestic animal in the person’s custody or control, and the tethering results in serious physical injury or death to the domestic animal.



Sexual Assault of an Animal – ORS 167.333 – Class C felony

The person:

- Touches or contacts, or causes an object or another person to touch or contact, the mouth, anus or sex organs of an animal or animal carcass for the purpose of arousing or gratifying the sexual desire of a person; or
- Causes an animal or animal carcass to touch or contact the mouth, anus or sex organs of a person for the purpose of arousing or gratifying the sexual desire of a person.

Interfering with a Law Enforcement Animal – ORS 167.337 – Class A misdemeanor

A person commits the crime of interfering with a law enforcement animal if the person intentionally or knowingly injures or attempts to injure an animal the person knows or reasonably should know is a law enforcement animal while the law enforcement animal is being used in the lawful discharge of its duty.

Assaulting a Law Enforcement Animal – ORS 167.339 – Class C felony

A person commits the crime of assaulting a law enforcement animal if:

- The person knowingly causes serious physical injury to or the death of a law enforcement animal, knowing that the animal is a law enforcement animal; and
- The injury or death occurs while the law enforcement animal is being used in the lawful discharge of the animal's duties.

Causing the death of a police K-9 will only be a Class C felony. There is no provision under Oregon law to treat the animal like a human officer. If the death involved malice or torture, there may also be grounds to charge Aggravated Animal Abuse I.

Animal Abandonment – ORS 167.340 – Class B misdemeanor

A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly, or with criminal negligence leaves a domestic animal or an equine at a location without providing minimum care.

Criminal Law Part 7: Controlled Substances

BASIC POLICE ACADEMY





Criminal Law 7: Controlled Substances, Cannabis, and Alcohol Offenses

Instructional Goal:

This course is designed to develop a new officer's understanding of behavioral offenses defined by the Oregon Criminal Code.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify the type of offense using the Oregon Criminal Code Book
2. Distinguish level of offense using the Oregon Criminal Code Book
3. Articulate the elements of a given crime
4. Analyze a situation and determine if there is an applicable ORS offense represented

Content Outline:

- Controlled Substances
- Cannabis
- Alcohol



Controlled Substances

This section will provide the basic framework for an introductory course in the investigations of controlled substance (CS) offenses. To guide the discussion, we first define common terms like controlled substance, Possession (PCS), Delivery (DCS), and Manufacture (MCS). Next, we will discuss the basic charging statutes, including the enhanced charge of a CS offense Within 1,000 feet of a School. We then identify factors for enhanced penalties on CS offenses like Substantial Quantities and Commercial Drug Offenses (CDO). Lastly, we discuss exemptions from prosecution for PCS offenses.

Definitions

Controlled Substance – ORS 475.005(6)

A controlled substance is a drug or its immediate precursor classified in Schedules I – V of the federal Controlled Substances Act, 21 USC. 811 to 812, as modified by ORS 475.035. This definition does not include marijuana, which is regulated in ORS 475B. Further discussion of the schedules will occur later in the section on charging offenses.

Possession – ORS 161.015(9)

PCS includes actual, constructive, and joint possession. Actual possession, as it sounds, means you have the item on your person. Constructive possession means you have the ability or right to control the item. Joint possession means you, and at least one other person has the ability or right to control the item.

Examples:

- I have a pair of socks on my feet. I am in actual possession of these socks.
- I have another pair of socks at home in my dresser. Even though I am not wearing the socks, I could go home and put on the other pair of socks. I am in constructive possession of the second pair of socks.
- I have a spouse. My spouse could take that second pair of socks and throw them in the garbage. Both my spouse and I are in joint possession of the second pair of socks.



Delivery – ORS 475.005(8)

DCS includes actual or constructive deliveries of controlled substances. Much like possession, an actual delivery occurs when we can prove the transfer of a controlled substance from one person to another person. Constructive delivery is similar to the concept of possession with the intent to distribute. This means if a person has the means available to deliver a controlled substance, but we cannot prove an actual exchange, that person could still be charged with the completed DCS offense. An important distinction is that the person who delivers a controlled substance is charged with DCS, and the person who receives the controlled substance would only be charged with PCS despite that receiver's facilitation of the delivery of controlled substances.

Examples:

- You see Person A hand a bundle of methamphetamine to Person B. B then hands A \$10. A committed DCS methamphetamine based on an actual delivery of meth. When B received the drugs, B committed PCS meth by being in actual possession of the meth.
- You arrest a person on a warrant. While conducting an inventory search on the person's backpack, you find four 2-gram (g) baggies of heroin, three empty baggies, and a scale. This person committed DCS heroin based on a constructive delivery of heroin.

Manufacture – ORS 475.005(15)

MCS is a broad category, including the production, preparation, propagation, compounding, conversion, or processing of a controlled substance. This is commonly seen in a process that converts multiple compounds into the finished controlled substance. Additionally, by the plain language of the definition, MCS also includes separating one large batch of product into smaller packages for sale. However, this repackaging of products for delivery is most commonly charged as a constructive delivery.



Examples:

- On a consent search of a home, you find a baking sheet in the dishwasher with a crystalline substance drying on it. You also find a 5-gallon water-cooler style jug with a liquid substance. Both items test positive for methamphetamine. The person who has control of this meth-finishing lab committed MCS methamphetamine by processing the controlled substance.
- Person B lawfully has a prescription for Xanax. However, Person B likes to make a little money on the side by separating the Xanax into baggies of 2-3 pills for individual sales. Person B committed MCS of a Schedule IV controlled substance by packaging the substance.

Charging Controlled Substance Offenses

When determining which statute to use to charge an offense, you should consider the type of substance (e.g., heroin or Xanax) and the type of offense (e.g., PCS or DCS). When the substance you are charging has a specific charging statute, you should use that section; if not, use the general statute for that drug schedule. Considerations on the type of offense are mainly controlled by the definitions discussed above.

General Charging by Drug Schedule

Controlled substances are divided into five schedules. The Drug Enforcement Agency (DEA) maintains a list of the schedules. Substances are placed in a schedule based on whether they have a currently accepted medical use in the US, their abuse potential, and the likelihood of causing dependence when abused. This chart provides a breakdown of the federal drug schedule with modifications by Oregon law in parentheses:



Schedule	Substances
I	Drugs in this schedule do not have an accepted medical use, are unsafe even when used under medical supervision, and have a high potential for abuse. This schedule includes heroin, LSD, peyote, MDMA, and marijuana (Oregon added certain synthetic opioids, fentanyl analogues, and methamphetamine; and subtracted marijuana from this schedule).
II	Drugs in this schedule have a high potential for abuse which may lead to severe psychological or physical dependence. This schedule includes cocaine, morphine, oxycodone, hydrocodone, methadone, and methamphetamine (As noted, Oregon moved methamphetamine to Schedule I).
III	Drugs in this schedule have a potential for abuse, and abuse may lead to moderate or low physical dependence or high psychological dependence. This schedule includes painkillers with 90 mg or less of codeine (Tylenol with codeine), buprenorphine (Suboxone), ketamine, and anabolic steroids.
IV	Drugs in this schedule have a low potential for abuse relative to Schedule III drugs. This schedule includes alprazolam (Xanax), carisoprodol (Soma), diazepam (Valium), clonazepam (Klonopin), and lorazepam (Ativan).
V	Drugs in this schedule have a low potential for abuse relative to Schedule IV drugs and are primarily preparations containing limited quantities of certain narcotics. This schedule includes cough medications with 200 mg or less per 100 ml or 100 g (Robitussin AC, Phenergan with codeine).



Charging by Specific Drug

The most common controlled substance offenses that you investigate have been moved into their own statute. This was done by the legislature to help track individual substances beyond the general schedule of drugs. Within the statutes, you will find specific charging sections for PCS, DCS, MCS (and within 1,000 ft. variants) of the following drugs: hydrocodone, methadone, oxycodone, heroin, MDMA, cocaine, and methamphetamine.

PCS Offenses

In 2020, Ballot Measure 110 reduced most general PCS offenses to a class E violation. These offenses are punishable with a \$100 fine, which can be waived if the offender participates in a health assessment. However, when the possession involves certain quantities, or is accompanied by three or more CDO factors, the PCS offense may be charged criminally. The following charts illustrate when PCS is a violation, misdemeanor, or felony:

PCS Violation Offenses		
Substance	Statute	Class
Sch I	ORS 475.752(3)(a)	E viol.
Sch II	ORS 475.752(3)(b)	E viol.
Sch III	ORS 475.752(3)(c)	E viol.
Sch IV	ORS 475.752(3)(d)	E viol.
Sch V	ORS 475.752(3)(e)	E viol.
Methadone	ORS 475.824(2)(b)	E viol.
Oxycodone	ORS 475.834(2)(b)	E viol.
Heroin	ORS 475.854(2)(b)	E viol.
MDMA	ORS 475.874(2)(b)	E viol.
Cocaine	ORS 475.884(2)(b)	E viol.
Meth	ORS 475.894(2)(b)	E viol.



PCS Misdemeanor Offenses			
Substance	Amount	Statute	Class
LSD	40 or more user units	ORS 475.752(7)(b)(A)	A misd.
Psilocybin	12 gram(g) or more	ORS 475.752(7)(b)(B)	A misd.
Hydrocodone*	Any amount	ORS 475.814(2)	A misd.
Methadone	40 or more user units	ORS 475.824(2)(c)	A misd.
Oxycodone	40 or more pills	ORS 475.834(2)(c)	A misd.
Heroin	1 g or more	ORS 475.854(2)(c)	A misd.
MDMA	1 g or more; 5 or more pills	ORS 475.874(2)(c)	A misd.
Cocaine	2 g or more	ORS 475.884(2)(c)	A misd.
Meth	2 g or more	ORS 475.894(2)(c)	A misd.

*Note: either in error or for an unspecified reason, M110 did not reduce PCS hydrocodone to a violation. So, any amount of that substance is still listed as a class A misd. unless modified by subsequent legislation/enactment. However, a District Attorney may choose to charge this as a violation

PCS Felony Offenses			
Substance	Amount	Statute	Class
Schedule I	Any & 3+ CDO factors	ORS 475.752(7)(a)	B fel.
Schedule II	Any & 3+ CDO factors	ORS 475.752(8)	C fel.
Methadone	Any & 3+ CDO factors	ORS 475.824(2)(b)	C fel.
Oxycodone	Any & 3+ CDO factors	ORS 475.834(2)(b)	C fel.
Heroin	Any & 3+ CDO factors	ORS 475.854(2)(b)	B fel.
MDMA	Any & 3+ CDO factors	ORS 475.874(2)(b)	B fel.
Cocaine	Any & 3+ CDO factors	ORS 475.884(2)(b)	C fel.
Meth	Any & 3+ CDO factors	ORS 475.894(2)(b)	C fel.



DCS offenses

The following chart provides a reference to DCS offenses without additional factors (discussed below):

Substance	Statute	Class
Sch I	ORS 475.752(1)(a)	A fel.
Sch II	ORS 475.752(1)(b)	B fel.
Sch III	ORS 475.752(1)(c)	C fel.
Sch IV	ORS 475.752(1)(d)	B misd.
Sch V	ORS 475.752(1)(e)	C misd.
Hydrocodone	ORS 475.806	C fel.
Methadone	ORS 475.820	B fel.
Oxycodone	ORS 475.830	B fel.
Heroin	ORS 475.850	A fel.
MDMA	ORS 475.870	A fel.
Cocaine	ORS 475.880	B fel.
Meth	ORS 475.890	B fel.

Within 1,000 Feet of a School – ORS 475.005(23)

A DCS or MCS offense within 1,000 feet (ft.) of a school primarily attended by minors is charged by the specific statute and elevates the crime seriousness scale (CSS) to a level 8. The distance between the offense and the school is measured in a straight line (i.e., as the crow flies) from offense location to the nearest property line of the school. Unlike other facts, the state is not required to prove the suspect was aware she or he was within 1,000 ft. of a school. For example, if you conduct a traffic stop on a person who is not from your town, who is driving out of visual range, but within 1,000 ft. of the property line of a middle school, that person would be charged with a level 8 DCS if she or he was found in possession of items constituting a constructive delivery of controlled substances.



Enhanced Penalty Factors

The previous section discussed how to locate the right statute and identify the class of the offense (e.g., felony or misdemeanor). This section identifies specific facts you can document to enhance the penalty of the offense. Looking back at the introduction to justice material, you learned that felony offenses are sentenced per a guidelines grid. The sentence is found at the intersection of the offense's CSS and the offender's criminal history scale (CHS). In general, a DCS/MCS offense is a level 4 on the CSS. However, if the investigating officer discovers aggravating factors, the offense can move up as high as a level 10.

Given the ability to have a wide range of sentencing, it is important to be aware of these enhancement factors as they can be the difference between probation and a presumptive 130 months in prison. Additionally, it is important to document these facts not only in your police report but in the probable cause (PC) statement that lodges the suspect in jail. This allows the charging district attorney to file the correct charge and seek the appropriate bail.

Consideration – ORS 475.900(2)(a)

When a DCS is for consideration, it may elevate the offense to a level 6 CSS. To prove consideration, the state must prove that the suspect intended to deliver the drugs possessed for something of value (e.g., money, stolen property, sexual favors, etc.) in a specific transaction already agreed upon or completed. If you can only prove a constructive delivery and the general intent to deliver for something of value, this is not sufficient to prove the offense was for consideration. This factor is only applicable to DCS of the following: heroin, cocaine, methamphetamine, or MDMA.

Examples:

- With the assistance of an informant, you arrange the purchase of $\frac{1}{4}$ ounce of heroin for a set price from the suspect. You arrest the suspect when he arrives at the meet location with the drugs. This suspect committed a level 6 DCS Heroin – for consideration.
- You arrest a person on a warrant. While conducting an inventory search on the person's backpack, you find four 2 g baggies of methamphetamine, three empty baggies, and a scale. You know, based on your training and experience, that people sell meth rather than giving it away. The suspect makes no statements. Because you cannot show a specific deal, this suspect committed a level 4 DCS Heroin without consideration.



Substantial Quantities

While a PCS felony is generally a level 1 CSS, if the suspect has certain amounts of the substance, the offense is elevated to a level 6 per ORS 475.900(2)(b). These amounts are the same as discussed below in the DCS substantial quantity section. This could be charged if you were unable to prove an actual or constructive delivery of the substance possessed. This also may be charged by the district attorney as a compromise to a DCS.

- DCS and MCS offenses involving amounts equal to or greater than those listed below are elevated to a level 8 per ORS 475.900(1)(a):
 - Heroin – 5 g
 - Cocaine, methamphetamine – 10 g
 - MDMA – 5 g or 25 pills
 - LSD – 200 user units
 - Psilocybin – 60 g

- DCS and MCS offenses involving amounts equal to or greater than those listed below are elevated to a level 9 per ORS 475.925(2):
 - Heroin – 50 g
 - Cocaine, methamphetamine – 100 g
 - MDMA – 50 g or 250 pills

- DCS and MCS offenses involving amounts equal to or greater than those listed below are elevated to a level 10 per ORS 475.925(2):
 - Heroin – 100 g
 - Cocaine, methamphetamine – 500 g
 - MDMA – 100 g or 500 pills



Commercial Drug Offenses – ORS 475.900(1) (b)

PCS, DCS, and MCS offenses are considered a commercial drug offense (CDO) when you can prove at least three of the listed factors. Proof of a CDO elevates the offense to a level 8 CSS. As a reminder, the facts supporting the CDO factor must be listed in the report, as well as the PC statement.

CDO Factors:

- DCS heroin, cocaine, methamphetamine, LSD, psilocybin for consideration (see discussion above for requirement of a specific transaction)
- Possession of \$300 or more
- Weapons violations (considered one factor even if multiple subcategories):
 - Possession of a firearm by a prohibited possessor
 - Possession of a firearm for purposes of using it in connection with the offense (e.g., for protection)
 - Use, attempted use, or threatened use of a deadly or dangerous weapon
- Packaging material (e.g., scales, additional wrapping or foil)
- Drug transaction records or customer lists
 - These notes must be kept for a record
 - A notebook listing purchases and amounts owed by individuals would likely be sufficient
 - Text messages arranging transactions would likely NOT be sufficient unless the suspect admitted he kept them to remember who owed him
- Possession of the stolen property
- Modification of structures to facilitate the offense
- Possession of manufacturing paraphernalia
- Use of public lands for MCS
- Construction of fortifications or security measures with the potential to injure
- Possession of amounts equal to or greater than:
 - Heroin – 3 g
 - Cocaine, methamphetamine – 8 g
 - MDMA – 4 g or 20 pills
 - LSD – 20 user units
 - Psilocybin – 10 g



Exemptions to Prosecution of PCS Offenses

ORS 475.898 creates a limited immunity from arrest and prosecution for drug offenses, similar to that previously created for MIP offenses (see below). In general, this exempts the person calling and the person in need of medical attention from arrest and prosecution for PCS offenses and violations of terms of release or supervision if evidence of the offense was obtained because emergency medical services or the law enforcement agency was contacted to obtain necessary medical assistance for a drug-related overdose.

This section also provides that the person calling and the person overdosing may not be arrested on outstanding warrants for PCS offenses or probation/parole violations for PCS offenses if the person's location was learned because of the call for medical assistance due to a drug-related overdose. This only applies to warrants issued in Oregon. Therefore, warrants from other states or the federal government are still serviceable on these calls.

Officers should note that this section does not mean the evidence related to the PCS offense is not subject to seizure. This section only provides a person cannot be prosecuted for the offense. Check with your agency policies and local district attorney to determine the status of any evidence of a PCS offense that is subject to this exemption. Lastly, officers should also be aware that this only applies to PCS offenses, and is inapplicable to DCS and MCS offenses.

Cannabis

A comprehensive discussion of marijuana and medical marijuana law is beyond the scope of this class. Additionally, enforcement of marijuana laws varies considerably based on the county in which you work. For basic familiarization, we provide a quick reference chart (page 13-14) of the most common offenses and definitions. You should speak with your agency and the local district attorney for further guidance on the enforcement of marijuana and medical marijuana laws in your jurisdiction. Additionally, note that similar to the exemptions provided for PCS offenses, ORS 475B.393 provides the same protections for persons calling and persons overdosing on cannabis.



MARION COUNTY DISTRICT ATTORNEY

Marijuana Laws Quick Reference - 2018 v1 ©

Over 21 Years of Age Possession

475B.	Useable MJ in Public Place	Class	475B.	Products/Concentrates	Class	475B.	Lawfully Purchased Extracts	Class
337(3)(a)	MJ > 1 to ≤ 2 oz	B-V	337(3)(a)	Solid/Conc. > 16 to ≤ 32 oz	B-V	337(3)(a)	Extract > 1 to ≤ 2 oz	B-V
337(3)(b)	MJ > 2 to ≤ 4 oz	B-M	337(3)(b)	Solid/Conc. > 32 to ≤ 64 oz	B-M	337(3)(b)	Extract > 2 to ≤ 4 oz	B-M
337(2)	MJ > 4 to ≤ 128 oz	A-M	337(2)	Solid/Conc. > 64 to ≤ 256 oz	A-M	337(2)	Extract > 4 oz to ≤ 16 oz	A-M
337(3)(c)(B)	MJ > 128 oz (8 lbs)	C-F	337(3)(c)(A)	Solid/Conc. > 256 oz (16 lbs)	C-F	337(3)(c)(A)	Extract > 16 oz	C-F
Useable MJ Non-Public Place								
337(3)(a)	MJ > 8 to ≤ 16 oz	B-V	337(3)(a)	Liquid > 72 to ≤ 144 oz	B-V	475B.	Unlawful Extracts	Class
337(3)(b)	MJ > 16 to ≤ 32 oz	B-M	337(3)(b)	Liquid > 144 to ≤ 288 oz	B-M	337(2)	Extract ≤ ¼ oz	A-M
337(2)	MJ > 32 to ≤ 128 oz	A-M	337(2)	Liquid > 288 to ≤ 1152 oz	A-M	337(3)(c)(C)	Extract > ¼ oz	C-F
337(3)(c)(A)	MJ > 128 oz (8 lbs)	C-F	337(3)(c)(A)	Liquid > 1152 oz (9 gal)	C-F			
Delivery								
475B.		Class	475B.	Manufacture	Class	Felony Crime Seriousness		
346(3)(a)	≥ 21 yo to ≥ 21, ≤ 2 oz MJ no consid	B-M	349(3)(a)	> 4 to ≤ 8 plants	B-M	1	Possession	
346(3)(b)(A)	> 64 plants or amounts = Poss. Fel.	C-F	349(3)(b)(A)	> 12 plants	C-F	4	Delivery/Manufacture	
346(3)(b)(B)	Del. to < 21 yo *exception below	C-F	349(3)(b)(B)	Solid/Conc. > 32 oz, Liq > 144 oz	C-F	8	Commercial Marijuana Offense	
346(2)	All other, including if Del. by < 24 to ≥ 16 yo ≤ 1 oz MJ + no consid	A-M	349(3)(c)	Unlawful extract	B-F		(3 factors similar to comm. drug off.)	
			349(2)	All other	A-M			

Under 21 Years of Age

475B.	Possession	Class	475B.	Delivery	Class	475B.	Manufacture	Class
341(2)	Amounts > PA	A-M	346(3)(b)(A)	Amounts = Del. Fel. for ≥ 21 yo	C-F	349(3)(b)	Amounts=Man. Fel. ≥ 21yo	C-F
341(3)(b)	> 8 lbs MJ in public place	C-F	346(2)	All other	A-M	349(2)	All other	A-M
341(3)(a)	> 16 times PA (except public place)	C-F						
316(3)(a)	Amounts < PA for ≥ 21 yo (MIP)	B-V						
316(3)(b)	MIP while operating vehicle	A-V						
Other MJ-Related Offenses								
475B.		Class	Permitted Acts (PA) - 475B.245					
359	Arson incident Man. Extract I	A-F	Per household: 4 plants, 8 oz liquids, 16 oz solids, 16 oz concentrates, 72 oz liquids, 1 oz lawful extracts					
363	Arson incident Man. Extract II	C-F	Individual (21 or over): possess 1 oz MJ in public place, deliver for no consideration 1 oz MJ, and up to the household limits of solids, concentrates, and liquids					
367	Causing another ingest marijuana	A/B-F	ORS					
371	Administer marijuana to < 18 yo	A-F	Other Offenses Cont.					
376	Sell paraphernalia to < 21 yo	B-V	167.262(2)(b) Use minor Del. ≤ 1oz MJ no consid A-M					
306	P/D/Man. marijuana in public view	B-V	167.262(2)(a) Use minor all other DCS/MCS A-F					
381	Use marijuana in public place	B-V	811.482 Consume marij. in motor veh B-V					
329(1)	Provide marijuana to intoxic person	A-M						
329(2)	Allow < 21 yo consume marijuana	A-M						
227	Import/Export marij. (same as amts=V,M, F)	F						

Oregon Medical Marijuana Allowances
Exemptions from Poss./Del./Man.
Cardholder & Caregiver joint possession of:
475B.831(1) 6 mature plants
475B.834(1) 24 oz MJ
Designated grower:
475B.831(2) 6 mature plants per up to 4 cardholders
475B.834(3)(a) 12 lbs MJ per outdoor plant
475B.834(3)(b) 6 lbs MJ per indoor plant



Definitions

Cannabinoid concentrate: a substance obtained by separating cannabinoids from marijuana by a mechanical extraction process, or a chemical extraction process using a nonhydrocarbon-based solvent (e.g. water, vegetable oils, isopropyl alcohol or ethanol); or using the hydrocarbon-based solvent carbon dioxide without high heat or pressure. 475B.015(2)

Cannabinoid extract: a substance obtained by separating cannabinoids from marijuana by a chemical extraction process using a hydrocarbon-based solvent (e.g. butane, hexane or propane); or carbon dioxide with high heat or pressure. 475B.015(4)

Cannabinoid product (liquid/solid): an edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers. 475B.015(5)

Delivery: the actual, constructive or attempted transfer from one person to another. 475B.015(7)

Financial Consideration: value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions, or donations; does not include marijuana, products, or concentrates within PA. 475B.015(9)(a)

Manufacture: producing, propagating, preparing, compounding, converting, processing, packaging, or labeling a marijuana item. 475B.015(16)(b)

Marijuana: seeds and any part of the plant Cannabis family Cannabaceae. 475B.015(17)(a)

Process: processing, compounding, or conversion of marijuana into cannabinoid products, concentrates, or extracts. 475B.015(31)(a)

Produces: planting, cultivation, growing, or harvesting of marijuana; but not drying if not otherwise producing. 475B.015(32)(a)

Public place: a place to which the general public has access (note: this does not include a private vehicle) 475B.015(34)

Usable marijuana (MJ): the dried leaves and flowers of marijuana; but not the seeds, stalks, roots, or waste from processing marijuana. 475B.015(36)(a)

MATH SIGNS		
> - greater than	< - less than	≤ - less than or equal to
		≥ - greater than or equal to
<p><i>Examples:</i> $PCS MJ > 1$ to ≤ 2 oz means possession of more than one ounce but equal to or less than two ounces of MJ ≥ 21 yo to ≥ 21, ≤ 2 oz MJ <i>no consid</i> means a person who is 21 yo or over delivers to a person who is 21 yo or over for no consideration an amount of MJ that is less than or equal to 2 ounces</p>		

NOTICES:

*This reference applies to acts committed on or after 4/21/17 per 2017 SB 302A.

*This is only intended as a reference of the most commonly used MJ laws. This is not an exhaustive resource, nor legal advice.

*Unless otherwise specified, the offenses listed assume that the person is not a medical marijuana card holder or otherwise licensed by the OLCC.



Alcohol

Alcohol offenses generally include the minor (i.e., a person under 21 years old) who possesses or consumes the substance, as well as the other person (adult or minor) who provides (i.e., furnishes) the alcohol to the minor. Possession offenses have similar exemptions from prosecution as the drug-related overdose exemptions discussed above. Also, parents or guardians of minors have certain exemptions from furnishing offenses.

Minor in Possession (MIP) – ORS 471.430

A minor who attempts to purchase, purchases, or acquires alcohol commits a class B violation. This possession includes the consumption of alcoholic beverages. However, this does not include the consumption of alcohol in relation to a religious service. Additionally, the offense is elevated to a Class A violation if the person is in possession of alcohol while the person is operating a motor vehicle.

When investigating MIP offenses, officers should always remember to document the facts that support the possession of each minor charged with the offense. While violation offenses on those over 18 years old are proven by a preponderance of evidence in adult court, any level offense charged by petition in juvenile court must be proven beyond a reasonable doubt. Therefore, if you only document that in general, all minors at a party smelled like alcohol, it may not be sufficient to prove each minor charged was in possession of alcohol by consumption beyond a reasonable doubt.

Furnishing Alcohol to a Minor – ORS 471.410(2)

A person commits a class A misdemeanor by selling, giving, or otherwise making available alcohol to a minor. This includes a store clerk who sells beer to a person under 21, as well as a person at a party who hands a minor a glass of wine. There are increasing penalties for repeated violations of this section.

This section does not apply to the minor's parent or guardian when the minor is in a private residence and is accompanied by the parent or guardian. This means if a parent is at another person's house with her or his child, the parent may allow the parent's child to consume alcohol. However, a parent may not give another person permission for the parent's child to consume alcohol at the other person's house. If this occurs, the other person would still be committing furnishing alcohol to a minor.



Exemptions to Prosecution for MIP

Similar to the exemptions discussed for PCS offenses above, per ORS 475.430(10), a person who calls for, and a person who is overdosing from alcohol, are immune from prosecution for MIP if medical services or law enforcement are called for an alcohol-related overdose. In addition, per ORS 475.434, a person who calls for, and a person who is a victim of a sexual assault, are immune from prosecution of MIP if medical services or law enforcement is called for a sexual assault. Lastly, minors who are acting in the course of a law enforcement sting on an establishment are, obviously, immune from prosecution for MIP per ORS 475.430(8) – (9).

Criminal Networks and Intelligence

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATKINS 1960-1966
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY INDEE



Criminal Networks and Criminal Intelligence

Instructional Goal:

This course is designed to introduce a new police officer to basic information about understanding and disrupting criminal networks operating in communities, including the use of criminal intelligence resources.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Describe community concerns regarding criminal networks.
2. Identify features of criminal networks.
3. Describe the purpose of criminal intelligence.

Content Outline:

- Criminal Networks
 - Gang Activity
 - Human Trafficking
- Disrupting and Preventing Crime
 - Concentration of Crime
 - Deterrence
- Criminal Intelligence
 - Intelligence Resources



Introduction

This course serves to build upon previous lessons on crime prevention, criminal law, investigations, and tactics while introducing the problem of criminal networks. How can law enforcement deter and disrupt criminal activity when it is part of a larger problem? First we must develop awareness of the various criminal networks operating, perhaps invisibly, in our communities. What signs should police be attentive to? Next, what resources exist to support law enforcement efforts? Finally, what strategies have shown to be effective?

Criminal Networks

While the idea of criminal networks may bring about thoughts of a movie or television series, these networks exist, and they create crime and crime-related problems in our communities. Consider, for example, the impacts of identity theft, drug trafficking, human trafficking, prostitution, or gangs, to name a few.

Criminal Network: A set of actors that are connected by ties, which in some way support the commission of illegal acts.

While there are numerous types of criminal networks that could be introduced in this course, we will focus primarily on three; gangs, human trafficking, and identity crimes. However, the concepts in this course can be applied to networks introduced in other courses, such as drug trafficking.



Gang Activity

The presence of gangs and gang-related activity can create fear and concern in local communities, impacting the quality of life of neighborhoods and cities. To confront these concerns, law enforcement is often considered the first line of defense through prevention, intervention, and suppression efforts.

There are over 75 documented gangs in Oregon, according to the Western States Information Network (WISN). The impact of gangs in Oregon is not limited to large metropolitan jurisdictions such as Portland or Multnomah County. Incidents ranging from thefts, credit card fraud, and deadly shootings have occurred across the state. A simple Google News search yields dozens of recent stories, most of which are violent crime-related. A 2019-2020 search yielded reports from Ontario (546 gang-related crimes), Salem, Medford, Portland, Klamath, and Jackson counties. Jackson County notes 16 separate gang affiliations alone. Portland has had a substantial increase in shootings that are believed to be related to gang activity in July 2020.

Oregon currently has no felony gang laws other than graffiti or vandalism. ORS 336.109 is the POLICY to Reduce Gang Involvement. In this policy, a "gang" means a group that identifies itself through the use of a name, unique appearance, or language, including hand signs, the claiming of geographical territory, or espousing of a distinctive belief system that frequently results in criminal activity. While there is no universally accepted definition of a gang, the U.S. Department of Justice defines a gang as:

1. An association of three or more individuals;
2. Whose members collectively identify themselves by adopting a group identity which they use to create an atmosphere of fear or intimidation frequently by employing one or more of the following:
 - Common name
 - Slogan
 - Identifying sign/symbol
 - Identifying tattoo or other physical markings
 - Style or color of clothing and/or hairstyle
 - Identifying hand sign
 - Graffiti



3. The association's purpose, in part, is to engage in criminal activity, and the association uses violence or intimidation to further its criminal objectives;
4. Its members engage in criminal activity, or acts of juvenile delinquency that if committed by an adult would be crimes;
5. With the intent to enhance or preserve the association's power, reputation, or economic resources;
6. The association may also possess some of the following characteristics:
 - The members employ rules for joining and operating within the association;
 - The members meet on a recurring basis;
 - The association provides physical protection of its members from other criminals and gangs;
 - The association seeks to exercise control over a particular location or region, or it may simply defend its perceived interests against rivals; or
 - The association has an identifiable structure.

The U.S. Department of Justice categorizes gangs into street gangs, prison gangs, and motorcycle gangs.



Role of Law Enforcement

According to the National Gang Center, communities should adopt a comprehensive, multifaceted, collaborative approach that involves prevention strategies for youth at risk of gang joining, intervention strategies for youth and young adults who are gang-involved, and suppression (investigation and enforcement) strategies in areas where gang violence threatens the public safety of a community.

Prevention	Intervention	Suppression
<ul style="list-style-type: none"> • High-Risk/High-Crime Communities • High-Risk Youth 	<p>Services in the community</p> <ul style="list-style-type: none"> • Drug and alcohol treatment • Mental health and anger-management counseling • Job training and placement • Transportation assistance • Tattoo removal • Legal assistance • Transitional/reentry services 	<ul style="list-style-type: none"> • Participating in joint police/probation activities, including conducting probation searches of homes, vehicles, and gang-involved probationers. • Targeting enforcement to the times, places, and events in which data and historic gang enforcement patterns indicate that gangs are active. • Designing investigative strategies to address specific gang-related crimes. • Executing directed patrols of locations where gang members congregate. • Conducting community forums to address incidents. • Establishing community prosecution and/or vertical prosecution strategies to



		<p>prosecute gang crime more effectively.</p> <ul style="list-style-type: none"> • Making informal contacts with targeted youth and their families.
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Human Trafficking

According to the U.S. Department of Justice, Trafficking in Persons Report 2020, The United States considers "trafficking in persons," "human trafficking," and "modern slavery" to be interchangeable umbrella terms that refer to both sex and labor trafficking.

The Trafficking Victims Protection Act (TVPA) defines severe forms of trafficking in persons as:

- Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or
- The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Top 3 Types of Trafficking Cases (2018)

Source: Polaris Project

Sex Trafficking	Labor Trafficking	Sex and Labor Trafficking
<ul style="list-style-type: none"> • Escort services • Residential-based • Pornography 	<ul style="list-style-type: none"> • Domestic work • Agriculture • Traveling sales crews 	<ul style="list-style-type: none"> • Illicit massage, health, and beauty • Bar and strip clubs • Illicit activities



According to the International Association of Chiefs of Police, human trafficking can happen anywhere. Research shows that most people in the United States understand that human trafficking exists in the country, but only 20% believe it happens in their own communities. Law enforcement must learn to see abusive and exploitive circumstances through a human trafficking lens, even if those circumstances do not match how movies, television shows, or even well-meaning awareness campaigns portray human trafficking within the United States.

Law enforcement officers should be prepared for the potential of human trafficking to reach their communities. Identifying and investigating human trafficking crimes may be done both proactively and reactively.

Oregon Statutes

ORS 163.263 Subjecting Another Person to Involuntary Servitude in the Second Degree

A person commits the crime of subjecting another person to involuntary servitude in the second degree if the person knowingly and without lawful authority forces or attempts to force the other person to engage in services by:

- Abusing or threatening to abuse the law or legal process;
- Destroying, concealing, removing, confiscating, or possessing an actual or purported passport or immigration document or another actual or purported government identification document of a person;
- Threatening to report a person to a government agency for the purpose of arrest or deportation;
- Threatening to collect an unlawful debt; or
- Instilling in the other person a fear that the actor will withhold from the other person the necessities of life, including but not limited to lodging, food, and clothing.



ORS 163.264 Subjecting Another Person to Involuntary Servitude in the First Degree

A person commits the crime of subjecting another person to involuntary servitude in the first degree if the person knowingly and without lawful authority forces or attempts to force the other person to engage in services by:

- Causing or threatening to cause the death of or serious physical injury to a person; or
- Physically restraining or threatening to restrain a person physically.

ORS 163.266 Trafficking in Persons

A person commits the crime of trafficking in persons if the person knowingly recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person and:

- The person knows that the other person will be subjected to involuntary servitude as described in ORS 163.263 (Subjecting another person to involuntary servitude in the second degree) or 163.264 (Subjecting another person to involuntary servitude in the first degree);
- The person knows or recklessly disregards the fact that force, fraud, or coercion will be used to cause the other person to engage in a commercial sex act; or
- The person knows or recklessly disregards the fact that the other person is under 18 years of age and will be used in a commercial sex act.

A person commits the crime of trafficking in persons if the person knowingly benefits financially or receives something of value from participation in a venture that involves an act prohibited by subsection (1) of this section or ORS 163.263 (Subjecting another person to involuntary servitude in the second degree) or 163.264 (Subjecting another person to involuntary servitude in the first degree).



Human Trafficking Indicators

Some red-flag indicators of the presence of human trafficking include the following situations:

- A person whose movement and activities appear to be closely controlled or monitored by another.
- A person who works excessive hours, but receives little or no pay. This person may be told that payment is on its way or asked to wait.
- A person who works excessive hours and is fearful of discussing working conditions.
- A person who is unaware that unsafe work conditions are unlawful.
- A person who has little or no idea where they are geographically located.
- A person who is always transported to and from the work site by another person.
- An able-bodied person who never leaves home unless escorted.
- A person who is fearful of discussing their relationship to a person who appears to have control over him or her.
- A minor who is engaged in commercial sexual activities.
- Groups of workers transported in and out of labor locations covertly or under controlled conditions.
- A foreign national adult or minor who is not in possession of identifying documents, especially if he or she says that someone else has them.

Not all of the above indicators are present in every human trafficking situation, and the presence of any one of these indicators is not necessarily proof of human trafficking, nor is the absence of any one proof against human trafficking. If any of the above indicators are present, additional inquiry should be made to further assess the situation.

Source: Human Trafficking 101 for Law Enforcement," The Police Chief 81 (July 2014): web only.



How Do Gangs and Human Trafficking Go Together?

"Gangs have learned that it's cheaper and less risky to traffic girls than guns or drugs."

What:

- Sex trafficking is the new "drug" of gangs.
- There has been an increase in gang-controlled sex trafficking activity across the country.
- Street and outlaw motorcycle gangs are focusing more on sex trafficking as a business activity.

Why:

- Provides a reusable resource (humans can be sold again and again)
- High profitability with low risk of detection
- Requires minimal to no financial investment (post inexpensive ads)
- Involves fewer resources than drug trafficking
- Law enforcement efforts are less focused (perpetrators are traveling from city to city, but LE fails to recognize the signs in traffic stops)
- The commodity is easily replaced if lost

At-Risk for Victimization:

- Runaways (vulnerable)
- Gang involved females (exploited for revenue)
- "Boyfriend" is a gang member
- Substance abuse (heroin makes victims more compliant and dependent)

Source- National Gang Center, Gangs and Human Trafficking Webinar (2020)

<https://www.nationalgangcenter.gov/Resources/Details/17>



Disrupting and Prevention

The remainder of this course will focus on crime prevention and criminal intelligence strategies that law enforcement can use to disrupt criminal networks in their communities.

Concentration of Crime

Developing effective crime prevention strategies for a community requires some understanding about the nature of crime itself. Crime is not random. Research consistently shows that crime concentrates across places (geographic areas, neighborhoods, street segments, addresses, or households are the locations for the majority of crime), across victims (a large proportion of victimizations happen to a relatively small portion of the population, a small proportion of those affected are victimized more than once), and offenders (few offenders are responsible for the majority of the crime).

Places

A relatively small proportion of all places contain most crime. These micro places, commonly referred to as “hot spots” of crime, have been defined as clusters of street addresses, groupings of street blocks, and particular street intersections and street segments. High-activity crime places have been found in neighborhoods characterized by both low and high levels of social disadvantage.

From: The Law of Crime Concentration at Places (2017) by Anthony Braga, Martin Andersen, and Brian Lawton in the Journal of Quantitative Criminology.

Some findings:

- Calls for services are more concentrated than crime incidents.
- Property crime is more concentrated than violent crime.
- Crime is more concentrated at addresses than other units, including street segments.
 - The worst 5% of households or addresses accounted for about 55% of the crime.
 - The worst 5% of the street segments accounted for around 42% of the crimes.
 - The worst 5% of the neighborhoods accounted for around 20% of the crimes.

From: How Concentrated is Crime at Places? (2017) by YongJei Lee, John Eck, SooHyun O, and Natalie Martinez in Crime Science.



Victims

Two measures of crime concentration among victims are commonly used. The first measure is “prevalence,” or the number of people with at least one victimization divided by the total number of people in a population. The second measure is “frequency,” or the total number of victimizations divided by the total number of victims. These two measures suggest different crime prevention approaches. The higher the prevalence of victimization, the greater the proportion of the population at risk for being victimized. If a high prevalence of victimization is driving crime rates, crime can be reduced by focusing efforts on preventing a non-victim from becoming a victim. However, if crime rates are mainly due to a high frequency of victimization, crime prevention strategies should concentrate on keeping victims from being revictimized.

From: How Concentrated is Crime Among Victims? (2017) by SooHyun O, Natalie Martinez, YongJei Lee, and John Eck in Crime Science.

Offenders

If crimes were equally distributed in society, then 10% of all offenders would account for 10% of all crimes, 20% of offenders would account for 20% of all crimes, and so on. Decades of research on offenders has shown that this is not the case. In fact, those studies have repeatedly found that the distribution of offending is skewed and that crime is highly concentrated among a small proportion of offenders. In multiple studies it was found that 10% of offenders accounted for about 40% of all offenses. Crime prevention strategies include focusing resources on those who commit the most crime, such as selective incapacitation (jail/prison sentences), rehabilitation programs, and changing perceptions of risk and reward.

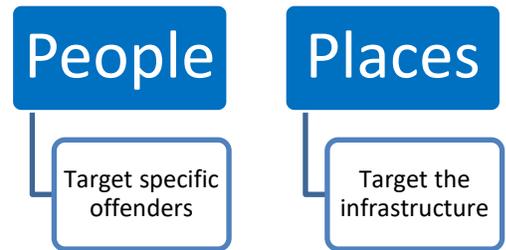
From: Ravenous Wolves Revisited: A Systematic Review of Offending Concentration (2017) by Natalie Martinez, YongJei Lee, John Eck, and SooHyun O in Crime Science.



Crime Prevention Strategy- Deterrence

Some law enforcement strategies for disrupting crime networks are effective. For example, criminal networks can be disrupted through approaches targeting the people and/or the places where crime concentrates.

Targeting People: Police can often impact crime by directly interacting with offenders and communicating clear incentives for compliance and criminal activity consequences. These approaches focus on high-rate offenders, often gang members or drug sellers.



Targeting Places: Crime networks extend beyond the specific address where crime occurs. Where are the places where criminal networks meet? Are there businesses supporting these endeavors?

According to the Center for Problem-Oriented Policing, the deterrence theory of crime asserts that people are discouraged from committing crimes if they believe they are likely to be caught and punished certainly, severely, and swiftly. These three punishment elements theoretically work best in concert. If any one of the elements is weak, the threat of punishment is diminished, and the person is less deterred from committing the crime. Deterrence can be general or specific.

General Deterrence	Specific Deterrence
When other people become aware of an individual's punishment and are discouraged from committing similar offenses.	Refers to instances when the individual punished is discouraged from offending again.
A message conveyed by Person A to Person B influences Person C (or Person N).	A message conveyed by Person A to Person B influences Person B.



Focused-deterrence is a crime reduction strategy in which carefully selected high-risk offenders receive concentrated law enforcement attention and, simultaneously, offers of concentrated social services through direct, persuasive communication and rigorous follow-up of these commitments. Focused-deterrence initiatives (FDIs) aim primarily to deter high-risk offenders from re-offending, but if properly publicized to offenders' associates and the wider public, general deterrence can occur as well.

Note, these are not merely enforcement crackdowns or a method of making life difficult for selected individuals.

FDIs commonly include such aspects as:

- Identification of prolific offenders
- Scripted offender notification meetings
- Coordinated and strategic prosecution
- Provision of social services to individuals willing to accept them, and
- Careful monitoring of individuals' actions

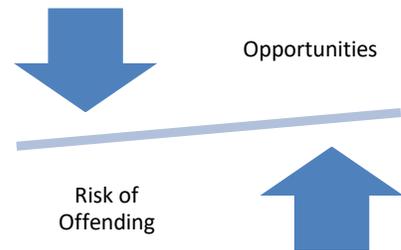
Focused Deterrence Example: Operation Ceasefire

In Boston, gangs were notified at call-in meetings that violence would no longer be tolerated. Every available legal lever would be pulled to bring an immediate and certain response if violence did occur. This "hard" message delivered by police and prosecutors was accompanied by a "soft" message that emphasized the community's willingness to help in these change efforts and the availability of services (e.g., job training, drug treatment) for gang members interested in engaging in more pro-social behavior. These call-in meetings or forums followed from a multi-agency team carefully analyzing Boston's youth violence problem and concluding that violence was primarily concentrated among a small group of gang-involved offenders



Focused deterrence is considered a sub-group of the problem-oriented policing interventions introduced earlier in the academy. Exact strategies should vary by city and tailored to the specific gang, gun, or drug problem facing a community.

Increasing the likelihood of detection can be combined with other program components such as situational crime prevention (to reduce opportunities), social service programs (to deflect offenders away), engaging with the community (to build collective efficacy), and using procedural justice in communications with offenders.



In addition to crime prevention, when carefully and properly implemented, FDIs can enhance the perceived legitimacy of the police and the public's trust in them in communities where these have often been lacking.

An investigative technique for disrupting networks is to engage in criminal intelligence.



Criminal Intelligence

According to the International Association of Chiefs of Police (IACP), information gathering is a fundamental and essential element in any law enforcement agency's all-encompassing duties. When acquired, information is used to prevent crime, pursue and apprehend offenders, and obtain evidence necessary for conviction. While criminal intelligence may be assigned to specific personnel within the agency, all agency members should be responsible for reporting information that may help identify criminal conspirators and perpetrators.

What is Criminal Intelligence?

IACP defines criminal intelligence as information compiled, analyzed, and/or disseminated to anticipate, prevent, or monitor criminal activity.

Criminal intelligence is first, in its raw form, information. Basic information, whether collected by the intelligence unit, patrol officers, investigators, or others, is not intelligence in the literal or practical sense until it has undergone a series of analytical processes that determine its utility for tactical or strategic law enforcement purposes.

Intelligence in its useable form consists of reasoned conclusions, suppositions, and informed judgments based on a collection and analysis of reasonably reliable information. Intelligence is, or should be, more than speculation but may not always constitute a certainty. In most cases, criminal intelligence consists of evaluations of a wide variety of raw pieces of information that provide the basis for informed judgments and, as a whole, create enough information from which to draw reasonable inferences and conclusions.





Intelligence and Proactive Policing

Early in the academy, you covered the concept of proactive policing, including the benefits and potential risks. Law enforcement intelligence operations are one important means of developing more proactive means of policing. For example, intelligence allows officers to intervene more effectively in on-going criminal enterprises and ferret out criminal activity. But criminal intelligence gathering, if not organized properly and subjected to internal and external controls, can form an unwarranted or even illegal intrusion upon individuals' rights.

Who is Subject to Intelligence Gathering?

How can law enforcement use criminal intelligence effectively while not harming individuals or communities? Who is subject to intelligence gathering and who is not?

Includes	Does Not Include
Identifying persons who are reasonably suspected of being engaged in or preparing to engage in some form of criminal activity.	Although they may be considered troublesome, or otherwise objectionable, actions of persons do not reasonably constitute a criminal threat. These persons are not legitimate subjects of criminal intelligence gathering.

Criminal Activity Related to Intelligence Gathering

Criminal activity that may be subject to intelligence gathering includes organized and violent crime, gang activity, drug activity, terrorism, violent extremism, human trafficking, identity theft, cybercrime, and other regional priorities.



Intelligence Resources

One element of criminal intelligence is the concept of deconfliction. There are two general types; event and target deconfliction.

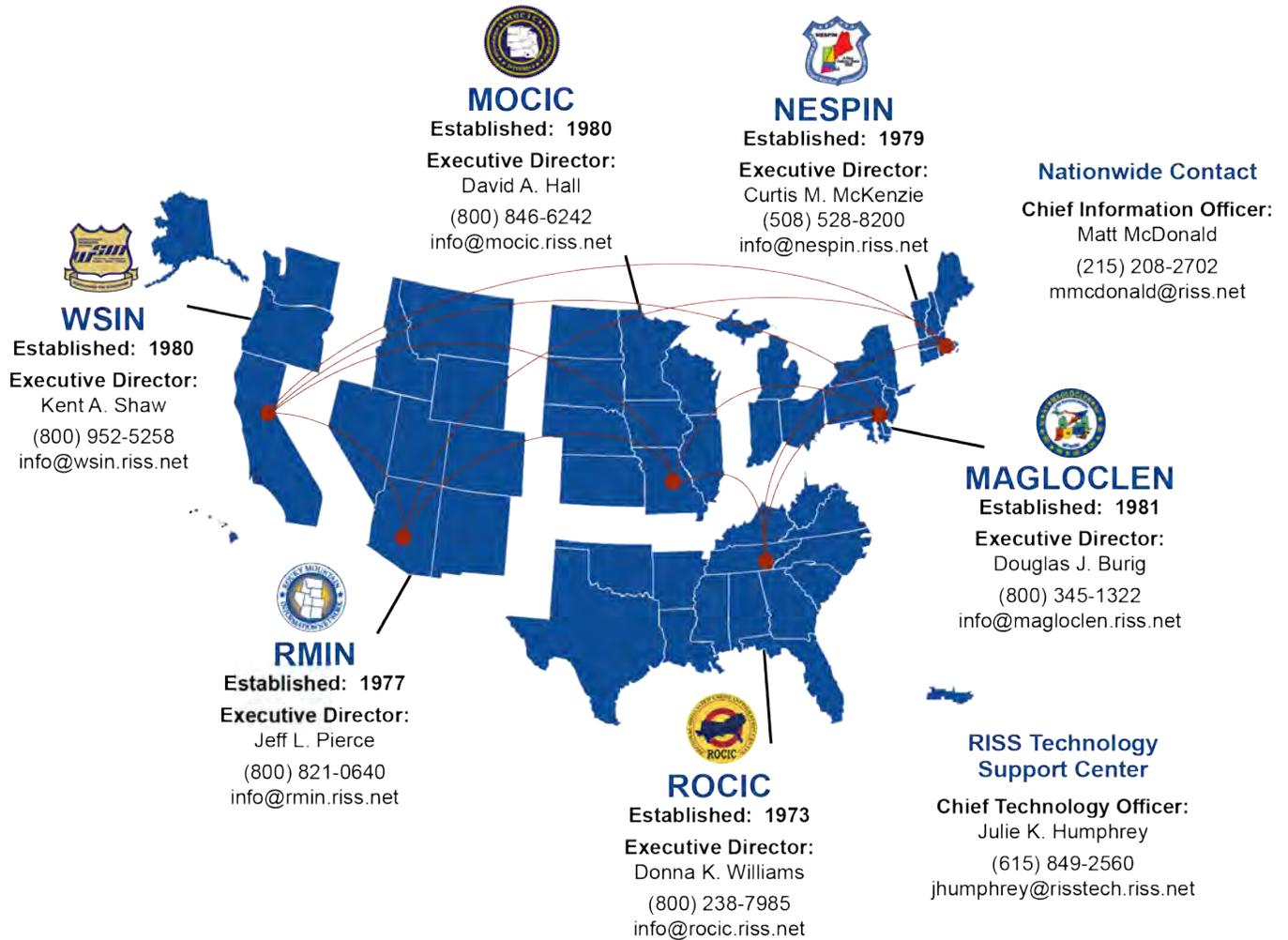
Event Deconfliction	Target (Subject or Case) Deconfliction
<p>Event deconfliction is the process of determining when law enforcement personnel are conducting an event in close proximity to one another at the same time.</p> <p>Events include law enforcement actions such as raids, undercover operations, surveillance, or executing search warrants. When certain elements (e.g., time, date, or location) are matched between two or more events, a conflict results.</p>	<p>Target deconfliction applies to subjects, gangs, locations, telephone numbers, vehicles, and other information about criminal activity.</p> <p>Target deconfliction helps increase the ability to link investigations, connect suspects and cases, maintain the integrity of investigations, and strengthen information sharing.</p>
Focused on officer safety	Focused on improving investigative outcomes

While the everyday patrol officer may not have use for event deconfliction, linking investigation information can be a useful tool.

There are three nationally recognized deconfliction systems:

- Case Explorer
- SAFETNet
- RISSafe

Each of these systems has different users and stakeholders. The systems are not duplicative but rather work together to help ensure nationwide event deconfliction coverage. The remainder of this course will focus on one system, the Regional Information Sharing Systems (RISS).



Western States Information Network/Regional Information Sharing Systems

The Western States Information Network (WSIN) is one of six Regional Information Sharing Systems (RISS) through the U.S. Department of Justice. WSIN systems include RISSintel and RISSafe.

The WSIN mission is to provide the most secure, accurate, and timely criminal intelligence and assistance to its participating agencies to enhance the investigation, arrest, prosecution, and conviction of criminal offenders. The use of RISSintel and RISSafe assists investigators to see the big picture of what criminal targets are involved in.

The executive board of WSIN is made up of two top cops from five states (Oregon, Washington, California, Hawaii, and Alaska). All resources provided from WSIN are free to participating agencies.



Services Include:

- Investigative Deconfliction
- Officer Safety Event Deconfliction
- Analytical Case Support (ORDOJ and WSIN)
- Law Enforcement Coordinators (2 in Oregon)
- Specialized Equipment
- Publications and Bulletins
- Several Online Resources

RISS Officer Safety Event Deconfliction System (RISSafe)

RISSafe stores and maintains data on planned law enforcement events—such as raids, controlled buys, and surveillances—to identify and alert affected agencies and officers of potential conflicts impacting law enforcement efforts. However, RISSafe is not a database; the events disappear six hours after the end date as identified by the officer. After the time elapses, there is no record in the system.

Operational deconfliction may include serving a search warrant, making an arrest, utilizing a pole cam, knock and talks, etc. RISSafe can be used by everyone in an agency, even for non-criminal deconfliction.

For example:

<p>ATF non-criminal investigations of licensed firearms dealers should be deconflicted with local law enforcement to ensure their visit to the residence will not impact a law enforcement operation going on in the area.</p>	<p>OLCC inspections at dispensaries, growers- Their compliance checks may impact a law enforcement function occurring in or around that location/person.</p>
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RISSafe is used in conjunction with mapping software to verify data on event locations when an event is entered into the system. When entering an event, a geofence is established around the target for as long as it is reported to the watch center. A conflict occurs when another agency has an operation that penetrates the geofence previously established around a target location. If a conflict is identified, immediate notification to the submitting officer occurs and notification to the officers involved by a RISSafe Watch Center.

RISS Criminal Intelligence Database (RISSIntel)

The RISSIntel user interface provides a real-time, online federated search of more than 60 RISS and partner intelligence databases. Millions of intelligence records are available via RISSIntel and between connected partner systems. Records include individuals, organizations and gangs, and associates, as well as locations, vehicles, weapons, and telephone numbers. RISSIntel is designed to encourage the exchange of information and coordination among member agencies investigating the same individuals (subject/target) or organizations.

The database is subject to 28 CFR 23 (Code of Federal Regulations). It strikes a balance between law enforcement's need-to-know and a citizen's constitutional rights. If 28 CFR 23 is not followed, an agency can be sued civilly and criminally (example: Calgang database).

Targets entered stay in the criminal intelligence database for five years. This can be extended if additional criminal activity is entered. After five years, the entry is purged automatically. Comprehensive data entered will connect the officer to other officers, potentially targeting the same subjects.

To use the criminal intelligence database, there must be reasonable suspicion of criminal activity. Agencies will be audited, and documentation must be on hand outlining the reasonable suspicion for submitting a target into the system.



Database Inquiries and Submissions

Connectivity depends on law enforcement officers making both inquiries and submissions to the database.

An inquiry might include subject name, moniker, scars/marks/tattoos, addresses, vehicles, vessels, boats, phone numbers, and social media sites.

Connections will be lost if submissions are incomplete or no submission is made.

Example: LEO arrested a person with \$60k of gift cards on the person. An inquiry was made at the ORDOJ watch center, but there was nothing in RISSintel, and no submission was made. The next day, another officer from a different agency called on the same subject for a \$100k investigation into gift card laundering. The connection would have been lost due to the first officer not submitting their data into the system. However, they got lucky and happened to talk to the same analyst who put the officers in touch with each other.

Disclosure of Intelligence Data

Data received through an inquiry cannot be disclosed outside your agency without the submitting agency's approval. When writing the report, do not list "WSIN" as a source of data. Instead, list the agency who submitted the data on reports/affidavits. WSIN is a third party to data and does not own the data. Data belongs to the submitting agency, and they must be the ones to approve the disclosure.

When submitting data to WSIN, leave the default to OPEN release of data. This is most helpful to other officers looking for intelligence. There are two other restrictions (Limited and Restricted), but they should be used sparingly.



Resources- ORDOJ and WSIN Free Services

Oregon DOJ (M-F 730-5) – 800-442-6248

Subject background packets, DMV photos, OFIN, accruint, epic, and other database checks.

WSIN 24/7/365 – 800-952-5258

Make inquiries and submissions of criminal intelligence, request CA DMV photos, bulletins, other specialized equipment and analysis, target packages.

- Carfax for police – both ORDOJ and WSIN have access to run car histories through Carfax for Police. If your agency has access, you can put in a VIN alert on any vehicle and receive a notification if it pops into the system (oil change, sale, new registration, etc.).
- OSP – mobile sex offender's program, check level 1-3 offenders, update photos and reports online egordon@osp.oregon.gov
- Specialized equipment – your case, any crime, free equipment to include cameras, audio and video transmitters, night vision goggles, etc.
- Publications - topics of relevance for law enforcement to include narcotics, human trafficking, task force directory
- Bulletins – attempt to locate, attempt to identify, officer safety bulletins

Examples of Successful Use of Bulletins (2020)

- Tillamook: theft of firearms, suspect arrested in Tigard off bulletin, and some firearms recovered.
- Cannon Beach: Sent a bulletin to ID a suspect in some theft charges. Within 7 minutes of the bulletin going out on email, four other agencies contacted Cannon Beach with the identity and additional crimes.

Death Notifications and Investigations

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATSON 1960-1980
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY INDEED



Death Notifications and Investigations

Instructional Goal:

This course is designed to introduce a new officer to basic factors related to death response and investigations.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Describe police officer duties in the response and investigation of an unattended death call.
2. Identify resources related to death investigations.

Content Outline:

- Death Notifications
- Death Investigations
 - State Medical Examiner
 - Death Scene Investigation Tactics and the Officer's Role
 - Time of Death
 - Cause and Manner of Death
 - Strangulation
 - Hanging
 - Suicide
 - Accidental Deaths
 - Homicide
 - Identification



This course brings together concepts you have learned going back to week one and provides an introduction to an advanced and challenging topic, dealing with death. While it is unlikely you will have to navigate such difficult circumstances on your own until you have gained more experience, you have learned some foundational concepts that will serve you well.

Beginning with how you interact with others, consider how to apply concepts from Emotional Intelligence (empathy) and Communication for Policing in a death notification or investigation. How does what you learned in Report Writing apply to these investigations? Think about your Criminal Investigations series. What do you need to consider regarding crime scenes' safety and security, evidence collection, and photography? What considerations exist for interviewing witnesses or other parties?

Death Notifications

Communication during "Not So Common" Encounters"

Throughout this academy, you have learned and practiced numerous types of encounters ranging in complexity and frequency. One of the most stressful and unexpected parts of your job may be communicating with a family that their loved one has died.

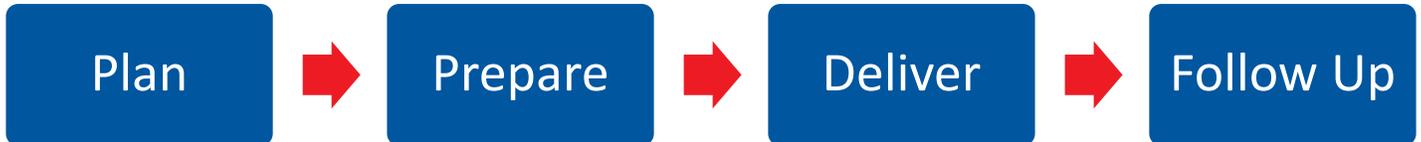
Considering what you have learned so far about emotional intelligence and communication, what kind of communication do you think might be most appropriate under these difficult circumstances? How do you provide a sensitive death notification with professionalism, dignity, and compassion? While you are not expected to develop the skills necessary for such a difficult interaction at this time, an introduction early in your training helps emphasize the importance of developing these EI and communication skills.



Death Notifications- Four Step Process

The FBI provides a four-step process for delivering a death notification. As you read through each step, think about how the principles of emotional intelligence and effective communication are essential.

Source: The complete "We Regret to Inform You..." online training is available at www.deathnotification.psu.edu



The FBI identifies the following characteristics as important for officers delivering a death notification: efficiency, a good listener, and empathy.

Step 1- Plan

- Identify the decedent
- Collect accurate information. Common questions asked include:
 - How do you know it is my loved one?
 - What happened?
 - Where did the death occur?
 - When did this happen?
 - Where is my loved one now?

Step 2- Prepare

- Be aware of your policies and procedures
- Prepare for the next of kin response: Loved ones may display many reactions to receiving a death notification. They are having a normal reaction to an abnormal event.
 - Shock, disbelief, denial
 - Fear, anger, confusion
 - Immobilization
 - Fight or flight



Step 3- Deliver

- Deliver (as soon as possible)
- Knock on the door; confirm the identity of the person answering the door
 - "Are you Judy and Steve Reinhardt?"
- Ask to enter the home
- Encourage all parties to sit down
- The primary notifier should briefly review what happened before revealing the news
 - "There has been a domestic violence incident in a study group on campus involving Jess, and she has been killed"
 - "We found John in Oak Park with a fatal gunshot wound. It appears self-inflicted."
- Use the decedent's name and not language such as "the body" or "remains."
- Be prepared to repeat information and say the word "dead" or "died" several times.
- Answer questions honestly
 - Where is my loved one now?
 - May I see him/her?
 - What is an autopsy, and why is it necessary?
 - Don't be afraid to say, "I don't know."
- Ask if there is anyone they can contact
- Do not leave them alone
- Provide community resources and contact information
- Request to follow up within 24 hours

Step 4- Follow Up



Some Communication Tips for Death Notifications

Do Say Preparing yourself with helpful statements can be beneficial.	Do Not Say There are many statements that the Next of Kin may not find helpful. Do not share personal stories of loss. Your loss is not the same.
<p>"I am so sorry."</p> <p>"This is harder than most people think."</p> <p>"Most people who have gone through this react similarly to you."</p> <p>"People can experience many different feelings at the same time."</p> <p>"This may be one of the most difficult times in your life."</p>	<p>"I know how you feel." (You don't.)</p> <p>"Time heals all wounds." (It doesn't.)</p> <p>"You need to be strong." (They don't.)</p> <p>"You'll get over this someday." (They may not.)</p> <p>"He was just in the wrong place at the wrong time."</p> <p>"You must go on with your life."</p> <p>"You will find closure."</p>
	<p>Sometimes notifiers want to say anything to the Next of Kin to relieve some pain. However, some statements can be damaging.</p>
	<p>"He didn't know what hit him."</p> <p>"It's best to remember him the way he was."</p> <p>"You don't need to know that."</p> <p>"You don't want to see him."</p> <p>Religious phrases</p> <p>"Think of all of your happy memories."</p>



Death Investigations

A death investigation is a unique blend of medical knowledge, legal knowledge, common sense, and human compassion. There is no greater challenge than maintaining a balance of these disciplines in every case. There are few situations when a police officer will have more of an effect and impression upon the individual citizens he or she serves.

State Medical Examiner Program

ORS 146.090 states the Medical Examiner shall investigate and certify the cause and manner of all human deaths. The Oregon Medical Examiner Division of the Oregon State Police manages all aspects of the state medical examiner program with responsibility for technical supervision of county offices in each of Oregon's 36 counties. They certify the cause and manner of a death requiring investigation within the authority of ORS Chapter 146.

State Medical Examiner
13309 SE 84th Avenue
Suite 100
Clackamas, OR 97015
Phone: 971-673-8200
Medical.Examiner@osp.oregon.gov

Find current personnel list on their website

<https://www.oregon.gov/osp/programs/pages/med.aspx>

Additionally, each county has a medical examiner program as mandated by ORS 146.065. These District Medical Examiners (DME) share duties with the District Attorney's Office to investigate unattended, unusual, or traumatic deaths occurring within the county. During an investigation, a deputy medical examiner may respond to the scene, interview witnesses, take photographs, obtain evidence and property and assist with notifying next of kin.

The county District Attorney is responsible for all deaths in the county requiring investigation. DA's control and direct all death investigations in the county. This may include ordering an autopsy, blood and urine samples to be taken.



The Investigation

What Requires Investigation

Under ORS 146.090, the following types of deaths must be investigated:

- Apparently homicidal, suicidal, or occurring under suspicious or unknown circumstances;
- Resulting from the unlawful use of controlled substances or the use or abuse of chemicals or toxic agents;
- Occurring while incarcerated in any jail, correction facility, or in police custody;
- Apparently accidental or following an injury;
- By disease, injury, or toxic agent during or arising from employment;
- While not under the care of a physician during the period immediately previous to death;
- Related to disease which might constitute a threat to the public health; or
- In which a human body apparently has been disposed of in an offensive manner.
 - "Offensive manner" means a manner offensive to the generally accepted standards of the community.

Death investigations shall be under the direction of the district medical examiner and the district attorney for the county where the death occurs. If the county where death occurs is unknown, the death shall be deemed to have occurred in the county where the body is found.

In a death requiring an investigation, no person shall move a human body or body suspected of being human or remove any of the effects of the deceased or instruments or weapons related to the death without the permission of a medical examiner, medical-legal death investigator, or the district attorney.

A medical examiner, district attorney, or medical-legal death investigator shall take custody of or exercise control over the body, the effects of the deceased, and any weapons, instruments, vehicles, buildings, or premises which the medical examiner, district attorney, or medical-legal death investigator has reason to believe were involved in the death, in order to preserve evidence relating to the cause and manner of death.



Death Scene Investigation Tactics and the Officer's Role

Duties and limitations placed upon a police officer at the death scene:

- Responsible for identifying deceased
- Must immediately notify a medical examiner or medical-legal death investigator (ORS 146.100)
- May not move or permit the body, effects, or any instruments or weapons-related to the death to be moved without approval from the medical examiner, medical-legal death investigator, or district attorney (ORS 146.103)

Preliminary Examination

When conducting a preliminary examination of the decedent, use a systematic approach, and take a head to toe look at the entire body. If the death scene is determined to be natural, do not forget to turn the body to view both sides. Make notes about what you see and what you do not see. Remember, the ME is the only person who should handle personal effects or evidence relating to the death. Do not pull the wallet or move evidence without permission from the ME.

Investigation of the natural death scene involves a combination of observation of the scene and interviewing the family, caregiver, or witnesses. Including:

- Location of the decedent
- Condition of the body
- How is he/she dressed?
- What do you see that may be evidence?
- Presence of medications or other evidence of illness
- Use all your senses

Ask yourself, "Does what I see and what I hear make sense?"

Ask yourself, "Is this natural or something else?"



Unexpected or Violent Death Investigations

Look For	Listen For
<ul style="list-style-type: none">• Weapons• Notes• Drugs• Hazard sources• Forced entry• Signs of a struggle• Observe body posture for guarding	<ul style="list-style-type: none">• Inconsistencies in the story• Gaps in the timeline• Answers that avoid your question• Defensive or aggressive behavior

Do

- Contact the ME and other necessary investigators (detectives, crime lab) promptly
- Advise dispatch to relay basic information and indicate that the ME is needed at the scene
- Prepare a concise report to the ME (who, what, when, where, why, and how)

- Treat as a crime scene and remove unauthorized people
- Establish a perimeter and place scene boundary tape to secure the scene
- Maintain security throughout the investigation
- Initiate a scene log
- Attempt to identify circumstantially who the decedent is

- Identify informants, family, and persons who may have information
- Determine what roles these people play in the case
- Interviews – the story should match the scene
 - Who is the witness?
 - How do they know the decedent?
 - What happened today?
 - What has occurred recently?
 - What is the distant history?
 - What is the decedent's medical history?
 - Who is the physician, and what medications do they take?



Think ahead and aloud about resources that will be needed at the scene (reconstructionist, photographer, etc.)

Natural Deaths

Treat all deaths the same.

Every scene, every time.

Don't take short cuts - you might miss the evidence you need to prove your case either way.

Treat the family and friends with respect.

Treat the dead with dignity.

Law enforcement should introduce themselves and explain their role at the death scene:

- To learn who has died
- To learn what has happened leading to the death
- To work with the medical examiner and the family for disposition of the decedent

Determine that the death scene looks natural:

- Look at the death scene and location of the body
- Examine the environment where the decedent is found
- Make a note of the surroundings and appearance of the scene
- Look at things around the body and how the person is dressed
- Examine the body for evidence of injuries or indications that something other than a natural death occurred

Interview family or care provider:

- Effective "open-ended" interviewing of the caregiver is essential. Ask the care provider to tell you about the decedent
- Listen to the family about recent medical problems
- Listen to the family about medical background
- Make careful notes of the interview
- Ask yourself, "Does what I have been told make sense? Do I have additional questions?"



Body exam (head, face, eyes, mouth, neck, chest, abdomen, extremities)

Look for past medical history: ask friends, family, doctor, etc.

Medications

Prescribed	Over-the-Counter
<p>Obtain:</p> <ul style="list-style-type: none">• Date prescription prescribed• Number of pills prescribed and number remaining• Doctor prescribing pills• Description of pills• Location found	<p>Obtain</p> <ul style="list-style-type: none">• Description of item• Dosage• Amount new and amount remaining• If possible, the date purchased

Evidence that could rule out natural causes:

- Unnatural body positioning
- Injuries that do not fit the scene
- Medications with no prescription or bottle
- No known medical or physical problems
- Items of evidence that do not fit
 - Blood
 - Signs of struggle
 - Missing items
 - Signs of forced entry
 - Etc.



Time of Death

The time of death can be based on many variables, so this is only an estimate.

Methods used to determine the time of death of a deceased person:

- Witnesses and circumstances
- Body temperatures
- Livor mortis
- Rigor mortis
- Decomposition
- Stomach contents evaluated at autopsy

Witnesses and circumstances surrounding the death are best indicators for the time of death:

- When was the deceased last seen?
- What food is out in the kitchen?
- Are lights on? Are curtains drawn?
- How is the deceased dressed? Night clothes? Outdoor wear?
- How much mail is in the mailbox?
- How many papers on the porch?
- Are calendar days crossed off?

Body temperatures:

- Use special thermometers 35 degrees to 120 degrees
- Place in rectum – read while still inserted – can make a small slit in clothing to insert
- Does not interfere with swabs for semen later on
- Many variables:

Clothing

Inside vs. outside

Weight

Ambient temperature

The surface the body is lying on

Presence of wind



Livor Mortis (Lividity)

Livor mortis, or postmortem lividity, is a settling of the blood in the lower portion of the body, causing a purplish red discoloration of the skin. When the heart is no longer agitating the blood, heavy red blood cells sink through by gravity. This discoloration does not occur in the body areas that are in contact with the ground or another object, as the capillaries are compressed. Lividity typically appears within 30-minutes to a couple of hours and reaches its maximum 8-12 hours after death. During the first 6 hours after death, the discoloration can be shifted by rolling the body to a different position. After 6-8 hours, the lividity becomes fixed because the blood vessels begin breaking down, and the blood settles in the surrounding tissues. Lividity is not suitable for the time of death after 12-hours but may indicate the body has been moved.

Rigor Mortis (Rigor)

Rigor mortis is the rigidity of the body that occurs after death. The onset may vary from about 10 minutes to several hours or more after death, depending on the body's condition at death and factors in the atmosphere, particularly temperature (may last for many days or weeks in the cold; may come and go rapidly in the heat). Rigor mortis affects the facial musculature first and then spreads to other parts of the body, reaching maximum stiffness around 12 hours. The state of rigor usually lasts about 24 hours or until muscle decomposition takes place by acid formation. Rigor mortis may not be readily apparent in poorly muscled individuals such as the elderly or infants.

Decomposition

- Once reached – almost impossible to estimate the time of death
- Do not put faith in Entomology / Botany – you will be disappointed
- Depends on heat/humidity
- Putrefaction v. mummification

Stomach Contents (Evaluated at Autopsy)

- Stomach empties in 2-4 hours
- Must know the time and content of the last meal
- Depends on the fat content of the meal, how well food chewed, etc. – many variables



Causes and Manner of Death

Cause vs. Manner of Death

Any reasonable person can decide that a death has occurred; however, only a physician can certify the cause and manner of death on a death certificate. The differences between the cause of death and the manner of death:

Cause of death	Manner of death
<p>The simple statement of the primary or basic disease process or injury ending life (e.g., arteriosclerosis heart disease, crushing chest injuries, a gunshot wound to head)</p> <p>The disease or injury may not kill immediately but sets in motion a chain of events leading to death</p>	<p>The medical examiner's opinion on whether the death was caused naturally or as a result of an intentional or accidental act (e.g., natural, accident, suicide, homicide, undetermined, pending legal intervention)</p> <p>Homicide is used as a medical term and not a legal term</p>
Examples:	
Cause of death is a gunshot wound to the head	Potential manner: homicide, suicide, or accidental
Cause of death is a heroin overdose	Potential manner: accidental, suicide, or possibly homicide
Cause of death is blunt force trauma to the chest	Potential manner: accident or suicide
Cause of death is asphyxia due to ligature strangulation	Potential manner: homicide, suicide, or accidental



Investigating Strangulation vs. Hanging

A Suicide can cause more investigative problems than a homicide. Strangulation can be subtle and often overlooked. Consider the physical evidence:

Strangulation

Hanging

Markings around the circumference of the neck

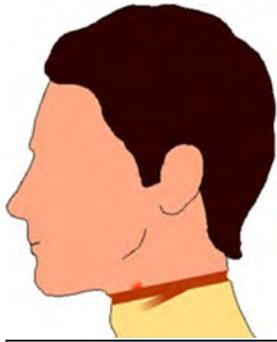
Markings are at a steep angle

Look for marks that cross

Markings opposite knot are darker and fade up

Markings usually are level around the neck, not at a steep angle as in hangings

Look for the "V" mark where the knot was



Suicide

- Suicide is a planned event.
- Suicide is (most often) conducted privately, so consider the location.
- Victims of suicide want to be discovered (most often). Consider the location and who would likely discover the victim.
- Suicide is apparent (most often).
 - Consider the type of injury or mechanism for death.
 - Consider the site of injury.
 - Consider the social/personal history of the decedent.
 - Consider prior attempts/threats/recent life events.



Accidental Deaths

Accidental death is unplanned.

Methods used to categorize accidental deaths and the officer's role in their investigation.

<p>Traffic Fatalities</p> <ul style="list-style-type: none"> • Events of the crash and occupant position in the vehicle. • Pedestrian • Pattern injury assessment • Working with the crash reconstructionist. 	<p>Drowning</p> <ul style="list-style-type: none"> • Witnessed as opposed to unwitnessed • Events prior to submersion • The removal of the body must be done very carefully to avoid further damage to the body. • Water and Air temperature
<p>Falls</p> <ul style="list-style-type: none"> • Witnessed as opposed to unwitnessed • Height and location where the victim fell from • Events prior to fall. • Victim history (Family, Friends, Co-Workers) 	<p>Industrial Accidents</p> <ul style="list-style-type: none"> • Work with OSHA • Explanation of work activities before the accident • Witnessed as opposed to unwitnessed
<p>Drug Overdose</p> <ul style="list-style-type: none"> • Accident as opposed to suicide • Finding the drugs and paraphernalia • Witness statements 	



Homicide

Homicide, as a medical term, is used any time it is determined that death has occurred due to another person's action.	Homicide, as a legal term, indicates the intent to cause death and is used to assign an appropriate charge to the crime.
------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------

- Injuries seen in homicides are usually random.
- Pattern injuries do not often fit selected locations differentiating them from suicide.
- The scene is often chaotic, and there is evidence of a sudden, hasty violent act.
- The victim is often found in an uncommon location for death.
 - The location of the victim is where the death incident occurred, not where they went to die.
 - Bodies that have been dumped or moved usually provide evidence of the movement.
- The scene must be thoroughly processed using team effort involving police, Medical Examiner, and the District Attorney.
 - Pre-planning for homicide investigations.
 - The Medical Examiner is a resource for police.



Mechanism of Injury / Death

- Make sure the injury supports the weapon used.
- Is it possible for the victim to self-inflict noted injury?
- Physically match weapon to injury sight.

Medical-Legal Death Investigator Contact:

Prepare a telephone report for the MLDI that will summarize your investigation and permit him/her to determine if further investigation is warranted

- Decedent's name, address, DOB
- Time of death or found time
- Next-of-kin and informant
- History of the terminal event
- History of medical conditions
- Physician's name and phone number
- When the decedent last saw the physician
- Funeral home preference

Call and report findings to the Medical-Legal Death Investigator



Identification

Methods used to identify a deceased person:

- Fingerprints
- Footprints (infants)
- Dental records
- Antemortem and postmortem radiographs
- Forensic anthropology identification
- DNA
- Tattoos
- Birthmarks/scars
- Personal identification
- Combinations of the above items

Dental Identification:

- Need to have some idea who a person is to obtain dental records.
- Usually, can cultivate friendship with a local dentist to help you.
- Try to enlist the aid of a dentist who actually did the work.
- Relatively easy to remove jaws from decomposed or burned body for easy transport.
- Excellent staff at Dental School interested in forensics

Bones:

- May have distinctive surgery.
- May be able to compare ante and postmortem x-rays.
- Obtain services of a forensic anthropologist, Dr. John Lundy



Review

The following information is a review from previous classes on Report Writing and Criminal Investigations.

Response

- Secure and protect the scene
- Promptly and cautiously approach
- Remain observant
- Control dangerous situations or persons

Evidence

- Evidence relating to the death is, by law, the responsibility of the ME.
 - In some areas, police collect evidence for the ME.
 - In homicides, the ME usually releases the evidence to the police at the scene.
- Regardless of who collects the evidence, it must be properly handled.
- Protect the evidence (prevent loss, destruction, and contamination)
- Document chain of custody
- Document location (notes, diagrams, photographs)
 - Photographs: Overall – Midrange –Close-Up
 - Get a photo of the decedent's face
 - Diagram: Include position of the body
- Mark evidence/packaging properly
- Store evidence properly

Reports

- Clear, concise, complete, accurate
- Answer who, what, where, when, why, and how.
- Avoid using unfamiliar terms (medical terminology)
- List medications and treating physicians.



Defensive Tactics

BASIC POLICE ACADEMY





Defensive Tactics

Instructional Goals:

This course is designed to:

1. To introduce a new officer to physical skills and techniques used to affect an arrest or defend against an attack.
2. Develop a new officer's ability to make decisions in stressful or violent environments.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Demonstrate the ability to recognize, define, and act against pre-assault indicators.
2. Demonstrate the ability to defend against a physical attack from standing and ground positions.
3. Demonstrate the ability to effectively control a resisting threat.
4. Demonstrate the ability to effectively utilize available equipment and tools.
5. Demonstrate the ability to effectively utilize tactics/concepts to minimize risk to self, fellow officers, threats, and the public.

Expectations:

Students can expect from staff:

1. Respectful treatment from all D building staff at all times.
2. A safe and encouraging learning environment. Coursework will be, at times, strenuous and stressful, but we are dedicated to giving students the most practical and safe training possible.
3. It is not our job to weed out or fail you. It is our mandate and honor to train and develop you.

Our expectations of our students:

1. Respectful treatment of fellow students and staff at all times.
2. Positive attitudes and maximum effort, regardless of skill level.
3. There is a difference between being uncomfortable or feeling pain and being injured. All injuries must be reported to staff immediately.



Content Outline

- I. Defensive concepts while standing (Rubric 1)
 1. Escort positions
 2. Clinch work
 3. Standing side control
 4. Take Downs
 5. “Default” punch defense
 6. In-fight weapon access in clinched entanglements

- II. Defensive concepts while on the ground (Rubric 2)
 1. Getting back to standing
 2. Escaping full mount
 3. Escaping side control
 4. In-fight weapon access in grounded entanglements

- III. Handcuffing (Rubric 3)
 1. Cooperative handcuffing
 2. Searches
 3. Kneeling and prone cuffing
 4. High-risk cuffing

- IV. Decision making under stress (Rubric 4)
 1. Force on Force evolutions
 2. Multitasking under life-threatening circumstances (modified Tueller drill)

- V. Law Enforcement Skills Assessment Score (LESAS)
 1. One skill from each category will be evaluated using the provided rubrics:
 - i. Default
 - ii. Ground Defense
 - iii. Handcuffing
 - iv. Modified Tueller Drill



Rubric 1: Default					
	Exceeding (5)	Excellent (4)	Acceptable (3)	Learning (2)	Unacceptable (1)
Drop Weight	After default student immediately inserts head under the role players chin and gets dominate head position	Changes level, widens base, stomps into position and covers head simultaneously	Changes level, separates feet to widen base and stomps into position	Changes level but does not widen stance or stomp	Does not change level
Cover Head	After default student immediately finds role players limbs and controls biceps	Tucks chin, arms come up tight to the head (lead arm assumes vertical elbow, rear arm in horizontal elbow) and shoulders come up high	Tucks chin, arms come up tight to the head and shoulders come up high	Tucks chin, arms come up but are not tight to the head	Does not attempt to cover head or tuck chin
Take Space	Moves forward quickly and after initial contact with role player attempts to move off angle and to the midline	Takes stomping steps forward and role player is taken out of posture	Moves forward and gives forward pressure	Takes a step forward but give no forward pressure	Does not move their feet or if they do they move backwards
Bicep Ties	After default student runs an arm drag and gains body lock/seat belt	After default hands come away from head and gain control of biceps, at least one hand sides down and gains a wrist tie	After default hands come away from head and gain control of biceps	After contact hands come away from head but they do not attempt to control biceps	Does not attempt to control biceps



Rubric 2: Ground Defense					
	Exceeding (5)	Excellent (4)	Acceptable (3)	Learning (2)	Unacceptable (1)
Posture	Head off mat, hands to face, elbows in, heels to butt, shoulders off the mat, core engaged, one hip off mat	Head off mat, hands to face, elbows in, heels to butt, shoulders off the mat, core engaged	Head off mat, hands to face, elbows in, heels to butt	Student lifts head off mat and brings their hands to the face but nothing else	Student lays flat on their back waiting for role player to gain full mount
Bridge	Non trapping arm goes to hip and pushes with bump. Adds knee kick start to bump	Sets posture prior to bumping. Bumps big, bumps big second time with look and reach	Lifts hips to full extension and bumps again for the second time to gain the escape	Attempts to lift hips off the mat but does not get full extension and/or does not bump the second time Bumps once, but does not bump the second time	Does not attempt to lift hips off the mat
Trap Arm	In addition to three and four student transitions to bicep ties immediately after the mount escape, postures, controls knees and exits	Student sets posture prior to role player sitting on them. Traps and pulls arm to chest with two hands and uses an elbow across role players chest to add leverage	Grabs arm and pulls it to the chest.	Grabs at arm but does not pull it to chest.	Does not attempt to trap arm
Trap Leg	Student hooks and traps the leg with a stomp while simultaneously trapping same side arm	Student hooks and traps the leg with a stomp	Student hooks and traps the leg	Tries to find role players leg with their foot but fails to trap the leg	Does not attempt to trap the role players leg
Control Limbs	Controls biceps then postures up and controls knees, shucks knees and exits out or knee rides	After reversal student buries head and controls biceps then postures up and controls knees	After reversal student buries head and controls biceps then postures up	Student keeps head buried and postures up but does not control limbs	After reversal student does not posture or attempt to control limbs



Rubric 3: Handcuffing					
	Exceeding (5)	Excellent (4)	Acceptable (3)	Learning (2)	Unacceptable (1)
Verbal Commands	Officer attempts to address the role player by name. Displays empathy but uses commands that leave no doubt officer is in charge	Simple, clear and easily understood. No hesitating pauses or verbal slips. Volume is appropriate to the situation.	Simple and easily understood. Minimal hesitation, verbal slips or "pause" words. Volume is appropriate for the encounter.	Commands are mostly understandable. There may be a noticeable number of verbal slips or long hesitations. Volume is appropriate for parts of the encounter.	Commands are confusing. There are a large number of hesitations and verbal slips. Volume is not appropriate for the situational context.
Hand Control	The hands are positioned together correctly and pulled away from the body. The officer tells the role player what he/she is doing as he/she is doing it. Officer pushes up person sleeves.	Hands are controlled before the officer accesses their handcuffs. The hands are positioned together correctly and pulled away from the body. The officer has firm but not painful control of the fingers.	Hands are controlled before the officer accesses their handcuffs. The hands are together and pulled away from the body.	Hands are controlled while the officer accesses their handcuffs. The hands are together but may not be in the correct position. Finger control is too loose or too forceful for the situational context.	Hands are not controlled before the officer accesses handcuffs. The hands are put into an awkward position.
Body Positions	Officer stands to the rear in an athletic stance. The subject is in a comfortable position facing away. This attribute is done with timing and finesse.	Officer stands to the rear in an athletic stance. The subject is in a comfortable position facing away.	The officer stands in a defensive posture. The subject is comfortably positioned facing away.	The officer stands in a defensive posture but sacrifices an athletic stance. The subject is put into a position not appropriate for the situation.	The officer approaches from the front, places the subject into an awkward position and uses too much force for the situation.
Handcuff Application	Handcuff is set against the wrist notch and push through, causing it to close smoothly with finesse.	Handcuff is set against the wrist notch and push through, causing it to close quickly and smoothly.	Handcuff is set against the wrist and pushed through. The handcuff is applied above the ulnar notch.	Handcuff is struck onto the wrist and pushed through, causing pain.	The handcuff is manually opened prior to placement on the wrist.
Handcuff Tightness	This attribute is done with speed, timing and finesse.	Equal and symmetrical space between the handcuff and the ulnar notch on both wrists. About 1/8th of an inch of space. Both handcuffs are double-locked.	Spacing is not equal on both wrists. Between 1/8th and 1/6th of an inch of space between skin and handcuffs. Both handcuffs are double-locked.	Spacing is not equal. The handcuffs are more than ¼ of an inch of space on one or more wrist. Both handcuffs are double-locked.	Handcuffs are too tight with no space between handcuffs and skin. Handcuffs are not double-locked.



Rubric 4: Decision Making Under Stress (<i>Modified Tueller</i>)					
	Exceeding (5)	Excellent (4)	Acceptable (3)	Learning (2)	Unacceptable (1)
Verbal Commands	Officer attempts to address the role player by name	Simple, clear and easily understood. No hesitating pauses or verbal slips. Volume is appropriate to the situation	Simple and easily understood. Minimal hesitation, verbal slips or “pause” words. Volume is appropriate for most of the encounter	Commands are mostly understandable. There may be a noticeable number of verbal slips or long hesitations	Does not use verbal commands
Gun Handling	Student fully loads gun high and in front of their face and attempts to reload by ripping the mag out of the gun when they run empty	Student fully loads gun high and in front of their face	Student pick up gun and fully loads gun	Student picks up the gun but does not fully load the gun	Student does not pick the gun up
Movement	Turns hips and moves toward second cover (never back peddles)	Turns their hips toward the cover and moves laterally toward cover while loading the gun	Moves laterally in the direction of the cover	Moves offline at an angle	Does not move their feet or they move backward
Cover	Moves to the second piece of cover and begins to aggress the role player	Uses Cover as an obstacle keeping the cover between them and the role player	Gets behind cover fully	Goes in the direction of cove but never gets fully behind it or kneels down behind cover	Does not use cover

Domestic Violence Response and Investigations



BASIC POLICE ACADEMY

IN THE
SERVICE
OF
MANKIND

GLENN L. WATSON 1960-1980
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY NEED



Domestic Violence: Response and Investigations (Parts 1 and 2)

Instructional Goal:

This course is designed to introduce a new officer to basic factors related to domestic violence response and investigations.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Define the responsibilities of law enforcement in a report of domestic violence.
2. Identify dynamics of domestic violence that could impact the investigation.
3. Identify resources for law enforcement and victims in domestic violence investigations.
4. Articulate a plan for investigation of a given situation.

Content Outline:

- Definitions
- Dynamics of Domestic Violence
 - Power and Control
 - Cycle of Violence
- Statutory Requirements
- Arrests
- Protective Orders
- Lethality Indicators
- Advocates
- Community Competency and Gender Bias



Part 1

Introduction to Domestic Violence

The International Association of Chiefs of Police (IACP) defines domestic violence as abusive behavior in any relationship, as outlined by law, that is used to gain or maintain power and control over a current or former intimate partner or family or household member.

Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone. Additional forms of violence that may co-occur with domestic violence include, but are not limited to, verbal threats, acts of intimidation, property damage, animal cruelty, elder and child abuse, and stalking. Acts of domestic violence or abuse may include acts that inflict or threaten harm, as well as verbal threats, acts of intimidation, sexual abuse, strangulation, property damage, animal cruelty, and stalking.

The National Coalition Against Domestic Violence (NCADV) states there is no typical victim of domestic violence. Victims of domestic violence comes from all walks of life, varying age groups, all backgrounds, all communities, all education levels, all economic levels, all cultures, all ethnicities, all religions, all abilities, and all lifestyles.



Definitions under ORS 107.705

Domestic Violence	Abuse
<p>Abuse between family or household members.</p> <p>"Family or household members" means any of the following:</p> <ul style="list-style-type: none">• Spouses• Former spouses• Adult persons related by blood, marriage, or adoption• Persons cohabiting with each other• Persons who have cohabited with each other or who have been involved in a sexually intimate relationship• Unmarried parents of a minor child <p>Cohabiting defined by 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." "And are sexually intimate." State ex rel Juvenile Dept. of Washington County, v. CMC (June 1, 2011). Thus, the Court further ruled, it does not mean "simple roommates or dorm mates." Nor does it mean, "minor children and parents who live in the same residence."</p>	<p>Attempting to cause or intentionally, knowingly or recklessly causing physical injury;</p> <p>Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury;</p> <p>or</p> <p>Causing another to engage in involuntary sexual relations by force or threat of force.</p>



Power and Control Wheel

Although many acts of psychological and emotional abuse are not specifically associated with violations of statutes, these serve as means for batterers to establish control. The Power and Control Wheel describes common tactics offenders use to control their victims, law enforcement, and others. The wheel illustrates the tools, pressures, and rationale utilized in justifying coercive and dominant behavior. It provides "snapshots" of coercive techniques: physical and sexual violence, emotional abuse, intimidation, threats, economic abuse, use of male privilege, attempts to isolate victims and manipulation and victimization of children.





Using Coercion and Threats	Using Intimidation	Using Emotional Abuse	Using Isolation
<p>Making and/or carrying out threats to do something to hurt the victim</p> <p>Threatening to leave victim, to commit suicide, to report the victim to welfare</p> <p>Making victim drop charges</p> <p>Making victim do illegal things</p>	<p>Making victim afraid by using looks, actions, gestures</p> <p>Smashing things</p> <p>Destroying victim's property</p> <p>Abusing or killing pets</p> <p>Displaying weapons</p>	<p>Putting victim down</p> <p>Making the victim feel bad about self</p> <p>Calling victim names</p> <p>Making victim think the victim is crazy</p> <p>Playing mind games</p> <p>Humiliating victim</p> <p>Making the victim feel guilty</p>	<p>Controlling what victim does</p> <p>Controlling who the victim sees and talks to</p> <p>Controlling what victim reads</p> <p>Controlling where the victim goes</p> <p>Limiting victim's outside involvement</p> <p>Using jealousy to justify actions</p>
Minimizing, Denying, and Blaming	Using Children	Using Male Privilege (sense of entitlement)	Using Economic Abuse
<p>Making light of the abuse and not taking victim's concerns about it seriously</p> <p>Saying abuse does not happen</p> <p>Shifting responsibility for abusive behavior</p> <p>Saying victim caused it</p>	<p>Making the victim feel guilty about the children</p> <p>Using children to relay messages</p> <p>Using visitation to harass the victim</p> <p>Threatening to take children away</p>	<p>Treating victim like a servant</p> <p>Making all the big decisions</p> <p>Acting like "master of the castle"</p> <p>Being the one to define men's and women's roles</p> <p>Threatening to harm or kill children</p>	<p>Preventing the victim from getting or keeping a job</p> <p>Making victim ask for money</p> <p>Giving victim an allowance</p> <p>Taking victim's money away</p> <p>Not letting the victim know about or have access to family income</p>



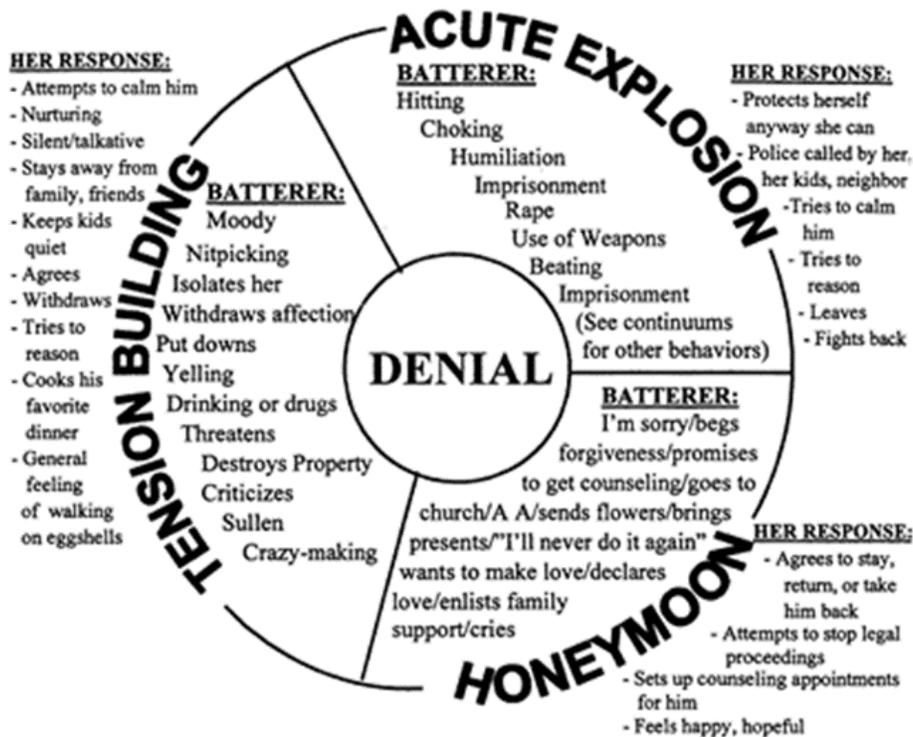
Cycle of Violence

Another model to help understand the dynamics of domestic violence is the cycle of violence developed in 1979 by Lenore Walker. The cycle of violence is a model developed to explain the complexity and co-existence of abuse with loving behaviors. It helps those who have never experienced domestic violence understand that breaking the cycle of violence is much more complicated than just “getting out” or leaving.

There are three phases in the cycle of violence:

1. Tension-Building Phase,
2. Acute or Crisis Phase, and
3. Calm or Honeymoon Phase.

Without intervention, the frequency and severity of the abuse tends to increase over time.



Some advocates however, find this model to be victim blaming and instead recommend a six-stage model as described below in Cycle B. While it is not critical for you as an officer to become experts on either model, it is important to develop a general understanding of the dynamics of domestic violence.



Cycle A: The Relationship	Cycle B: The Perpetrator
<p>1. Tension Builds – The abuser's need for power and control underlie anger and blaming for any tension in the relationship. As tension escalates, the victim feels as if "walking on eggshells."</p> <p>2. The Explosion – The batterer displays power and takes control of the situation, the outcome of the situation, and his/her partner through methods of abuse. The abuser consciously chooses to use abuse.</p> <p>3. Loving and Contrite – The batterer romances, apologizes, and promises to change, adding to the confusion and fear that was caused by the abuse.</p>	<p>1. The Abuse – Batterer displays power and control through abusive methods.</p> <p>2. Guilt and Fear of Reprisal – Batterer fears being "caught" or that the victim will seek revenge.</p> <p>3. Rationalization – Abuser convinces the victim that the victim caused the abuse, ignoring any personal responsibility</p> <p>4. Normal Behavior – The abuser behaves as if nothing has happened. Typically the victim is forced to participate in the cover-up through manipulation and guilt.</p> <p>5. Planning and Fantasizing – Fantasies about past and future abuse feed the abuser's anger, leading to active planning for another episode.</p> <p>6. Setting Up – The abuser will create and control situations in which the victim has no choice but to react in a way that will "justify" the abuse.</p>

The Batterer

Domestic violence is about power and control. Examining or critiquing the victim's behavior takes the focus off the batterer's responsibility and supports the abuser's violent behavior.

Key Elements:

- Batterers will blame the victim
- Victims have no control over the batterer's violence
- Many batterers repeat the same pattern in all their intimate relationships



The following should not be considered excuses for domestic violence:

- **Illness**
 - An illness-based behavior causes only a small percentage (less than 5%) of violence against adult intimates.

- **Genetics**
 - Domestic violence is behavior learned through observation and reinforcement. It is not caused by genetics.

- **Alcohol and Drugs**
 - While it may be present in many domestic violence situations, alcohol does not cause someone to be violent. Alcohol can make a violent person more violent. Batterers often use alcohol as an excuse for their violence.

- **"Out-of-control" behavior**
 - The violence is controlled and usually directed only towards family members. Batterers make choices about whom they will abuse, what they will or will not do to the victim, and where and when they will strike. Such decision-making indicates abusers are very much in control of their abusive behavior.

- **Anger**
 - Some battering episodes occur when the batterer is not emotionally charged or angry, and some occur when the batterer is very emotionally charged.
 - Batterers choose violence or other control tactics, such as displays of anger to get what they want or that to which they feel entitled. The source of violence is not anger but rather an abuser's need to control.

- **Stress**
 - Everyone suffers from stress (e.g., job, relationship conflicts, illness, money, etc.), but stress does not "cause" people to be violent. Violence is a choice the perpetrator makes.



Why Batterers Batter

- Society said it is okay
 - Our society has condoned abuse in families for too long and failed to hold batterers accountable for violence.

- It works
 - Terrorized by abuse, the victim will say or do anything to survive.

- It's a choice
 - The batterer chooses to use violence to maintain power and control over the victim. If it were an anger issue, the violence would be evident in all parts of the batterer's life, work, home, social, etc. Like the batterer, everyone has problems, gets angry, and has stress, but not everyone chooses to use violence.

- It is About Control
 - An abuser wants total control of the victim and family and may use a combination of violence and abusive tactics to achieve and maintain control.

- It is a Learned behavior
 - Observation
 - Reinforcement
 - Family/childhood
 - Sports
 - Schools
 - Experience
 - Culture
 - Media
 - Communities
 - Peer groups

Batterer's Reality

I'm not doing anything wrong. If I am, I won't get caught. If I get caught, I'll talk my way out of it. If there are consequences, they'll be light.



The Victim

According to the IACP, due to the complex nature of these crimes and their devastating effects, a victim-centered and trauma-informed response to a domestic violence call is essential. Victims of domestic violence can display a variety of behaviors and officers should receive training on and be prepared for a range of possible responses. People react differently to trauma. Lack of or the presence of emotion is not an indicator of the legitimacy of the incident that occurred. Some victim behavior, such as minimizing or denying violence, may be a mechanism used to allow the victim and the victim's family to feel safer once law enforcement has left the scene and/or the perpetrator is released from custody.

Victims may also display the following characteristics:

- **Passivity**—victims may be quiet and reserved or appear reluctant to answer questions about the current incident or those that occurred in the past.
- **Denial**—victims may refuse to acknowledge that the abusive incident occurred, minimize the level of abuse, recant the account, deny allegations, reject further investigation, or defend the suspect.
- **Anger**—victims may appear upset with the suspect and/or officers; become irritated if officers have repeatedly been to the residence for prior reports of abuse, but no arrests have been made; believe that law enforcement is not providing sufficient protection from the suspect, even if an arrest is made; or verbally or physically attack officers.
- **Laughing**—victims may laugh or joke.
- **Lack of emotion**—victims may have a flat affect and not show any emotion. This is a normal response to trauma and should not be taken as an indication that the victim did not experience trauma.
- **Fear**—victims may be afraid of retaliation for law enforcement being called; scared that officers will not take action to stop the violence; fear that officers will believe the suspect's account; fear that authorities will take children away; or fear that threats the suspect has made will become reality.

In addition, some individuals may fear law enforcement itself due to past experiences or cultural norms.



In addition to potentially unpredictable emotional responses by victims, another discouraging aspect of handling domestic violence incidents for law enforcement officers is the frequency with which victims stay with or return to their abusive partner. An understanding of the dynamics of domestic violence, trauma response, and why it is common for victims to be reluctant to leave can be helpful in ensuring a quality, professional response for each call for service and the best possible outcome for victims, as well as improving officer morale and job satisfaction.

Victims of domestic violence use complex strategies to try to reduce risks and must consider a myriad of consequences when trying to pursue options for safety. For example, if the victim decides to call law enforcement, resources and supportive services may be acquired, a protective order may be obtained, and the victim may decide to leave the perpetrator, thereby ending the current attack. But by doing so, retribution may result—the violence may escalate; the perpetrator may threaten to take away or harm children, other family or friends, or pets; or the perpetrator may threaten to kill the victim or themselves.

However, under no circumstances should officers compromise their response to any incident or any victim based on personal judgments or frustrations. Throughout the entire response and investigation, officers should never make any statement that would discourage a victim from reporting an act of domestic violence; threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel; or avoid taking action because the victim stated that prosecution was not desired.

Because of the dynamics and trauma involved, victims have many reasons why they are reluctant to leave or seek to return to abusive relationships, to include, but not limited to, the following:

- Love or emotional attachment to the perpetrator;
- Promises that the abuse will end or never happen again;
- Financial dependence on the perpetrator;
- Issues involving children, including fears for their safety, of loss of custody, or of kidnapping—or any combination thereof;
- Guilt;
- Feelings that they did something to cause the abuse;



- Fear that leaving will not help to escape from the perpetrator's control;
- Fear of increased stalking behaviors;
- Fear of increased physical harm to self, children, family, friends, and pets if attempts to leave are made; Suicidal and homicidal threats made by the perpetrator;
- Previous negative experience with the criminal justice system;
- Lack of support and/or lack of knowledge of available resources;
- Fear of being alone;
- Fear of losing family and friends;
- Fear of not being believed or of being judged;
- Belief that they can "change" the perpetrator's behavior; and Religious or cultural beliefs.

Due to these reasons, it is fairly common for victims of domestic violence to later recant or deny their initial outcry of abuse.



Part 2

Arrests

ORS 131.005 defines probable cause as 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.

Most Commonly Arrested DV Crimes:

- Assault II
- Assault IV – misdemeanor
- Menacing
- Assault IV – felony
- Harassment (*not mandatory arrest*)
- Strangulation

Most Overlooked DV Crimes:

- Coercion
- Tampering with a Witness (Jail calls)
- Endangering a Protected Person by a FAPA Order

Other Related Crimes:

- Murder
- Burglary
- Stalking
- Kidnapping
- Recklessly Endangering
- Criminal Mistreatment
- Rape
- Sodomy
- Unlawful Sexual Penetration
- Sexual Abuse
- Child Neglect
- Endangering the Welfare of a Minor
- Robbery
- Manslaughter
- Animal Abuse
- Concealed Weapon
- Arson
- Trespass



Elements Defined

Physical Injury ORS 161.015 (6)	Serious Physical Injury ORS 161.015 (8)	Dangerous Weapon ORS 161.015 (1) (and the manner in which it's used)	Deadly Weapon ORS 161.015 (2)
Impairment of physical condition or substantial pain.	Physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.	Any weapon, device, instrument, material, or substance which under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury.	Any instrument, article, or substance specifically designed for and presently capable of causing death or serious physical injury.

ORS 163.187 Strangulation

A person commits the crime of strangulation if the person knowingly impedes the normal breathing or circulation of the blood of another person by:

- (a) Applying pressure on the throat, neck or chest of the other person; or
- (b) Blocking the nose or mouth of the other person.

Strangulation is a Class A misdemeanor. However, Oregon law provides for strangulation to be a Class C Felony if:

- a) The crime is committed in the immediate presence of, or is witnessed by, the persons or the victim's minor child or stepchild or a minor child residing within the household of the person or the victim;
- b) The victim is under 10 years of age;
- c) The victim is a family or household member of the person;
- d) During the commission of the crime, the person used, attempted to use or threatened to use a dangerous or deadly weapon
- e) The person has been previously convicted of violating this section
- f) The person has at least three previous convictions for violating this section
- g) The person commits the strangulation knowing that the victim is pregnant.



May be done with:

- Hands
- With an object (ligature, i.e., rope, electrical cord, hoodie string, etc.)
- Forearm

Do NOT use the word "choked"

Choke:

an object blocks the windpipe

Strangle:

obstructs the normal breathing of a person

Visible signs:

- Redness / abrasions / bruising
- Look for patterns
- Look at the chin
- Scratch marks/scrapes
- Blood red eyes
- Capillary rupture (petechiae)
 - Most common in the eyes
 - May be found anywhere above the location of the strangulation, including in the scalp, behind the ears, etc.
- Rope burns, patterns
- Fingernail marks
 - Impression
 - Scratch
 - Claw marked



Batterer visible signs:

- May have injuries from the victim clawing at their hands/forearms
- Bite marks on hands/forearms/biceps

Victim's symptoms:

- Pain to throat
- Swallowing difficulty
- Hoarseness
- Loss of voice
- Nausea
- Difficulty breathing
- Mental: lack of oxygen
- Miscarriage
- Loss of consciousness
- Hyperventilation
- Defecation / urination
- Uncontrollable shaking
- Loss of memory

Always send medics to the scene. There could be possible brain damage from lack of oxygen or swelling that could cause death within 24 hours.

Questions to Ask

- Ask the victim to describe and/or demonstrate how it happened?
- Ask with one or two hands, from the front or rear, forearms, objects?
- If an object was used, where is it now?
- If an object was used, how did it get there?
- Was the victim shaken simultaneously while being strangled?
- Did the victim have difficulty breathing?
- Did the victim faint or lose consciousness?
- Any complaints of pain or discomfort?
- Any medical treatment?
- What made the suspect stop?
- What was the suspect saying as it occurred?
- Did the victim attempt to protect themselves? If yes, describe.
- Ask the victim to sign a medical release.

Just because a victim does not have any physical signs of strangulation does not mean it didn't happen.



Mandatory Arrests

ORS 133.055 states when a peace officer responds to an incident of a 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 I, II,
III, and IV

Menacing

Strangulation

The officer is not required to arrest both persons, and this practice is highly discouraged.

An arrest is the preferred response only with respect to the primary aggressor. When stories between the parties conflict, the officer should make every effort to look at all of the factors and determine who the primary aggressor is. The person who started the fight is not necessarily the primary aggressor. Nor is it always the person who caused the worst injury or the person who called 9-1-1.

In order to intervene effectively in domestic violence cases, it is important that officers understand the complex issues of violence within intimate relationships, including the:

1. intent of the offender,
2. the meaning of the act toward the victim,
3. the effect of the violence on the victim, and
4. the context within which any given act of violence occurred.



Determining Primary Aggressor

When making these arrest decisions, officers should utilize the totality of information gained from a thorough and comprehensive investigation to make a determination of who is the predominant aggressor. Officers must determine the person who poses the most serious ongoing threat to whom in the context within which the incident occurred. The officer shall make every effort to determine who is the assailant or potential assailant by considering, among other factors:

- The comparative extent of the injuries inflicted or the seriousness of threats creating a fear of physical injury;
- If reasonably ascertainable, the history of domestic violence between the persons involved;
- Whether any alleged crime was committed in self-defense; and
- The potential for future assaults.

Common methods used to identify alleged primary aggressor:

- Compare evidence (visible and non-visible) to statements.
- Compare victim/witness/suspect statements.
- Assess verbal/non-verbal communication.
- Review domestic violence history.
- Injuries (offensive v. defensive)
- Physical size differences.
- Consider the intent of the law.
- Consider the use of a weapon or threatened use of a weapon.
- Assess statements of children and neighbors.
- Assess verbal and non-verbal communication of parties involved.



Factors that should **NOT** be considered when making an arrest for domestic violence:

- The relationship of the parties.
- The likelihood of the victim cooperating with the prosecution.
- Sexual orientation
- Race
- Age
- Profession
- Disability
- Cultural, social or political position
- Prior contacts with parties
- Victim's request not to arrest suspect
- Verbal assurances that abuse will stop
- The suspect has left the scene
- Denial of abuse by either party when there is evidence of abuse at the scene
- Lack of court order
- Fear of reprisals against the victim by the suspect
- Adverse financial consequences to the victim or suspect
- Intoxication (drugs or alcohol) by either the victim or the defendant
- Presence of children or the immediate dependence of the children on the suspect
- Lack of restraining order
- Sympathy for the suspect
- Assumptions as to the tolerance of violence by cultural, ethnic, religious, racial, or occupation groups
- Absence of visible injury or complaints of injury
- Co-worker, friend, relative



Officer Liability

Officers are often concerned about the mandatory arrest laws and their liability in making the mandatory arrest. However, an officer must also consider the liability he or she faces when not making the arrest, and the victim is exposed to violence from the suspect who is not arrested. Pursuant to ORS 133.315, no peace officer shall be held criminally or civilly liable for making an arrest pursuant to ORS [133.055 \(Criminal citation\)](#) (2) or [133.310 \(Authority of peace officer to arrest without warrant\)](#) (3) or (5) provided the peace officer acts in good faith and without malice.

When a peace officer responds to an incident of a domestic disturbance and has probable cause to believe that an assault has occurred between family or household members, as defined in ORS [107.705 \(Definitions for ORS 107.700 to 107.735\)](#), 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.



Protective Orders

A restraining order or protective order is a legal order issued by a state court that requires one person to stop harming another.



According to the Oregon State Bar, an individual can get a restraining order under the Family Abuse Prevention Act if their situation fits the following criteria:

- **Age of Petitioner.** You are at least 18 years old. If you are younger, then you may seek a restraining order (1) if you are or you were married to the abuser, and/or (2) you have been in a sexual relationship with the abuser, and (3) the person who abused you is at least 18 years old. If you are over 18 and were protected by a restraining order as a child and that order is still in effect, you may ask the court to continue that order.
- **Relationship to Abuser – Family and Household Members.** The person who abused you is: 1) your husband, wife or domestic partner; or 2) your former husband, wife or domestic partner; or 3) an adult with whom you are living (or did live) in a sexual relationship; or 4) an adult with whom you have been in a sexual relationship in the last two years (this two-year requirement does not apply to a petitioner who is a minor); or 5) an adult related to you by blood, marriage (caution: legal marriage in this context is distinct from co-habitation) or adoption; or 6) the parent of your child.



- **Meaning of Abuse.** If in the last 180 days, the person you wish to restrain has: physically injured you; or tried to physically injure you; or made you afraid that he or she was about to physically injure you or made you have sexual relations against your wishes by using force or threats of force. (Note that any time period in which the person who abused you was in jail or lived more than 100 miles from your home does not count as part of the 180-day period. This means you may still be able to get a restraining order even if it has been more than 180 days since you were abused.). When you complete your petition, please make sure that you describe in detail the nature and the dates of the abuse.
- **Danger of Further Abuse.** You have to show that you are in danger of further abuse, such as threats from the abuser. Danger of further abuse can be shown with incidents of prior abuse, even if the prior abuse happened more than 180 days ago.
- **Credible Threat to Safety of Petitioner or Petitioner's Child.** In court, you have to show that the abuser represents a credible threat to your physical safety or to your child's physical safety. Showing danger of further abuse usually satisfies the requirement to show credible threat to yourself or your child.
- **NOTE:** A judge cannot give you a restraining order solely for threats to take your children, rude behavior, verbal or emotional abuse, or damaged property unless you were in fear that you were about to be physically injured.

Once issued, the order is effective for one year. However, the abuser may object by requesting a hearing within 30 days after he or she was served with the order. If the abuser does not do that, then the restraining order will remain effective. After the 30-day period, the abuser may only request a hearing dealing with modification of custody or parenting-time provisions or requesting less restrictive terms regarding ouster.

Violation of a restraining or stalking order are mandatory arrests under ORS 133.310 (3), as is the failure to comply with a no-contact condition in a release agreement as described in ORS 133.310 (6).



ORS 24.190 Foreign Restraining Orders

Under Oregon law, protection orders from other states, Indian tribes, or territories are called “foreign restraining orders” and require enforcement action.

Examples:

- District of Columbia
- Indian tribes
- Commonwealth territory

When there is probable cause to believe that a violation of a foreign restraining order has occurred, officers shall take into custody a person restrained by the order when a protected party

1. Presents a copy of the foreign order to the officer and represents to the officer that the order supplied is the most recent order in effect and the person restrained by the order has been personally served or has actual notice of the order

Or

2. Where a voluntary entry of the order into LEDS or the National Crime Information Center (NCIC) establishes the existence of the foreign restraining order.

ORS 163.192 Endangering a Person Protected by a Family Abuse Prevention Act Restraining Order

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.



ORS 133.035 Emergency Protective Order

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.

ORS 166.250 Unlawful Possession of Firearms

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.



No Contact Orders

ORS 135.247 requires that all defendants in custody for domestic violence and sexual assault crimes 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 the Court.

Defendants are additionally prohibited from attempting to contact the victim directly **or** through a third party.



Stalking

Each County in Oregon is unique regarding the procedure and policies with this statute. Your DA's office will have more information.

ORS 163.732 defines stalking as knowingly alarms or coerces another person or a member of that person's immediate family or household by engaging in repeated and unwanted contact with the other person. This crime is an A Misdemeanor.

ORS 163.750 defines violating a stalking order as a person served with a court's stalking protection order, subsequent to the order, has engaged intentionally, knowingly or recklessly in conduct prohibited by the order. This crime is a C Felony.

How to get a Stalking Order:

- Probable cause
 - Mandatory to serve stalking order
 - ORS 163.735- Citation to appear
- Good for life
- Automatic hearing
- No relationship restrictions



Federal Statutes

Possession of Firearm

a. 18 USC, § 922 (g) (8) (while subject to protection order): It is a federal crime when a person ships or transports in interstate or foreign commerce, or possesses in or affecting commerce, any firearm or ammunition, or receives any firearm or ammunition which has been shipped or transported in interstate or foreign commerce, when that person is subject to a court order that; was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate; restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury;

b. 18 USC, § 922 (g) (9) (after conviction for misdemeanor crime of violence): It is a federal crime when a person ships or transports in interstate or foreign commerce, or possesses in or affecting commerce, any firearm or ammunition, or receives any firearm or ammunition which has been shipped or transported in interstate or foreign commerce when that person has been convicted in any court of a misdemeanor crime of domestic violence.



Interstate Domestic Violence – Crossing a State Line

a. 18 U.S.C., § 2261 (a)(1) (travel with intent to injure which results in injury): It is a federal crime when a person who travels across a state line or enters or leaves Indian Country with the intent to injure, harass or intimidate that person's spouse or intimate partner, and who, in the course of or as a result of such travel, intentionally commits a crime of violence and thereby causes bodily injury to such spouse or intimate partner.

b. 18 USC, § 2261 (a)(2) (forced travel which results in injury): It is a federal crime when a person who causes a spouse or intimate partner to cross a state line or leave or enter Indian Country by force, coercion, duress or fraud and in the course or as a result of that conduct, intentionally commits a crime of violence and thereby causes bodily injury to the person's spouse or intimate partner.

c. 18 USC, § 2261A (travel with intent to stalk): It is a federal crime when a person travels across a state line or within the special maritime and territorial jurisdiction of the United States with the intent to injure or harass another person, and in the course of or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury to that person or a member of that person's immediate family.

Interstate Travel to Violate Protection Order

a. 18 USC, § 2262 (a) (1) (travel with intent to violate protection order): It is a federal crime when a person travels across a state line or enters or leaves Indian Country with the intent to engage in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued.

b. 18 USC, § 2262 (a)(2) (forced travel which results in injury in violation of protection order): It is a federal crime when a person causes a spouse or intimate partner to cross a state line or to enter or leave Indian Country by force, coercion, duress, or fraud, and in the course or as a result of that conduct, intentionally commits an act that injures the person's spouse or intimate partner in violation of a valid protection order issued by a state.



Resources for violations of Federal Statutes

- Attorney for the District of Oregon
 - Portland 503-727-1000
 - Eugene 541-465-6771
 - Medford 541-776-3564
- ATF or FBI
- Contact your local DA to assist you in taking a case to federal prosecution.
- Full Faith and Credit Project is a federally financed program that employs people who can clarify and answer questions that law enforcement officers may have regarding enforcement of the federal statutes. 1-800-256-5883



The Investigation

Lethality Indicators

As previously described, without intervention, the frequency and severity of the abuse tends to increase over time. While it is not possible to predict when such violence will escalate to lethal violence, research provides some common factors to be aware of. The presence of risk factors do not mean a subject will commit violence, but they do suggest a correlation: a subject who commits certain acts is more likely than a subject who does not commit these acts, to severely assault or kill an intimate partner (Weisberg, 2019). Your agency may utilize a risk assessment checklist, such as the Lethality Assessment Program (LAP) to help screen for these factors. Examples:

- Victim thinks the subject might try to kill them.
- Subject has ever used or threatened use of a weapon.
- Subject has ever tried to choke victim.
- Victim has left/separated from the subject after living together or being married.

An assessment tool that can be used by victims to raise their awareness of danger, the Danger Assessment, includes questions such as:

- Has the physical violence increased in severity or frequency over the past year?
- Does he own a gun?
- Do you have a child that is not his?
- Does he control most or all of your daily activities? (For instance: does he tell you who you can be friends with, when you can see your family, how much money you can use, or when you can take the car?)



Domestic Violence Lethality Screen For First Responders



Officer: _____ Date: _____ Case: _____
Victim: _____ Offender: _____

Check here if victim did not answer any of the questions.

▶ A "Yes" response to any of Questions #1-3 automatically triggers the protocol referral.

1. Has he/she ever used a weapon against you or threatened you with a weapon? Yes No Not Ans.
2. Has he/she threatened to kill you or your children? Yes No Not Ans.
3. Do you think he/she might try to kill you? Yes No Not Ans.

▶ Negative responses to Questions #1-3, but positive responses to at least four of Questions #4-11, trigger the protocol referral.

4. Does he/she have a gun or can he/she get one easily? Yes No Not Ans.
5. Has he/she ever tried to choke you? Yes No Not Ans.
6. Is he/she violently or constantly jealous or does he/she control most of your daily activities? Yes No Not Ans.
7. Have you left him/her or separated after living together or being married? Yes No Not Ans.
8. Is he/she unemployed? Yes No Not Ans.
9. Has he/she ever tried to kill himself/herself? Yes No Not Ans.
10. Do you have a child that he/she knows is not his/hers? Yes No Not Ans.
11. Does he/she follow or spy on you or leave threatening messages? Yes No Not Ans.

▶ An officer may trigger the protocol referral, if not already triggered above, as a result of the victim's response to the below question, or whenever the officer believes the victim is in a potentially lethal situation.

Is there anything else that worries you about your safety? (If "yes") What worries you?

Check one: Victim screened in according to the protocol
 Victim screened in based on the belief of officer
 Victim did not screen in

If victim screened in: After advising her/him of a high danger assessment, did the victim speak with the hotline counselor?
 Yes No

Note: The questions above and the criteria for determining the level of risk a person faces is based on the best available research on factors associated with lethal violence by a current or former intimate partner. However, each situation may present unique factors that influence risk for lethal violence that are not captured by this screen. Although most victims who screen "positive" or "high danger" would not be expected to be killed, these victims face much higher risk than that of other victims of intimate partner violence.

MNADV 08/2005



Research finds that victims' perceptions of their risk of danger is inaccurate. Fewer than half of the women who are eventually killed by their partners accurately perceive their risk of death. Various reasons exist why victims' perceptions of risk are so unreliable. Some victims are unable to accurately perceive their risk because they experience the victimization as a normal part of intimate partner relationships. Use of risk assessment helps alert the victim to both the likelihood and severity of re-abuse.

For officers, using a risk assessment tool can help in the identification high-risk victims and assist in safety planning. Studies have found that in jurisdictions where officers use the LAP screen, more protective strategies were put into place and there was less severe and less frequent re-victimization. Additionally, studies find strengthened evidence collection leading to improved prosecution and greater batterer accountability (Weisberg, 2019).

It is important for officers to know local resources to assist victims. For example:

- Domestic violence shelter
- Department of Human Services (DHS)
- District Attorney's office – Advocates
- Adult and Family Services
- Law enforcement agencies
- AT&T Language Line
- Social Service Agencies- CARDV, other
- Restraining Orders

Advising the Victim – ORS 133.055 (3)

Remember your Supporting Victims of Crime course, the elements of the rights and remedies brochure should be explained to the victim.

- Convey to the victim concern for his/her safety.
- Inform the victim on how to get a restraining order.
- Advise the victim that the incident report will be sent to the local domestic violence center.
- Advise the victim of what to expect in the near future concerning the processing of the case.



Working with Advocates

What is the role of an advocate? Victim advocates provide support, help victims understand the criminal justice processes, and explain community resources. There are often advocates located within the justice system, such as within the District Attorney's Office, and there are community-based advocates, such as in a non-profit. Some law enforcement agencies partner with volunteer advocates who can help develop safety plans. Some advocate services:

- Providing information on victimization
- Providing information on victims' legal rights and protections
- Providing information and navigation in the criminal justice process
- Providing information and assistance in applying for Protective Orders
- Providing emotional support to victims
- Providing systems navigation with DHS Child Welfare and Self Sufficiency
- Helping victims with safety planning
- Helping victims with victim compensation applications
- Helping victims submit comments to courts and parole boards
- Intervening with creditors, landlords, and employers on behalf of victims
- Helping victims find shelter and transportation
- Provide victims with immediate physical needs, i.e., food, diapers, clothing, etc.
- Providing referrals for other services for victims
- Notifying victims of inmates' release or escape (VINES)

It's important for Officers and Advocates to both know each other's roles but stay in their lane when working together. When an advocate is not available, then the officer may need to help with safety planning; information on the victim's legal rights and protections, transporting the victim to a safe location, provide information and navigation of the criminal justice system, inform the victim about VINES and how to register.



Also, most community-based advocates are bound by confidentiality and have privilege when talking to a victim. They will need a Release of Information (ROI) from the victim to share part or all of what the victim has told them with officers. This does not preclude the officer from sharing their concerns with the advocate to better help protect the victim through safety planning, but it will prevent the advocate from sharing information with the officer. Government-based advocates generally do not have confidentiality or privilege attached to their communications with victims. Often, they will be mandatory reporters for child abuse and self-harm (i.e., suicide). Understanding the differences between the types of advocates and their legal requirements surrounding confidentiality and privilege will make the working relationship smoother.

Investigation Complexities

Due to the complex dynamics of domestic violence, officers must demonstrate patience, compassion, empathy and professionalism. Remember there are numerous factors that influence a victim's decision to report abuse or leave an abusive situation. Due to this uncertainty, it should be anticipated that the victim will sign an affidavit that recants any earlier statement.

Investigation Challenges:

- Assume the victim will recant.
- Assume the children will recant.
- Assume that any injury will be healed before any hearing.
- Assume that anything that is broken will be fixed or thrown out.
- Assume that anything that is not photographed will be denied.
- Assume that the suspect will contact the victim before the District Attorney will.

Considering these assumptions, what investigation steps are important?

- To protect the victim and children?
- To identify, preserve, and document evidence?



Evidence-Based Prosecution

According to the Office of Justice Programs, evidence-based prosecution refers to the practice of using independent corroborative evidence to prove the elements of the crime without relying on the victim's testimony.

Independent, corroborative evidence that can be used in such cases includes a 911-call recording; visible injuries photographed by a police officer or observed by a person other than the victim; physical evidence at the crime scene such as a weapon, broken furniture, victim's torn clothing, or a damaged telephone; medical testimony that documents injuries or statements made by the victim; eyewitnesses who saw or heard the event; transcripts of prior testimony by the victim; statements that fall under exceptions to the hearsay rule; and admissions by the defendant.

Corroboratory Evidence/Statements

A domestic violence investigation is a search for the truth. Statements are great evidence, but corroborating the victim/witness/suspect statements with other accounts of the incident or comparing to what physical evidence is at the scene will help determine what happened.

Without victim cooperation:

- Hearsay Exceptions – ORS 40.460
- Excited utterances – document
- Medical diagnosis and treatment
- 24-hour rule – ORS 40.460 (26)(a)

Interviewing the Suspect

Remember, the suspect is a master at manipulating people and situations. They will try to manipulate officers as well. When interviewing the suspect:

- Do not make accusatory statements while questioning the batterer. Allow them to tell their version of the incident before confronting them with contradictory information.
- Do not collude or support the suspect's statements as to the reasons for the abuse.
- Document all spontaneous statements as to the reasons for the abuse.



Children and Domestic Violence

Source: The National Child Traumatic Stress Network

Children exposed to domestic violence may experience traumatic stress in response to events that they perceive to be dangerous or threatening. Studies have shown that children exposed to domestic violence are vulnerable to developing mental health problems and becoming victims and perpetrators in the future. The actions of law enforcement officers can have a powerful impact in helping to stop this devastating cycle of violence.

When responding to a domestic violence scene:

- Check for signs of children's presence; recognize the ways that children may be present, both directly and indirectly.
- Try not to interview parents in a child's presence.
- Avoid making an arrest in a child's presence, if possible.
- Keep children with known adults; whenever possible – identify someone at the scene who can take care of them.

Interviewing Children

- Do not use them as translators
- Note statements made to the child
- Document:
 - excited utterances
 - signs of injuries
 - healing wounds
 - demeanor

An assault is witnessed if the assault is seen or directly perceived in any other manner by the child. Call the DHS Hotline if children are present, witness, or reside in the home.



Documentation

- A report must be made whether an arrest is made or not.
 - Document why no arrest was made.
 - If both persons are arrested, document why (this should rarely be the case, i.e., true mutual combat.) You will need to justify why neither party was identified as the primary aggressor.
- Documentation will give a history to the location if there are future calls.
- When given rights and remedies (regardless if an arrest is made) there should be documentation.

The agency must send a copy of the report and any subsequent, supplemental, or related report minus all victim/witness statements and other materials that are part of an active criminal investigation to the certified domestic violence center.

Call Response

According to Lexipol, domestic disturbance calls are among the most dangerous calls for officers. In a 2018 article, the following explanation regarding contributing factors was provided:

Why are domestic incidents so dangerous? Emotions run extremely high during such calls. The people involved are often desperate and conflicted, and alcohol or drugs may be a factor. The report also acknowledges poor information sharing and a lack of coordination between responding officers as factors. But the authors focus in on something else: the fact that officers are frequently dispatched alone or respond alone to such calls until backup arrives.

Throughout the academy, you have learned and practiced safe and effective tactics. Consider how these tactics apply in a domestic disturbance response.



Crisis Intervention

Crisis intervention is the act of entering a situation that has reached a critical phase in order to modify and defuse it. Throughout the academy, you have learned and practiced communication strategies for a variety of circumstances, including crises. An aggressive approach to resolving crisis situations or disputes can result in negative responses and situations. When handling crises, the officer should employ calming intervention techniques.

Civil Stand-by

Oregon law provides an opportunity for individuals to request an officer accompany them during a meeting with the subject of a restraining order. Such interactions are limited to 20 minutes and are intended to allow the person to collect personal belongings. During a civil stand-by, officers do not intervene in disputes over ownership of the property, nor can they require the subject to grant access to the property.

ORS 107.719 states a peace officer who accompanies removing essential personal effects pursuant to an order issued under ORS shall remain for up to 20-minutes and may interrupt the removal of property at any time. Nothing in this subsection shall affect a peace officer's duty to arrest under ORS 133.055 and 133.310. The party removing essential personal effects from the residence is entitled to be accompanied by a peace officer on one (1) occasion only. The peace officer that accompanies a party removing essential personal effects shall have immunity from any liability, civil or criminal, for any action of the party committed during the removal of essential personal effects.

Note: During a civil standby, an officer may be called away for emergencies. Check with local policy and procedures with your agency and district attorney's office on what to do if this occurs.



Community Competency

Source: U.S. Department of Justice- Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence (2015)

Sexual assault and domestic violence are crimes that disproportionately impact women, girls, and lesbian, gay, bisexual, and transgender (LGBT) individuals in the United States. According to surveys conducted by the Bureau of Justice Statistics and the Centers for Disease Control and Prevention (CDC):

- 90 percent of all cases of rape involve female victims.
- Nearly one in five women in the United States (18.3 percent) have been raped.
- About one in four women (24.3 percent) and one in seven men (13.8 percent) in the United States have experienced severe physical violence at the hands of an intimate partner.
- 44 percent of lesbian women and 61 percent of bisexual women have experienced rape, physical violence, and/or stalking by an intimate partner.
- 26 percent of gay men and 37 percent of bisexual men have experienced rape, physical violence, and/or stalking by an intimate partner.
- While there is a lack of data on the violence experienced by transgender individuals, community-based studies indicate high levels of victimization.

Gender Bias

One critical part of improving police response to allegations of sexual assault and domestic violence is identifying and preventing gender bias in policing practices. Gender bias in policing practices is a form of discrimination that may result in police providing less protection to certain victims on the basis of gender, failing to respond to crimes that disproportionately harm people of a particular gender or offering reduced or less robust services due to a reliance on gender stereotypes.

Explicit and implicit biases, including stereotypes about gender roles, sexual assault, and domestic violence, are embedded in our culture and can affect people in all different professions. With respect to policing, these biases may affect law enforcement officers' perceptions of sexual assault and domestic violence incidents and prevent them from effectively handling allegations of these crimes. The intersection of racial and gender stereotypes and biases can also pose unique difficulties for women and



LGBT individuals of color seeking police services to address sexual assault and domestic violence incidents. In some cases, a police officer may discriminate against victims of sexual assault or domestic violence because of a general bias against women or LGBT individuals. More commonly, discrimination may be based on explicit stereotypes about women or LGBT individuals. Acting on stereotypes about why women or LGBT individuals are sexually assaulted, or about how a victim of domestic violence or sexual assault should look or behave, can constitute unlawful discrimination and profoundly undermine an effective response to these crimes. For example, if an officer believes a sexual assault to be less severe because the victim was assaulted by an acquaintance or was intoxicated when the assault occurred, or based on stereotypical assumptions about a victim who is a gay man or lesbian woman assaulted by his or her partner, that is gender bias and may constitute unlawful discrimination.

Effective Response Strategies

1. Recognize and Address Biases, Assumptions and Stereotypes about Victims

In responding to a report of sexual assault or domestic violence, law enforcement officers should not base their judgments as to the credibility of a victim's account on assumptions or stereotypes about the "types" of people that can be victims of sexual assault, or about how victims of sexual assault and domestic violence "should" respond or behave

2. Treat All Victims with Respect and Employ Interviewing Tactics That Encourage a Victim to Participate and Provide Facts About the Incident

A victim who is treated with respect is more likely to continue participating in an investigation and prosecution than one who feels judged or blamed for a sexual assault or domestic violence incident. Law enforcement agencies should take affirmative steps to ensure that, throughout their investigations, officers treat victims with respect and dignity, and use appropriate trauma-informed interviewing techniques to establish a rapport with the victim.

3. Investigate Sexual Assault or Domestic Violence Complaints Thoroughly and Effectively

Unlike many other crimes, incidents of sexual assault and domestic violence frequently occur in more private settings, with few, if any, witnesses present. As a result, it is crucial that LEAs undertake a thorough investigation of these crimes by gathering, preserving and analyzing as much evidence, particularly corroborative evidence, as quickly as they can



4. Appropriately Classify Reports of Sexual Assault or Domestic Violence

Complaints of sexual assault and domestic violence should be classified in a manner that will allow them to be fully investigated. If a sexual assault or domestic violence complaint is given an improper or non-criminal classification, the case may be closed before an investigation has been conducted. Like any other allegation of a crime, the determination that a sexual assault or domestic violence complaint is unsubstantiated should be made only after a thorough and full investigation, as discussed in Principle 3, and not presumptively at the classification stage. In order to encourage accurate classification of reports of sexual offenses, officers must be knowledgeable not only about their agency's procedures for documenting such reports, but also about the elements of sexual assault and domestic violence offenses, so that they can better identify incidents that meet those criteria.

5. Refer Victims to Appropriate Services

Officers should take steps to address the medical, emotional, safety and other needs of victims of sexual assault and domestic violence at the time they report an incident or make a complaint.

6. Properly Identify the Assailant in Domestic Violence Incidents

It is essential that officers are trained to identify the predominant aggressor when responding to domestic violence incidents, and make arrests accordingly. Law enforcement officials should be aware of the potential for abusers to report domestic violence complaints preemptively, claiming that they themselves are the victims of domestic violence



Summary

- Domestic violence involves many behaviors, which may or may not be crimes.
- Law enforcement intervention is vital to the process of breaking the cycle of violence.
- An arrest provides safety to victims, families, and the community.
- An arrest sends the message that domestic violence will not be tolerated.
- The officer should be aware of local resources and service providers.
- Refer police report to DA and victim's advocate.
- Know your local procedure for obtaining a domestic violence restraining order.
- Always provide victim's assistance cards.
- Determine if follow-up for the case is necessary. Complete the follow-up or refer the follow-up according to your agency's policy.

Addressing and Preventing Gender Bias

Responses to Reports of Sexual Assault, Domestic Violence, and Stalking



Accurate, evidence-based beliefs about sexual and domestic violence and stalking in law enforcement create an environment in which exemplary investigations and full protection of victims occur. Likewise, biases and outdated stereotypes undermine efforts to end violence, discourage victim reporting and participation, and create an environment in which perpetrators continue committing crimes.

Gender Bias Terms

Biases are positive or negative beliefs about a thing, person, or group, compared with another.¹

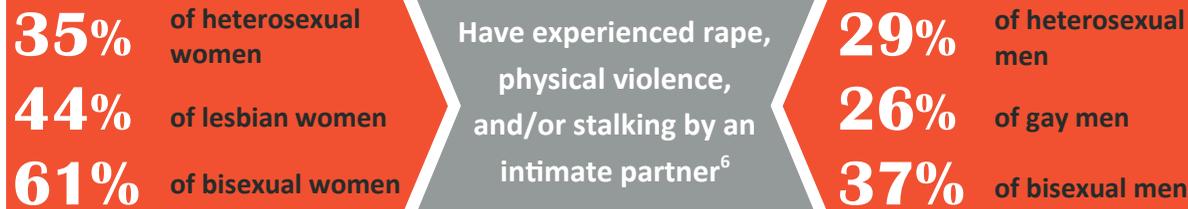
Explicit biases are preferences that people are consciously aware they have.²

Implicit biases are a set of automatic preferences in our unconscious minds that affect our decisions and how we perceive people and situations, without our conscious awareness.³

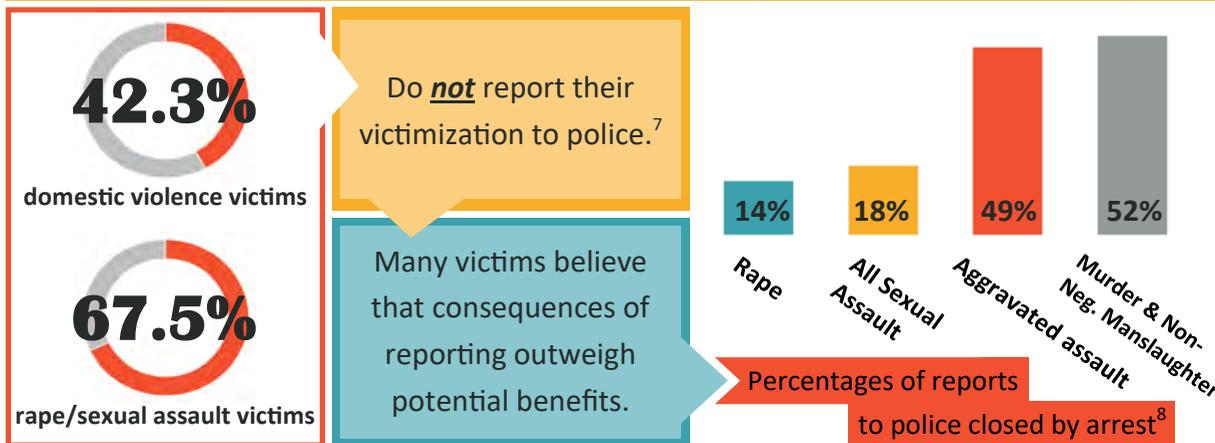
Gender is a societal construct, defined by expectations of the ways people should behave, including but not limited to the way individuals dress, talk, or act.⁴

Gender bias is the idea that a set of unconscious biases about gender—like all biases—may sometimes affect our perceptions, actions, or decision-making.⁵

Sexual assault, domestic violence, stalking, and gender bias affect people of all genders and sexual orientations



Reporting to Law Enforcement:



How might addressing gender bias strengthen my agency & community?

- Ensure victims receive equal protection of the law and protection from harm
- Increase victim, community, and officer safety
- Encourage victims to report crimes
- Encourage victim and witness participation in investigations and the criminal justice system
- Hold offenders accountable
- Strengthen trust between your agency and community

The U.S. Department of Justice outlines eight principles to guide law enforcement in addressing and preventing gender bias in response to sexual assault, domestic violence, and stalking:⁹

- | | |
|-----------------------------------------------------------------------------------------------|---------------------------------------------------|
| Recognize and address biases, assumptions about victims | Refer victims to appropriate services |
| Treat all victims with respect and employ interviewing tactics that encourage a participation | Properly identify the assailant |
| Investigate reports thoroughly and effectively | Hold agency members who commit crimes accountable |
| Appropriately classify reports | Maintain, review, and act upon data |

Notes:

1. United States District Court, Western District of Washington, *Unconscious Bias*, video, 10:53, March 31, 2017, <http://www.wawd.uscourts.gov/jury/unconscious-bias>.
2. Ibid.
3. Ibid.
4. International Association of Chiefs of Police, *Responding to Sexual Violence in LGBTQ+ Communities: Law Enforcement Strategies and Considerations*, 2017, <http://www.theiacp.org/Portals/0/documents/pdfs/Communications/IACPRespondingtoSexualViolenceinLGBTQCommunities2017.pdf>.
5. United States District Court, *Unconscious Bias*.
6. Mikel L. Walters, Jieru Chen, and Matthew J. Breiding, *The National Intimate Partner and Sexual Violence Survey: 2010 Findings on Victimization by Sexual Orientation* (Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 2013), https://www.cdc.gov/violenceprevention/pdf/nisvs_sofindings.pdf.
7. Jennifer L. Truman, and Rachel E. Morgan, *Criminal Victimization, 2015*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 2016, <https://www.bjs.gov/content/pub/pdf/cv15.pdf>.
8. Federal Bureau of Investigation, *National Incident-Based Reporting System, 2012-2014*, 2015, <https://www.bjs.gov/index.cfm?ty=dcdetail&iid=301>; Charles Puzzanchera, J. Smith, and Wei Kang, *Easy Access to NIBRS Victims, 2013: Victims of Violence*, 2015, <http://www.ojjdp.gov/ojstatbb/ezanibrsv/>.
9. U.S. Department of Justice, *Identifying and Preventing Gender Bias in Law Enforcement Response to Sexual Assault and Domestic Violence*, December 15, 2015, <https://www.justice.gov/opa/file/799366/download>.

Effective Interventions: Deaf & Hard of Hearing Community

BASIC POLICE ACADEMY





Effective Interactions with the Deaf and Hard of Hearing Community

Instructional Goals:

This course is designed to:

1. Develop a new officer's understanding of the deaf and hard of hearing community.
2. Provide new officers with communication tools and strategies to improve interactions with the deaf and hard of hearing community.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify appropriate auxiliary aids.
2. Accurately assess a situation to determine whether an auxiliary aid, including an interpreter, is required.
3. Demonstrate effective and professional communication.

Content Outline:

Civil Rights- Americans with Disabilities Act

Increasing Cultural Understanding

- a. Diversity
- b. Terminology
- c. Language Development

Tactical Social Interactions

- a. Communication and Language
- b. Effective Interactions
- c. De-escalation and Defusing Hostilities

Police as Guardians

- d. Cultural Vulnerabilities

The Role of an Interpreter

- d. Tips for Communicating Through an Interpreter



Introduction

Introduction Content from the AELE Monthly Law Journal

Police frequently encounter persons with moderate to profound hearing loss while carrying out their law enforcement duties. Deaf persons may be criminal suspects, arrestees, crime victims, persons in need of assistance, or witnesses. Difficult issues may arise concerning communication, often in tense situations. Did the suspect disobey the officer's command, or did he simply not hear it or not hear it well enough to understand it? Will their failure to hear be mistaken for intentional defiance? Will the crime victim, a person in need of assistance, or witness be able to adequately communicate with the officer on the scene or the 911 dispatcher? Will they be able to receive and follow information or directions that may be essential for their safety and lives?

It is because of these critical questions and more that we take some time to learn about the various members of our diverse communities.

Source: Police Interactions with Deaf Persons - AELE. <http://www.aele.org>

Civil Rights

Content from the National Association of the Deaf

Two federal disability discrimination statutes apply to state and local enforcement agencies.

- The first federal statute is section 504 of the Rehabilitation Act, which prohibits recipients of federal financial assistance from discriminating against individuals based on disability.
- The second federal statute is Title II of the Americans with Disabilities Act (ADA). All state and local police departments are prohibited from discrimination based on disability.

Source: National Association of the Deaf <https://www.nad.org/resources/justice/police-and-law-enforcement/communication-access-with-police-and-law-enforcement/>

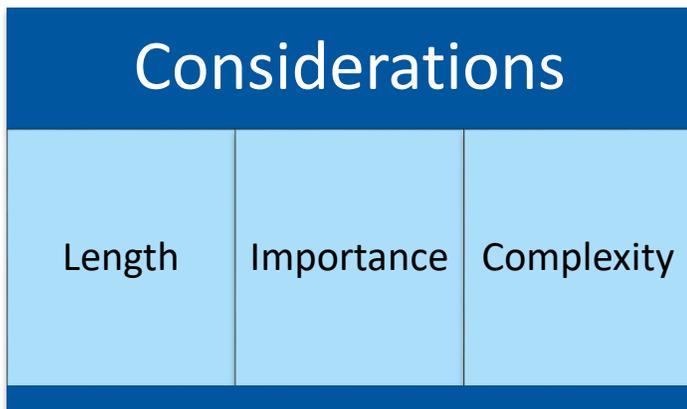


Under the ADA and its regulations, state and local law enforcement agencies are required to provide accommodations, such as:

- Qualified interpreters
- Real-time captioning (also called CART)
- Assistive listening devices
- Or other auxiliary aids and services to ensure effective communication with deaf and hard of hearing (HOH) individuals.

Law enforcement agencies must consult with the deaf or hard of hearing individual about the choice of auxiliary aid or service would result in effective communication.

Although in some circumstances, a notepad and written materials may be sufficient to permit effective communication, at other times, they may not be enough. For example, a qualified interpreter may be



necessary when the information being communicated is complex or is exchanged for a lengthy period. Generally, factors to be considered in determining whether an interpreter is required include the context in which the communication is taking place, the number of people involved, and the importance of the communication.

The Department of Justice states: If a deaf or hard of hearing person is arrested, the arresting officer's Miranda warning should be communicated to the arrestee on a printed form approved for such use by the law enforcement agency where there is no qualified interpreter immediately available and communication is otherwise inadequate. The form should also advise the arrestee that the law enforcement agency has an obligation under Federal law to offer an interpreter to the arrestee without cost and that the agency will defer interrogation pending the appearance of an interpreter.



Research with deaf adults indicates that the Miranda warning is confusing to them when it is presented in written English as well as when translated into ASL. Legal concepts such as "the right to remain silent, right to an attorney" were difficult to comprehend and translate. It contains multiple-meaning words- right, silent, present.

SOURCE: The Bill of Rights, Due Process and the Deaf Suspect/Defendant (2007)

The provision of interpreter services or other auxiliary aids and services should not be limited to arrestees. Victims and complainants should certainly also be provided with those services.

The interpreter must be qualified. When effective communication does not result from the use of an interpreter, as judged by the deaf or hard of hearing person, the interpreter, or a law enforcement official, another interpreter must be secured who is qualified to interpret in that situation. The responsibility is on the law enforcement agency to ascertain the type of sign language or other modes of communication with which the deaf individual feels most comfortable.

Law enforcement obligations to deaf or hard of hearing persons who have been arrested or held for questioning are founded in constitutional as well as statutory law. Courts have suppressed evidence obtained from a deaf defendant, where it was found that the constitutional rights warning was not adequately communicated to the defendant. See *State of Maryland v. Barker* and *State of Oregon v. Mason*.

In both of these cases, the warnings were conveyed in sign language but were not broken down to the defendant's language level. Securing a qualified interpreter for a timely interpretation of the rights, accompanied with careful explanation and breakdown of every legal term and sign, is one way a law enforcement agency may prevent objections to the adequacy of this communication, as well as comply with the legal requirements of Section 504 and the ADA. The presentation of printed advice of rights form without a qualified interpreter may not be sufficient.



If the person uses sign language, what kinds of communication will require an interpreter?

The length, importance, or complexity of the communication will help determine whether an interpreter is necessary for effective communication.

- In a simple encounter, such as checking a driver's license or giving street directions, a notepad and pencil usually will be sufficient.
- During interrogations and arrests, a sign language interpreter will often be necessary to communicate with an individual who uses sign language.
- If the legality of a conversation will be questioned in court, such as where Miranda warnings are issued, a sign language interpreter may be necessary. Police officers should be careful about miscommunication in the absence of a qualified interpreter. In essence, a head nod may be an attempt to appear cooperative in the midst of misunderstanding, rather than consenting or a confession of wrongdoing.
- In general, if an individual who does not have a hearing disability would be subject to police action without interrogation, then an interpreter will not be required unless one is necessary to explain the action being taken.

Source: Commonly Asked Questions About the Americans With Disabilities Act and Law Enforcement https://www.ada.gov/q%26a_law.htm

Source: Guide For Law Enforcement Officers When in Contact with People Who Are Deaf or Hard of Hearing https://www.ada.gov/humbolt_pca/humboldtattD.htm

Do I have to take a sign language interpreter to a call about a violent crime in progress or a similar urgent situation involving a person who is deaf?

No. An officer's immediate priority is to stabilize the situation. If the person being arrested is deaf, the officer can make an arrest and call for an interpreter to be available later at the booking station.



Increasing Cultural Understanding

Content from the National Association of the Deaf

Diversity

As with other cultural groups, members of the Deaf community share common values, norms, traditions, language, and behaviors. Deaf people do not think of themselves as handicapped, impaired, or disabled. They celebrate and cherish their culture because it gives them the unique privilege of sharing a collective identity, history, and language. Deaf people are considered a linguistic minority within American culture. They have their own culture and, at the same time, live and work within the dominant American culture.

The deaf and hard of hearing (HOH) community is diverse. There are variations in; how a person becomes deaf or HOH, level of hearing, age of onset, educational background, communication methods, and cultural identity. How people "label" or identify themselves is personal and may reflect identification with the deaf and hard of hearing community, the degree to which they can hear, or the relative age of onset. For example, some people identify themselves as "late-deafened," indicating that they became deaf later in life. Other people identify themselves as "deaf-blind," which usually means that they are deaf or hard of hearing and also have some degree of vision loss. Some people believe that the term "people with hearing loss" is inclusive and efficient. However, some people who were born deaf or hard of hearing do not think of themselves as having lost their hearing. Over the years, the most commonly accepted terms have come to be "deaf," "Deaf," and "hard of hearing."

Source: National Association of the Deaf <https://www.nad.org/resources/american-sign-language/community-and-culture-frequently-asked-questions/>



Terminology

Members of the hearing world often group deaf and hard of hearing persons into one category. In reality, there are multiple groups included within the broad "deaf and hard of hearing" category, and the various groups have distinctly different characteristics. Following are just some of these definitions:

- **Culturally Deaf-** Culturally Deaf people are those who are born deaf or became deafened early in life and rely primarily on sign language for communication.
- **Deaf-** The word Deaf with a capital "D" refers to members of the Deaf community who share common values, norms, traditions, language, and behaviors.
- **deaf-** The word deaf using the lower case "d" denotes the inability to hear clearly.
- **d/Deaf-** When d/Deaf is used, it refers to both groups; those who cannot hear clearly and those who identify with the Deaf community and culture.
- **Deaf-Blind-** Refers to people who have significant, but not necessarily total, loss of both vision and hearing (dual sensory loss). Deaf-Blind people may be culturally Deaf, oral deaf, late-deafened, or hard of hearing, and his/her mode of communication varies accordingly.
- **Hard-of-Hearing (HOH) -** The term used to describe a degree of hearing loss ranging from mild to profound for which a person usually receives some benefit from amplification. Most people who are hard of hearing are oralists (communicate by using their voice), although a small number learn sign language. Usually, they participate in society by using their residual hearing with hearing aids, speech reading, and assistive devices to facilitate communication.
- **Hearing People-** "Hearing people/person" means people/person who can hear.



- Hearing- "Hearing" is a cultural status as well as a physical ability. If a Deaf person says, "My boss is Hearing." It means that the boss is able to hear and is a member of the hearing community. The phrase "I'm Hearing" doesn't mean that you are listening to something, but rather it means that you are not Deaf.
- Hearing-Impaired (HI) - Within the Deaf culture, the term "hearing impaired" is often thought of as offensive. It suggests that Deaf people are "broken" or "inferior" because they cannot hear instead of merely being different. The term focuses on what people can't do. It establishes the standard as "hearing" and anything different as "impaired," or substandard, hindered, or damaged. It implies that something is not as it should be and ought to be fixed if possible.
- Late Deafened (LD) - Refers to people who became deaf post-lingually (after learning to speak), and were raised in the hearing community. Most late-deafened people do not learn sign language.
- Oral Deaf- This term refers to people who are born deaf or become deaf pre-lingually, but are taught to speak and do not typically use American Sign Language for communication.

As with all cultures, words and labels can have a profound effect on people. Show your respect for people by refusing to use outdated or offensive terms. When in doubt, ask the individual how they identify themselves.

Source: Characteristics of deaf community subgroups.

<http://www.hearinglossweb.com/characteristics-of-deaf-community-subgroups/>

Source: National Association of the Deaf <https://www.nad.org/resources/american-sign-language/community-and-culture-frequently-asked-questions/>



Language Development

There are several factors impacting language development for deaf or HOH individuals. They may experience a language delay due to their language skills developing differently than those of a hearing person.

Deaf persons often don't establish a language base. The first few years of life are the most crucial to a child's development of language skills, and even the early months of life can be important for establishing successful communication. Because of brain changes during early childhood, children who have not acquired a first language in the early years might never be completely fluent in any language. If they miss this critical period for exposure to a natural language, their subsequent development of the cognitive activities that rely on a stable first language might be underdeveloped, such as literacy, memory organization, and number manipulation.

Language delay may also be the result of the environment. Deaf and HOH persons often experience different socialization while growing up, they may have been isolated from others, and there may not have been a connection to either the deaf or hearing communities. Often others will change the way they act toward them. All of this may result in them having missed information, missed development of skills, and missed opportunities for socialization. All of this may impact your two-way communication with them.

Source: American Sign Language <https://www.nidcd.nih.gov/health/american-sign-language>

*Source: Language acquisition for deaf children: Reducing the harms
<https://harmreductionjournal.biomedcentral.com/articles/10.1186/1477-7517-9-16>*



Tactical Social Interactions

Communication	Language
Communication is the exchange of information. Language can be used to share this information either by speaking or signing.	Languages are used to help people communicate. Languages are made up of words and rules (grammar) that tell how these words are used. Words can be spoken, signed, or written, and thus languages can be spoken, signed, or written.

There are approximately twenty different types of communication within the deaf/hard of hearing community. Knowing a few signs might be useful; however, no one form of sign language is universal; there are an estimated three hundred sign languages in use around the world. American Sign Language (ASL) is the most common in North America, but it is a different language than British Sign Language even though both are from English speaking countries.

American Sign Language (ASL) is a complete, complex language that employs signs made by moving the hands combined with facial expressions and postures of the body. ASL is a language completely separate and distinct from English. It contains all the fundamental features of language; it has its own rules for pronunciation, word order, and complex grammar. While every language has ways of signaling different functions, such as asking a question rather than making a statement, languages differ in how this is done. For example, English speakers ask a question by raising the pitch of their voice; ASL users ask a question by raising their eyebrows, widening their eyes, and tilting their bodies forward. Just as with other languages, specific ways of expressing ideas in ASL vary. In addition to individual differences in expression, ASL has regional accents and dialects. Just as certain English words are spoken differently in different parts of the country, ASL has regional variations in the rhythm of signing, form, and pronunciation.



Another type of communication is speechreading (aka lip-reading); however, do not assume that all deaf or hard of hearing people can read lips. Only a fraction of speech sounds can be seen on the lips. A perfect speech reader only would be able to speech read about one-third of what is said. They guess at the rest, taking into consideration their understanding of the spoken language, the body language of the speaker, and the subject under discussion. The content of the conversation influences the ability to understand through speechreading. If the person knows what the topic is, and is familiar with the language used, it will be easier to speech read. If the topic is unfamiliar, especially if it requires unfamiliar vocabulary, speechreading will be very difficult.

The environment in which the conversation takes place is important for speech readers. Good lighting is a must. It is also critical that light is shining on the speaker's face and not the individual. If the light source is behind the speaker, their face will appear in shadow, making speechreading more difficult. Extra movement and sound in the room will also interfere with speechreading. Remember, the speech reader is using as much hearing as they have, so a quiet environment is essential.

Another factor to consider for speechreading is the fatigue factor. It is a lot of work to listen with your eyes, and this can be very exhausting. If one is tired, upset, or unable to concentrate, speechreading abilities are lowered.

Lastly, several factors influence whether a person is easy or difficult to speech read. Someone with a foreign accent, unusual pronunciation, or speech disability will be harder to speech read. People who barely move their lips when speaking are also tricky to speech read. Facial expressions, body language, and mouth movement may help, but they can also cause a distraction if overdone. The rate of speech is also important. Slightly slower speech will be understood more easily than rapid speech. Anything covering or distorting the mouth or face will interfere. Overgrown mustaches, chewing gum, cigarettes, and hands over the mouth are all obstacles to effective speechreading.



During interactions, you may notice the person wearing a hearing aid or a cochlear implant. Although these devices may help with communications, there are still limitations. A cochlear implant (CI) is a small, complex electronic device that can help to provide a sense of sound to a person who is profoundly deaf or severely hard-of-hearing. The implant includes an external portion sitting behind the ear and a second portion surgically placed under the skin. A cochlear implant is very different from a hearing aid. While the processor (the part that sits behind the ear) looks similar to a behind-the-ear hearing aid, it is a tiny computer that digitizes sound signals. Cochlear implants bypass damaged portions of the ear and directly stimulate the auditory nerve. Hearing aid users often have hearing loss that can be mitigated by increasing the volume of the sounds around them, which are how hearing aids function. Those who need cochlear implants; however, don't just struggle with the volume of the sound—their brains are missing bits and pieces of sound signals.

The use of a cochlear implant requires both a surgical procedure and significant therapy to learn or relearn the sense of hearing. Not everyone performs at the same level with this device. Hearing with a cochlear implant is not like regular hearing or hearing with a hearing aid. Still, the implants allow people to have conversations, recognize warning signals, and understand environmental sounds. Cochlear implant users have reported that voices have a more robotic sound to them. Still, they are often able to understand and participate in conversations, both in-person and over the telephone.



Effective Interactions

Considering what we know about diversity within the Deaf culture, the variety of communication needs, and legal parameters, how does one go about applying this in an interaction?

1- Recognize non-verbal and verbal indicators that a person is deaf or hard of hearing:

- They may pat or point to their ear, they may reach for something to write on or a card with pictures to point at, they may have a television or radio turned up loud, they may ask you to repeat what you've said, they may appear to be ignoring what is being said around them, they may tell you they cannot hear, you may see a hearing aid, their voice may sound very different to what is considered "normal," they may be communicating with someone else with animated hand gestures.

Think- Are there any indicators that their failure to respond to your directions or questions could be the result of deafness/HOH?

2- Withhold judgment

3- Recognize there are laws and policies pertaining to this interaction.

- The Americans with Disabilities Act has specific requirements for this interaction.
- Your agency has adopted a specific policy regarding communicating with people who are deaf or hard of hearing. You must be familiar with this policy.

Think- Should you arrange accommodations for this interaction?

4- Assess the deafness

5- Assess language ability



6- Consider what auxiliary aids are available: gestures, visual aids, notepad and pen or pencil, computer/typewriter, assistive listening system or device, teletypewriter (TTY), qualified oral or sign language interpreter, Video Remote Interpreter (VRI), Flip Book (see Missouri & Illinois), Visor Card (see Missouri) and more.

7- Identify the most effective method of communicating with the individual. This should be for two-way communication; it is not just for the officer to provide information but also for the deaf/hard of hearing person to ask questions, clarify, make statements, express concerns, etc.

8- First, try communicating with the person in writing by writing, "how would you like to communicate?" Then look for indicators that the person is able or unable to read and at what level their understanding seems to be.

Source: American Sign Language - NIDCD.

<https://www.nidcd.nih.gov/sites/default/files/Documents/health/hearing/NIDCD-American-Sign-Language.pdf>

Consider This

Handcuffing a person who relies on the use of their hands to communicate removes their ability to communicate and can increase frustration and/or emotional responses.

Explain why and when handcuffs will be taken off.



The U.S. Department of Justice lists these tips for consideration whenever possible:

- Before speaking, get the person's attention with a wave of the hand or a gentle tap on the shoulder.
- Face the person and do not turn away while speaking.
- Try to converse in a well-lit area.
- Do not cover your mouth or chew gum.
- If a person is wearing a hearing aid, do not assume he or she can hear you well.
- Minimize background noise and other distractions whenever possible.
- When you are communicating orally, speak slowly and distinctly. Use facial expressions to reinforce what you are saying.
- Use visual aids whenever possible such as pointing to printed information on a citation or other document.
- Remember that only about one-third of spoken words can be understood by speech reading.
- When communicating in writing, keep in mind that some individuals who use sign language may lack good English reading and writing skills.
- If someone with a hearing disability cannot understand you, write a note to ask them what communication aids or services are needed.
- If a sign language interpreter is requested, be sure to ask which language the person uses. American Sign Language (ASL) and Signed English are the most common.
- When you are interviewing a witness or a suspect or engaging in any complex conversation with a person whose primary language is sign language, a qualified interpreter is usually needed to ensure effective communication.
- When using an interpreter, look and speak directly at the deaf person and not the interpreter.
- Talk at your regular rate or slightly slower if you usually speak fast.
- Only one person should speak at a time.
- Use short sentences and simple words.



De-Escalation and Defusing Hostility

Miscommunication can lead to conflict. It takes effective communication to defuse hostility and de-escalate a situation.

On the most basic level, a situation is de-escalated by relieving anxiety and avoiding further escalation. This can be accomplished by maintaining a calm demeanor, allowing venting, developing rapport, empathizing, and asking questions (How can I help? What do you need?). Just because a deaf or HOH person is making wild signs does not mean they are ignoring you or are mad at you. Remember, ASL uses body language, facial expressions, and postures to deliver and receive communication. You may be decoding their message inaccurately.

In situations involving frustration or high emotions, persons may demonstrate lower coping skills. Partnering this with communication barriers, this could lead to miscommunication or even assumptions that the person needs other services such as Developmental Disabilities, Mental Health, medications, or hospitalization.

Police as Guardians- Cultural Vulnerabilities

Several studies have indicated a higher prevalence rate of domestic violence among deaf and hard of hearing individuals as well as identifying factors that may make them more vulnerable to abuse. Factors include:

- Difficulties with parental acceptance of or an inability to communicate with their Deaf child may result in weak family and social support networks.
- Lack of communication and attachment during the formative years can adversely impact social learning experiences.
- Individuals who become deaf later in life may feel lonely and isolated.
- Perpetrators may view their intended victim as having limited access to communication, thereby reducing the likelihood that the assault would be reported.
- Perpetrators may hone into an individual's lack of family support, social isolation, or lack of economic dependence and see this as an opportunity with low risk for consequences.



Understand that sign language is a language, and people who use sign language as their primary communication need interpreters just like non-English speakers do. It's also vital that the interpreter be impartial. Don't ask a family member or companion to interpret for you because they might be emotionally compromised, take sides, and give you a biased translation.

The Role of an Interpreter

Signer	Interpreter
<p>May know a few signs or have a small vocabulary.</p> <p>May not be fluent enough to communicate intricate and important details.</p> <p>Can be used for simple questions, directions, and information.</p> <p>May be a family member or a friend and may not be impartial.</p>	<p>A sign language interpreter is a trained professional who facilitates communication and conveys all auditory and signed information so that both hearing and deaf individuals may fully interact.</p> <p>The interpreter is bound by a code of ethics, which includes keeping all material interpreted strictly confidential. Also, interpreters are to maintain the integrity of the message, always conveying the content and spirit of the speaker. The interpreter's mission is to facilitate communication; he/she should neither add nor delete any information at any time. Because of the specific nature of the interpreter's role, it is important not to ask the interpreter for his/her opinion or to perform any tasks other than interpreting.</p>

Tips for Communicating Through an Interpreter

- Speak directly to the deaf individual, facing them, not the interpreter.
- Spell out technical words
- Speak at a reasonable pace
- Use "I" and "you" references; the interpreter will relay your exact words. Avoid speaking of the individual in third person. Using "ask her" or "tell him" can be confusing.

Source: Effective Communication: The ADA and Law Enforcement.
<https://www.adainfo.org/sites/default/files/Effective-Communication-Enforcement-1.pdf>



In-Class Activity: Accommodations

Scenario #1: An officer clocks a car on the highway driving 15 miles above the speed limit. The driver, who is deaf, is pulled over and issued a noncriminal citation. The individual is able to understand the reasons for the citation because the officer exchanges written notes with the individual and points to information on the citation.

Questions:

- Was this an appropriate means to communicate in this situation?
- Is an interpreter needed? Why or why not?

Scenario #2: An officer responds to an assault call and, upon arriving at the scene, observes a bleeding victim and an individual holding a weapon. Eyewitnesses observed the individual strike the victim. The individual with the weapon is deaf, but the officer has probable cause to make a felony arrest without an interrogation.

Questions:

- Was this an appropriate means to communicate in this situation?
- Is an interpreter needed? Why or why not?

Scenario #3: Officers take a deaf homicide suspect into custody. At the police department, the suspect is provided an interpreter to translate his Miranda rights from a written card. After 30 minutes, the interpreter concludes that the suspect does not understand his rights, but the suspect asks for an attorney. Officers take the suspect home, where they ask for his clothes and ask him to take a polygraph, both of which he complies with.

Questions:

- Was an interpreter needed in this situation? Why or why not?
- Was the attempt at using a certified interpreter to translate Miranda rights sufficient in this matter? Why or why not?



Scenario #4: An officer responds to the scene of a domestic disturbance. The husband says the wife has been beating their children, and he has been trying to restrain her. The wife is deaf. The officer begins questioning her by writing notes, but her response indicates a lack of comprehension. She requests a sign language interpreter.

Questions:

- Was this an appropriate means to communicate in this situation?
- Was an interpreter needed in this situation? Why or why not?

Scenario #5: An officer responds to the scene of a car accident where a man has been seriously injured. The man is conscious but is unable to comprehend the officer's questions because he is deaf. A family member who is present begins interpreting what the officer is saying.

Questions:

- Was this an appropriate means to communicate in this situation?
- Was an interpreter needed in this situation? Why or why not?

Source: Commonly Asked Questions About the Americans With Disabilities Act and Law Enforcement https://www.ada.gov/q%26a_law.htm



Case Study #1

A MOTORIST, who is severely hearing-impaired, was involved in a car accident when he rear-ended another vehicle traveling on the shoulder of a highway. Two DEPUTIES arrived at the scene of the accident in response to a report of an "incoherent subject" at the location. Shortly after they arrived, the MOTORIST informed them of his hearing disability.

One of the DEPUTIES proceeded to administer three sobriety tests. Before administering the tests, one of the DEPUTIES turned on the video camera in his patrol car, which was standard procedure when an officer suspects that there may be a need for an arrest. The tests administered included a "walk and turn" test, a "one-leg stand" test, and a "finger-to-nose" test.

After the DEPUTY demonstrated the "walk and turn" test for him, the MOTORIST performed the task as demonstrated. The DEPUTY had his back turned to the MOTORIST while giving instructions. When performing the test, the MOTORIST took more than the required nine steps before turning around and returning to the starting point.

The DEPUTY demonstrated the one-leg stand test but spoke very quickly while giving instructions. The MOTORIST was able to complete the task as demonstrated, but he counted to fourteen, rather than ten while doing so.

On the "finger-to-nose" test, the DEPUTY requested that the MOTORIST touch his nose six times, and the MOTORIST performed the task as demonstrated, but he touched his nose approximately twenty-five times. The DEPUTY then concluded that the MOTORIST was unable to complete the tests as instructed, and arrested him for driving while intoxicated.

The MOTORIST contended that he did not understand the instructions given, and would have been able to perform the tests as requested if he had. Before arresting the motorist, the DEPUTY read him his Miranda warnings, but the MOTORIST did not respond when asked if he understood his rights.



At the police station, the DEPUTY read the motorist his rights again and wrote the Miranda warnings on a blackboard. The DEPUTY interrogated the motorist to ensure that he understood the circumstances of his arrest. The DEPUTY asked the MOTORIST six times to take a blood test before he consented to do so. After passing the blood test, the MOTORIST was released.

Source: Police Interactions with Deaf Persons - AELE. <http://www.aele.org/law/2009all03/2009-03MLJ101.pdf>

Case Study #2

A call was placed to 9-1-1 about 9:20 a.m. after the VICTIM fled his apartment to escape his PARTNER, who had grabbed him by both ankles and dragged him along the floor. Because the VICTIM'S cell phone was almost out of power, he sent a text message to a FRIEND, who is also deaf, asking her to contact 9-1-1.

The FRIEND contacted emergency dispatch through a video relay operator to report the assault. The FRIEND told dispatch that the victim, deaf since birth, needed an American Sign Language interpreter. The 9-1-1 DISPATCHER said officers would get an interpreter if necessary. When the FRIEND asked for the dispatcher's name, the DISPATCHER said he was ending the call.

When police arrived, the VICTIM asked for a sign interpreter. He tried to use a laptop computer to communicate with the police, but he couldn't get it to work. The VICTIM wasn't aware that his PARTNER had removed the computer's hard drive. The VICTIM showed police a red mark on his back.

The responding OFFICERS believed the VICTIM just wanted to get back into his apartment and helped him do so. Once inside, they talked to the victim's PARTNER, who was not deaf. Both men agreed they felt safe and would work things out. The OFFICERS left.



Later that night, the victim's PARTNER kicked in his locked bedroom door and tried to choke him. As the VICTIM ran out of the bedroom, his PARTNER broke a lamp, threw glasses, and threatened to kill him if he left. Again, the VICTIM sent a text message to his FRIEND, asking her to contact 9-1-1. She did, asking the DISPATCHER at 10:49 p.m. to send police and noted that the VICTIM was deaf and needed an interpreter.

The VICTIM met OFFICERS -- some of whom had been on the earlier call -- on the street outside. He tried to explain that his PARTNER had attacked him, and he asked again for an interpreter. OFFICERS said that the VICTIM was able to communicate with officers in writing and with hand motions. One OFFICER called dispatch and asked for someone who knew American Sign Language.

When the SIGNING OFFICER arrived, she apologized to the victim in American Sign Language for her beginner-level sign skills. The SIGNING OFFICER suggested that another officer remove his car's mobile computer so the VICTIM could type a statement. By that time, the VICTIM was back in his apartment, trying to type one on his computer.

The OFFICERS took photos of the VICTIM'S injuries and arrested his PARTNER on assault and harassment charges. The SIGNING OFFICER helped another OFFICER communicate with the VICTIM to explain how he could obtain a restraining order.

By the time the police report was written, OFFICERS had not received the VICTIM'S statement and that the VICTIM had trouble e-mailing it. The statement reached police by 12:11 a.m.

Source: Lack of Portland police, 9-1-1 policies for interpreters
https://www.oregonlive.com/portland/2012/11/portland_police_and_9-1-1_fail.html



Resources for Law Enforcement

- **Communicating with People Who Are Deaf or Hard of Hearing: ADA Guide for Law Enforcement Officers-** An 8-panel pocket guide from the Justice Department
- **Model Policy for Law Enforcement on Communicating with People Who Are Deaf or Hard of Hearing-** This 4-page document from the Justice Department Office of Civil Rights "serves as a model for law enforcement agencies when adopting a policy on effective communication with people who are deaf or hard of hearing. Agencies are encouraged to download and adapt the policy to suit their needs."
- **IACP Model Policy No. 94, Deaf and Hearing Impaired (July 2003)**
- **National Association for the Deaf-** <http://nad.org>



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National Association for the Deaf <http://nad.org>



Elder Abuse Investigations



BASIC POLICE ACADEMY





Elder Abuse Investigations

Instructional Goal:

This course is designed to introduce a new police officer to basic factors related to elder abuse response and investigations.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Define the responsibilities of law enforcement in a report of elder abuse.
2. Identify potential indicators of elder abuse.
3. Articulate a plan for investigation of a given situation.

Content Outline:

- Elder Abuse Defined
- Oregon Revised Statutes
- Mandatory Reporting
- Adult Protective Services
- Communication
- Abusers
- Risk Factors
- Types of Elder Abuse: Physical, Sexual, Psychological, Neglect, Self-Neglect, Abandonment, Financial Exploitation
- Resources
- Other Terms
- Checklists



This course will focus on a vulnerable but less discussed population, older adults. According to the National Council on Aging, approximately 1 in 10 Americans aged 60+ have experienced some form of elder abuse. Some estimates range as high as 5 million elders who are abused each year. One study estimated that only 1 in 14 cases of abuse are reported to authorities. Factors including social isolation and mental impairment contribute to the vulnerability of this population. Elders who have been abused have a significantly higher risk of death. Additionally, financial abuse and fraud cost elders billions of dollars each year.

According to the National Center on Elder Abuse, elder abuse is a complex phenomenon. No single theory will explain all elder abuse. Variables include:

- The relationship between the involved parties (e.g., spouse, adult child, caretaker, or stranger who targets an older adult for their perceived or actual frailties)
- Interpersonal relationships
- Presence or absence of medical, cognitive, and other disabilities
- Type or types of abuse, and
- Setting (private residence, facility, public place)

This course will introduce you to some of these complexities, helping you become aware of indicators and risk factors so you can better protect this vulnerable population. Additionally, this course will introduce you to valuable resources that might assist you in the future.

What is Elder Abuse?

According to the Oregon Department of Human Services Division on Seniors & People with Disabilities, elder abuse includes physical harm, failure to provide basic care, abandonment or involuntary seclusion, unwanted sexual contact, verbal or emotional abuse, neglect, self-neglect, wrongful restraint, and financial exploitation. Abuse can happen in a person's own home or the home of family or friends. It can also occur in a professional care setting such as a nursing facility, a residential care facility, an assisted living facility, an adult foster home, a retirement home, a room, and a boarding home.



Laws pertaining to elder abuse in Oregon can be found in ORS Chapter 124, including:

- Elderly Persons and Persons with Disabilities Abuse Prevention Act (ORS 124.005-124.040)
- Reporting of Abuse (ORS 124.050-124.095)
- Civil Action for Abuse of a Vulnerable Person (ORS 124.100-124.140)
- Penalties (ORS 124.990)

Oregon Law- Definitions under ORS 124.050

Abuse	<p>Means one or more of the following:</p> <ul style="list-style-type: none">• Any physical injury to an elderly person caused by other than accidental means or which appears to be at variance with the explanation given of the injury.• Neglect.• Abandonment, including desertion or willful forsaking of an elderly person or the withdrawal or neglect of duties and obligations, owed an elderly person by a caretaker or other person.• Willful infliction of physical pain or injury upon an elderly person.• An act that constitutes a crime under:<ul style="list-style-type: none">○ ORS 163.375 (Rape in the first degree)○ ORS 163.405 (Sodomy in the first degree)○ ORS 163.411 (Unlawful sexual penetration in the first degree)○ ORS 163.415 (Sexual abuse in the third degree)○ ORS 163.425 (Sexual abuse in the second degree)○ ORS 163.427 (Sexual abuse in the first degree)○ ORS 163.465 (Public indecency)○ ORS 163.467 (Private indecency)○ ORS 163.525 (Incest)• Verbal abuse.• Financial exploitation.• Sexual abuse.• Involuntary seclusion of an elderly person for the convenience of a caregiver or to discipline the person.• A wrongful use of a physical or chemical restraint of an elderly person, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.
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Elderly Person	Any person 65 years of age or older.
Facility	<ul style="list-style-type: none">• A long term care facility as that term is defined in ORS 442.015• A residential facility as that term is defined in ORS 443.400, including but not limited to an assisted living facility.• An adult foster home as that term is defined in ORS 443.705
Financial Exploitation	<ul style="list-style-type: none">• Wrongfully taking the assets, funds, or property belonging to or intended for the use of an elderly person or a person with a disability.• Alarming an elderly person or a person with a disability by conveying a threat to wrongfully take or appropriate the person's money or property if the person would reasonably believe that the threat conveyed would be carried out.• Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an elderly person or a person with a disability.• Failing to use the income or assets of an elderly person or a person with a disability effectively for the person's support and maintenance.
Intimidation	Compelling or deterring conduct by threat.
Neglect	Failure to provide basic care or services that are necessary to maintain the health or safety of an elderly person.
Services	Includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other service essential to the well-being of an elderly person.
Sexual Abuse	<ul style="list-style-type: none">• Sexual contact with an elderly person who does not consent or is considered incapable of consenting to a sexual act under ORS 163.315 (Incapacity to consent);• Verbal or physical harassment of a sexual nature, including but not limited to severe or pervasive exposure to sexually explicit material or language;• Sexual exploitation;• Any sexual contact between an employee of a facility or paid caregiver and an elderly person served by the facility or caregiver; or• Any sexual contact that is achieved through force, trickery, threat, or coercion.



Sexual Contact	Has the meaning given that term in ORS 163.305.
Verbal Abuse	Means to threaten significant physical or emotional harm to an elderly person or a person with a disability through the use of: <ul style="list-style-type: none">• Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or• Harassment, coercion, threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

Mandatory Reporting

You covered mandatory reporting in Juvenile Law, but mandatory reporting also applies to elder abuse and neglect cases.

ORS 124.055- The Legislative Assembly finds that for the purpose of preventing abuse, safeguarding, and enhancing the welfare of elderly persons, it is necessary and in the public interest to require mandatory reports and investigations of allegedly abused elderly persons.

ORS 124.060 identifies the duty to report for any public or private official having reasonable cause to believe that any person 65 years of age or older has suffered abuse.



Protective Services

Mandatory reports are made to law enforcement and/or The Oregon Department of Human Services branch for Seniors & People with Disabilities. This division is also referred to as Adult Protective Services (APS). APS operates a statewide reporting hotline (1-855-503-SAFE) and a data tracking system for abuse cases (the Centralized Abuse Management System). Workers are located across the state and coordinate with law enforcement on reports of abuse and accessing services. APS should be contacted each time law enforcement responds to a call involving an abused elder or person with a disability.

APS services:

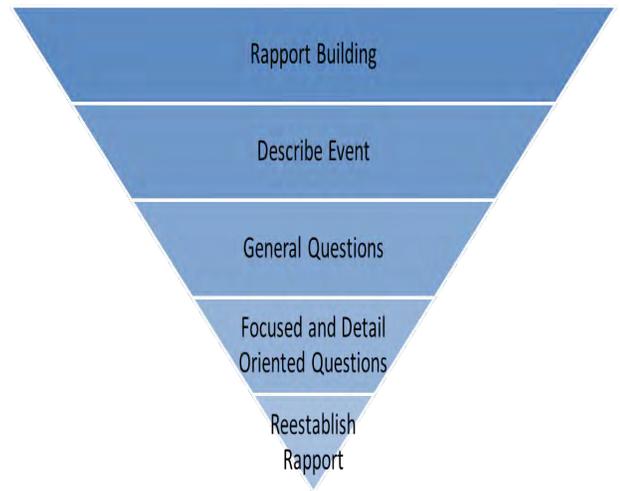
- Assistance in emergencies
- Intervene when the victim refused services
- Assist with investigation/interrogation of physical/sexual abuse (victim/suspect)
- Assist in relocation and alternative living arrangements
- Find care providers
- Link to medical, legal, financial, or other services
- Initiate guardianship or conservatorship proceedings
- Provide support and advice in questionable situations
- Provide background information on both victim and suspect
- Explain the purpose of the elder abuse restraining order and assist in obtaining one
- Offer case conferences with multi-disciplinary teams
- Conduct cooperative investigations with police and produce reports related to alleged wrongdoing
- Initiate assessment of an elder's physical/mental health, cognitive status, and functional capability
- Provide social service/community resource information
- Obtain records from banks and other financial institutions
- Coordinate resources for tribal issues



Interviewing

Elder abuse investigations may pose unique challenges regarding communication. Think back to what you covered in your Communication series, Supporting Victims of Crime and Criminal Investigations-Interviews. How does all of that apply here?

Remember the standard protocol on interviewing and interrogation and its funnel-shaped process of information gathering? Focus on rapport building. Begin your interview with general, non-invasive questions, such as name, DOB, address, phone number, and who lives in the home. Consider asking what a typical day looks like for them. Move into initial questions about the abuse, then clarify.



The United States Department of Justice *Elder Abuse Guide for Law Enforcement* (EAGLE) provides the following recommendations regarding interviewing older adults. Before beginning your interview, get in the right mind frame. Take a moment to clear your mind of stereotypes, good and bad, about older adults. Like victims of other domestic violence, treat older victims of abuse with respect. Conduct their interviews with the gravity their situations deserve. Know that people with memory problems can tell you what happened—especially if an event made an emotional impact. Believe their story unless you have specific evidence to the contrary.

Do's	Don'ts
<p>DO ask open-ended questions</p> <p>DO speak slowly, using short sentences</p> <p>DO ask about only one thing at a time</p> <p>DO speak at eye level (authority can be intimidating to persons who feel vulnerable)</p> <p>DO be patient – give them time to answer</p> <p>DO believe someone if they say they've been abused</p>	<p>DON'T correct them</p>



Interview at the Right Time & Place

Choose an interview location that's comfortable for the older adult—for example, senior center, doctor's office, coffee shop. Ask the client and/or caregiver for timing tips to ensure the older adult is alert for your interview. For example: Is morning better than afternoon? Does a medication cause drowsiness or confusion after taking it? Be aware of any barriers there might be for effective communication. For example: Does the older adult have their glasses/hearing aid/dentures on and working? Is the interview private and away from the suspect's hearing range? Lastly, be prepared to help. Know your local resources and be prepared to make referrals.

The National Clearinghouse on Abuse Later in Life provides some additional considerations regarding interviewing older adults:

- Convey the message to the older victim that the abusers are responsible for their own behavior. The offender's use of abuse is unacceptable and not justified.
- Acknowledge the older victim's fears, anxiety, anger, or ambivalence; validate the older adult's feelings. Pay attention to your body language and reactions, taking care not to appear to blame, accuse, or disbelieve the victim.
- Watch the victim's body language. Reassure the older victim that cooperation is important and appreciated. The victim is not responsible for the prosecution of the suspect - that it is the responsibility of investigators and prosecutors.
- Older victims may not have the words to describe the abuse they have experienced. Asking about sexual abuse or marital rape may not result in a positive response. Asking if they have ever been forced to have sex or have been forced to perform sexual acts that they are not comfortable with may result in a positive response from victims. Use the same words that the older individual uses for body parts and acts. Do not correct the older adult's language.



Building a Case

In addition to the victim interview, who else should you consider interviewing? What other sources of evidence might you seek? The EAGLE provides the following suggestions:

- Consider speaking with a medical doctor for an opinion on the victim's bruising patterns. If possible, consult with a doctor who is knowledgeable about elder abuse.
- Request medical records that may reveal important information about the victim's past function and abilities. Specifically, seek (subpoena) the following records:
 - Medical photos
 - Descriptions and sizes of wounds
 - Victim's statements about what happened
 - Their own opinion about the cause (if possible)
- Seek a capacity evaluation by a physician or psychologist if the decision-making capacity of the victim is a question. This is especially important for cases involving financial abuse or neglect

Photographs

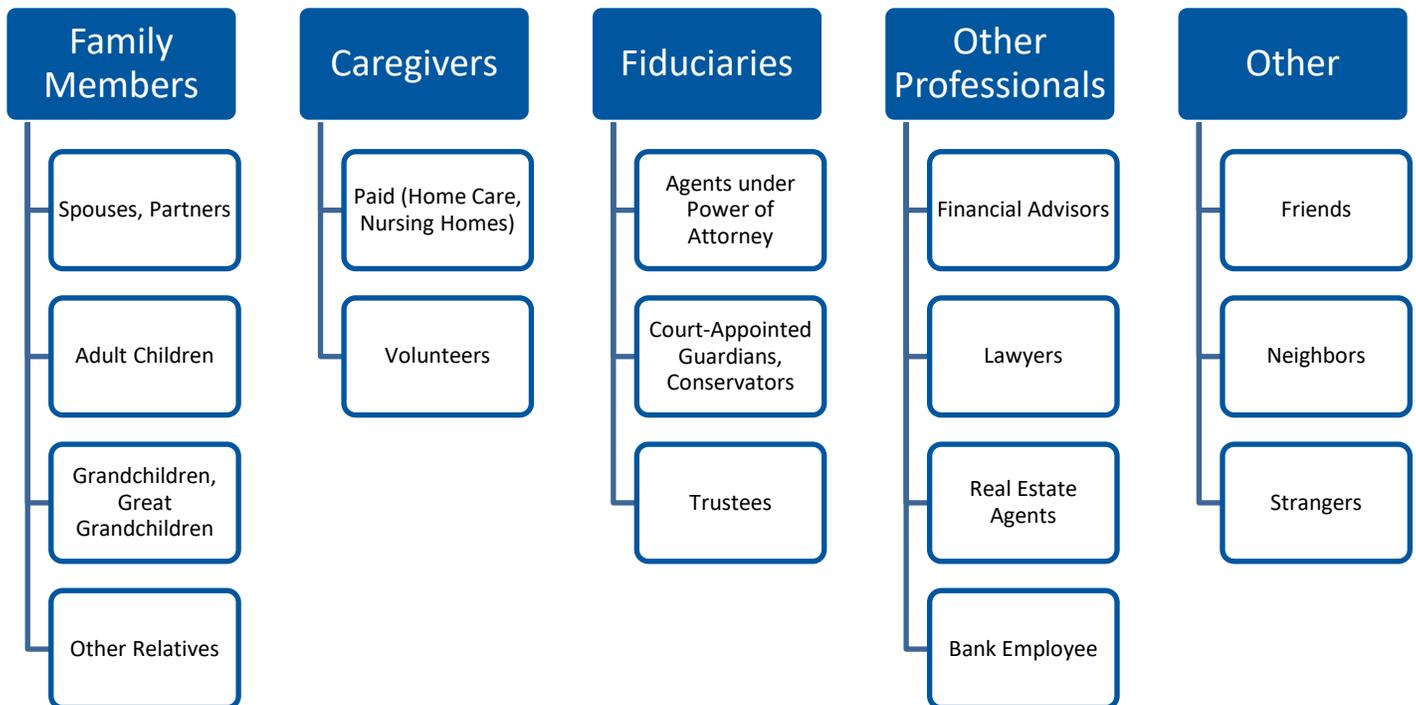
In addition to what you covered in Criminal Investigations, here are some photography tips for elder abuse investigations.

- Injuries
- Medications (labels, contents)
- Living quarters of the victim
- Refrigerator contents
- Bedroom, including sheets
- Incontinence supplies
- Any evidence of lack of hygiene, such as finger & toenails, clothes, body filth, and open sores



Abusers

In *Legal Issues Related to Elder Abuse: A Desk Guide for Law Enforcement*, The American Bar Association Commission on Law and Aging and the Bureau of Justice Assistance/U.S. Department of Justice states that older persons may be abused, neglected, or exploited by:



According to the United States Department of Justice *Elder Abuse Guide for Law Enforcement (EAGLE)*, most elder abuse is perpetrated by a family member, caregiver, or anyone providing care, including professionals. If an elder abuse victim lives in a long-term care facility, they are most likely to experience physical and emotional abuse by a nurse's assistant. Abusers are typically people who hold a position of trust, with the opportunity to know the victim's physical or mental vulnerabilities.



Many perpetrators of elder abuse:

- Have no means of support aside from the alleged victims' housing, pension, and social security checks
- Living with the victim
- History of abuse, neglect, or exploitation
- Have mental illness or disabilities themselves
- May appear controlling; do not want victim interviewed alone

A study conducted by the NIJ found that approximately 50% of perpetrators had been using drugs or alcohol when the abuse occurred.

Risk Factors

Risk factors are circumstances that seem related to elder abuse. Their existence does not mean that elder abuse is occurring, but their absence does not mean that it is not occurring. Be aware of these risk factors, especially if other indicators such as those listed in Types of Elder Abuse are observed.

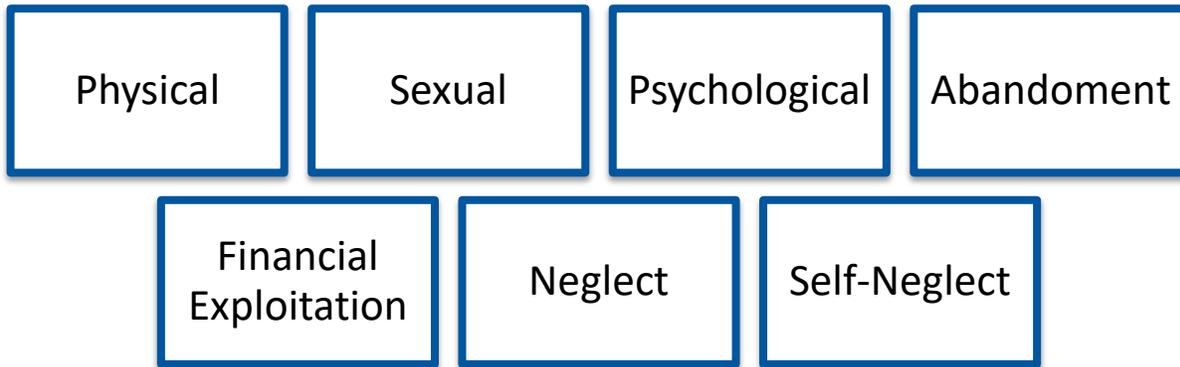
Risk factors for being a victim may include:

- Dementia
- Isolation, such as being homebound or homeless
- Lack of social support, such as lack of family or friends nearby
- Living with other people
- Mental illness
- Physical impairments
- Substance abuse



Types of Elder Abuse

The following content is from the National Center on Elder Abuse: <https://ncea.acl.gov>



The National Center on Elder Abuse identifies seven major types of elder abuse. The following pages list these seven types and include their general definitions and possible indicators of each type. These lists are just a starting point. There are other indicators for each type of elder abuse. Be aware that many elder abuse victims experience more than one type of abuse (poly victimization).

Physical Abuse

Physical Abuse is defined as the use of physical force that may result in bodily injury, physical pain, or impairment.

Physical abuse can include:

- Hitting, slapping, pushing, shaking, kicking, or burning (*common forms of elder abuse*)
- Inappropriately using drugs (for example, unauthorized use of medications such as over/under/mismedicating)
- Inappropriate use of physical restraints (for example, bindings, ropes, cords, locks on the outside the person's bedroom door)
- Force-feeding or withholding food
- Strangulation and suffocation



Based on what you know from your Criminal Law Series, what are some possible ORS statutes related to an elder's physical abuse?

Physical Indicators of Abuse:

- Bruises, lacerations, open wounds, cuts, punctures, burn marks
- Sprains, dislocations, broken bones
- Internal injuries/bleeding
- Patterned injuries
- Physical signs of being restrained or strangled
- Untreated injuries in various stages of healing
- Delayed seeking of medical care
- Laboratory findings of medication overdose or underutilization
- Changes in speaking, swallowing or breathing with a report of strangulation
- An elder's report of being hit, slapped, kicked, or mistreated

There are no gold standard injuries that can only be caused by abuse. Investigators must consider the location, extent, appearance, severity, and number of injuries. Research has identified that injuries to the head and neck, fractures of the head, spine, trunk, and internal injuries suggest abuse (Bonnie & Wallace, 2003). Additionally, the University of California, Irvine conducted a bruising study of older adults who had been abused and found the following results:

- While everyone bruises, physically abused older adults had larger bruises.
- Older adults remembered the cause of the bruise.
- Bruises that are found on the face, upper arms, and torso should be considered suspicious.



Environmental Indicators of Abuse:

- Overtaken furniture, holes in walls
- Broken items
- Presence of items that match injury pattern
- Weapons present
- Bindings and restraints
- Medications prescribed for older adult are missing, empty, or unfilled

Consider what you have covered in previous courses regarding conducting an investigation. How does that information apply in the following scenario?

Scenario #1-

Maria, 87 years old, resides in a nursing home. During a visit, Maria's family becomes concerned that she has a number of bruises on her face, arms, and upper torso. Her family asks the caregivers about the bruises, and they are told that Maria bruises easily due to her age and medications, and she must have caused the injuries herself.

Are Maria's injuries suspicious? Why or why not?

[Empty response area for the question: Are Maria's injuries suspicious? Why or why not?]

What evidence do you have? What evidence do you need to look for?

[Empty response area for the question: What evidence do you have? What evidence do you need to look for?]



How might you identify, document, and preserve the evidence?

[Blank yellow response area]

Who should be interviewed and why?

[Blank yellow response area]

What might you need to consider when interviewing the victim? Witnesses? Suspect?

[Blank yellow response area]

What questions would you ask?

[Blank yellow response area]

What other medical information would be helpful?

[Blank yellow response area]



What other resources do you need?



Sexual Abuse

Sexual Abuse is defined as non-consensual sexual contact of any kind with an older adult person. This includes any form of unwanted sexual contact and sexual contact with a person legally unable to give consent. You have already covered sexual assault in a previous course. In addition to what you already know, following are some factors specific to elder abuse investigations.

Elder sexual abuse is severely under-reported by victims and professionals. Victims may be unable to report sexual abuse due to physical or cognitive limitations or other medical conditions. Too often, perpetrators select older victims because they are unable to report or, if they do report, will not be believed. When older persons do disclose sexual abuse, assumptions are often made that the older adult is not a credible reporter due to dementia or mental illness.

Physical Indicators of Abuse:

- Bruises to outer arms, chest, mouth, genitals, abdomen, pelvis, or inside thighs
- Bite marks
- Difficulty walking or sitting
- Torn, stained, and/or bloody clothing, including underwear, bedding, or furnishings
- Unexplained sexually transmitted diseases or HIV



Behavioral Indicators of Abuse:

- Unexplained or sudden changes such as:
 - Mood or temperament
 - Personal hygiene
 - Substance use or abuse
 - Regressive behaviors
 - Covering up in many layers of clothing
 - Trying to flee a residence or facility
 - Sleep disturbances
 - Recent resistance to certain kinds of caregiving such as bathing
 - Hyper-vigilance
 - Does not want to be touched
 - Avoidance or fear of specific people
- Coded disclosures:
 - "He's my boyfriend."
 - "He loves me."
 - "I'm his favorite girl."
 - "I'm 80—should I have VD? Could I be pregnant?"

Based on what you know from your Criminal Law Series, what are some possible ORS statutes related to the sexual abuse of an elder?

Consider what you have covered in previous courses regarding conducting an investigation. How does that information apply in the following scenario?



Scenario #2-

Anita is 78 years old and resides in a nursing home. Anita has moderate dementia. One morning Anita tells a day nurse that she was raped by a male nurse working the overnight shift. The day nurse notices Anita is missing clothing items, and she calls the police.

Is Anita potentially a victim of sexual abuse? Why or why not?

[Empty response area for the question: Is Anita potentially a victim of sexual abuse? Why or why not?]

What evidence do you have? What evidence do you need to look for?

[Empty response area for the question: What evidence do you have? What evidence do you need to look for?]

How might you identify, document, and preserve the evidence?

[Empty response area for the question: How might you identify, document, and preserve the evidence?]

Who should be interviewed and why?

[Empty response area for the question: Who should be interviewed and why?]



What might you need to consider when interviewing the victim? Witnesses? Suspect?

[Blank yellow response area]

What questions would you ask?

[Blank yellow response area]

What other medical information would be helpful? What steps should you take?

[Blank yellow response area]

What other resources do you need?

[Blank yellow response area]



Psychological Abuse

Psychological abuse is defined as the infliction of anguish, pain, or distress through verbal or nonverbal acts. It is the systematic perpetration of malicious and explicit non-physical acts against a victim. Often a pattern of tactics is calculated to undermine the victim's confidence and self-reliance and create fear. Consider how this relates to content you covered in Sexual Assault Investigations and Domestic Violence Investigations.

Psychological abuse often co-occurs with other forms and is used to facilitate the commission of other forms of abuse (Conrad, 2011; Anetzberger, 1998).

Abuser tactics include:

Isolation	Threats and Intimidation	Insensitivity and Disrespect	Shaming and Blaming
Giving the "silent treatment." Denying the victim access to money or economic support Isolating the victim from family, friends, previously enjoyed activities, and information Withdrawing affection Lying or making misleading comments with intent to cause emotional pain Preventing the victim from eating, sleeping, or leaving their residence	Harassing the victim Damaging the victim's property Threatening or physically abusing the family pet Threatening nursing home placement Threatening to injure, permanently disfigure, or kill the victim and/or loved ones.	Verbally insulting or humiliating Treating an older adult like a servant Intentionally disrespecting or disregarding the cultural or religious values/needs of the adult	Treating an older adult like a child Willfully undermining an older person's abilities to make decisions, control their own life, and remain independent for personal benefit Blaming the older person for accidents Falsely claiming that an older person is demented



Indicators Include:

- Social isolation, withdrawal
- Fearful
- Defers in the presence of the suspected abuser
- Crying, shaking, trembling
- May question own capabilities
- Difficulty concentrating
- Increased use of drugs and/or alcohol
- Suicidal thoughts and/or suicide attempts

Based on what you know from your Criminal Law Series, what are some possible ORS statutes related to an elder's psychological abuse?

Consider what you have covered in previous courses regarding conducting an investigation. How does that information apply in the following scenario?



Scenario #3-

While delivering a meal to an elderly neighbor woman, Patty, Linda reported that she overheard Patty's son, Allen, threatening her. Linda reports hearing Allen tell Patty that he would kidnap and torture her beloved cat, Mr. Furry, unless she let him live in her basement apartment.

Is Linda potentially the victim of psychological abuse by Allen? Why or why not?

[Empty response area for the question: Is Linda potentially the victim of psychological abuse by Allen? Why or why not?]

What evidence do you have? What evidence do you need to look for?

[Empty response area for the question: What evidence do you have? What evidence do you need to look for?]

How might you identify, document, and preserve the evidence?

[Empty response area for the question: How might you identify, document, and preserve the evidence?]

Who should be interviewed and why?

[Empty response area for the question: Who should be interviewed and why?]



What might you need to consider when interviewing the victim? Witnesses? Suspect?

What questions would you ask?

What other information would be helpful? What steps should you take?

What other resources do you need?



Abandonment

Abandonment is defined as the desertion of an older adult by an individual who has assumed responsibility for providing care for the adult or by a person with physical custody of the adult.

Indicators: Potential Victim

- An older adult who is confused or has dementia who has been left alone for days.
- An older adult who is unable to provide basic information about themselves is found wandering.
- An older adult is left at a mall or hospital emergency department in a strange community.

Indicators: Potential Abuser

- Leaving a person who is unable to provide information about themselves
 - At a hospital
 - At a mall, other location open to the public, or on a road

Based on what you know from your Criminal Law Series, what are some possible ORS statutes related to the abandonment of an elder?

Consider what you have covered in previous courses regarding conducting an investigation. How does that information apply in the following scenario?



Scenario #4-

Glen is a 67-year-old man paralyzed on one side of his body from a stroke. He hired Fred to live in his home and provide personal care. Fred provided good care until the two argued over giving Fred a raise. Glen refused, so Fred left him in his bed, placed the wheelchair in another room, moved the phone out of reach, and left. Three days later, Glen's daughter, Bethany, arrived for a visit and found her father lying in his own waste, dehydrated and delirious.

Is Glen potentially the victim of abandonment by Fred? Why or why not?

[Empty response area for the question: Is Glen potentially the victim of abandonment by Fred? Why or why not?]

What evidence do you have? What evidence do you need to look for?

[Empty response area for the question: What evidence do you have? What evidence do you need to look for?]

How might you identify, document, and preserve the evidence?

[Empty response area for the question: How might you identify, document, and preserve the evidence?]



Who should be interviewed and why?

What might you need to consider when interviewing the victim? Witnesses? Suspect?

What questions would you ask?

What other information would be helpful? What steps should you take?

What other resources do you need?



Neglect

Neglect is defined as the refusal or failure to fulfill any part of a person's obligations or duties to an elder. Neglect may also include the failure of a person who has fiduciary responsibilities to provide care for an elder (e.g., pay for necessary home care services) or the failure on the part of an in-home service provider to provide the necessary care. Neglect typically means the refusal or failure to provide an elderly person with such life necessities as food, water, clothing, shelter, personal hygiene, medicine, comfort, personal safety, and other essentials included in an implied or agreed-upon responsibility to an elder.

Neglect often co-occurs with other forms of elder abuse, especially financial exploitation.

Victims are often frail, physically and/or cognitively impaired, dependent on others, isolated, and/or unable to report.

Indicators: Potential Victim

- Confusion or delirium
- Dehydration
- Malnutrition
- Decayed teeth
- Overgrown nails
- Matted, infested hair
- Over/ Under/ Mis-medicated
- Unexplained weight loss
- Pressure ulcers (bed sores)

Pressure Ulcers and Documentation

Pressure ulcers frequently appear on patients in hospitals, care facilities, and in at-home care situations. They occur when a person remains in the same position for long periods without turning or being turned. Pressure ulcers develop on those bony parts of the body in contact with a surface such as the shoulders, buttocks, hips, ankles, and heels. They should not be on the front of the body as a person unable to reposition themselves should not be positioned face down due to fear of suffocation.



While many pressure ulcers can be prevented, note that not all are preventable even with good care due to the effects of serious underlying medical conditions. As a result, the presence of pressure ulcers alone does not establish neglect has occurred or is occurring.

Indicators: Care Giver

- Missing or absent
- Living in significantly better conditions than elder in the same residence
- More focused on the cost of care than needs of the older adult, especially when elder should be able to afford items or care
- Feels overburdened and/or resentful

Indicators: The Environment

- The residence is poorly maintained, unsafe, or unclean
- Lack of heating or cooling
- Lack of appropriate food for elder
- Foul odors
- Infestations of vermin and/or insects
- Lack of assistive devices (e.g., hearing aids, glasses, dentures, mobility aids) that the older person should have or has had



Indicators: In Facilities

- Failure to provide:
 - Adequate nutrition and fluids
 - Safety measures such as bedrails, as ordered
 - Needed services, e.g., turning a bedridden patient, cleaning bedding and clothing for an incontinent patient
- Failure to notify a responsible party when:
 - A significant change in a resident's situation has occurred
 - A resident is injured
- Withholding services to punish or discipline
- Ignoring calls for assistance

Based on what you know from your Criminal Law Series, what are the possible ORS statutes related to the neglect of an elder?

Consider what you have covered in previous courses regarding conducting an investigation. How does that information apply in the following scenario?

Scenario #5-

33-year-old Elvira provides care for her 94-year-old grandfather, Saleem, who requires constant care. Saleem is brought to the emergency room, comatose, with thirteen severe bedsores, including one that is so deep that Saleem's artificial hip from a recent surgery is visible.



Is Saleem potentially the victim of neglect? Why or why not?

What evidence do you have? What evidence do you need to look for?

How might you identify, document, and preserve the evidence?

Who should be interviewed and why?

What might you need to consider when interviewing the victim? Witnesses? Suspect?



What questions would you ask?

[Blank yellow response area]

What other information would be helpful? What steps should you take?

[Blank yellow response area]

What other resources do you need?

[Blank yellow response area]



Financial Exploitation

Financial exploitation is defined as the illegal or improper use of a vulnerable adult's funds, property, or assets.

Examples include:

- Theft of cash or other valuables
- Withdrawals from a bank account or use of credit cards
- Transfer of deeds
- Misuse of an older adult's power of attorney
 - Power of Attorney- A written document created by a person with capacity (principal) authorizing another (agent) to make decisions for the principal. Agent's authority is limited to what is stated in POA
 - Guardianship/Conservatorship- A person appointed by the court to manage the personal or financial affairs of an incapacitated person unable to handle their affairs. Supervised by the court
- Misappropriation of an incapacitated older adult's income or assets
- Identity Theft
- Sale of fraudulent investments (Ponzi or pyramid schemes)
- Sale of financial products or services unsuitable for an older adult's circumstances, such as long-term annuities
- Lottery, mail, telephone, or Internet scams
- Door-to-door home repair scams



Consent	Capacity	Undue Influence
<p>Consent means a decision to do something or to allow something to happen.</p> <p>Consent may be given in writing, verbally, or through indicators such as nodding.</p> <p>Generally, to give legally valid consent, a person must:</p> <ul style="list-style-type: none"> • Have decision-making capacity, • Have knowledge of the true nature of an act, and • Act freely and voluntarily. <p>Lack of legally valid consent may be an element of a crime (e.g., sexual assault, theft).</p>	<p>Decision-making capacity means the cognitive ability to make a decision.</p> <p>Capacity may fluctuate over time and even over the course of a day.</p> <p>There are different standards of capacity for different types of decisions. For financial decisions, a person at least must understand the nature of and the potential effect of the decision. State laws or court decisions may define what standard of capacity is required for a financial decision or action (e.g., making a contract or will).</p> <p>The law presumes that adults have capacity unless a court decides differently and appoints a guardian/conservator to make decisions for the adult.</p>	<p>Undue influence is a psychological and legal concept.</p> <p>Psychologist Margaret Singer defined undue influence as "when people use their role and power to exploit the trust, dependency, and fear of others. They use this power to deceptively gain control over the decision-making of the second person."</p> <p>Legal definitions of undue influence vary somewhat. Courts generally consider:</p> <ul style="list-style-type: none"> • The relationship between the alleged influencer and alleged victim, • The alleged victim's vulnerability to undue influence, • The alleged influencer's opportunity to gain control, and • Whether the alleged victim's decisions were the outcome of the undue influence. <p>A person with decision-making capacity can be unduly influenced, but it is easier to commit undue influence on someone who has diminished capacity.</p> <p>Generally, a victim of undue influence will not recognize what is happening and will side with the perpetrator.</p> <p>Undue influence invalidates consent. Even if the victim has capacity, a decision made as a result of undue influence is neither knowing nor voluntary.</p>



Indicators: Potential Victim

- Changes in the older adult's appearance, health status, personal habits
- Changes in long time banking or spending patterns
- A confused older person signs something without understanding the consequences

Indicators: Potential Exploiter

- Another person:
 - Cashing an older adult's check or using a credit/debit card without authorization or permission
 - Forging the older adult's signature
 - Coercing or deceiving the older adult into signing any document

Other Indicators:

- Unexplained changes in wills or title documents
- Increased telephone solicitations for funds
- Missing personal property
- Funds wired out of the country for mysterious reasons
- Missing or redirected mail
- Missing personal property
- Names added to older adult's bank accounts

Based on what you know from your Criminal Law Series, what are some possible ORS statutes related to an elder's financial or material exploitation?



Consider what you have covered in previous courses regarding conducting an investigation. How does that information apply in the following scenario?

Scenario #6-

Justin convinced Mildred (his 85-year-old mother) to create a trust and name him as co-trustee. Justin used over \$1.5 million from the trust to pay his expenses, credit card bills, and purchase insurance policies. None of these transactions were authorized by Mildred.

Is Mildred potentially the victim of financial exploitation? Why or why not?

[Empty response area for the question: Is Mildred potentially the victim of financial exploitation? Why or why not?]

What evidence do you have? What evidence do you need to look for?

[Empty response area for the question: What evidence do you have? What evidence do you need to look for?]

How might you identify, document, and preserve the evidence?

[Empty response area for the question: How might you identify, document, and preserve the evidence?]



Who should be interviewed and why?

What might you need to consider when interviewing the victim? Witnesses? Suspect?

What questions would you ask?

What other information would be helpful? What steps should you take?

What other resources do you need?



Self-Neglect

Self-neglect is characterized as the behavior of an elderly person that threatens his/her own health or safety. Self-neglect generally manifests itself in an older person as a refusal or failure to provide himself/herself with adequate food, water, clothing, shelter, personal hygiene, medication (when indicated), and safety precautions. The definition of self-neglect excludes a situation in which a mentally competent older person, who understands the consequences of his/her decisions, makes a conscious and voluntary decision to engage in acts that threaten his/her health or safety as a matter of personal choice.

Indicators: Older Adult

- Displaying mental confusion, depression, paranoia
- Appearing malnourished, dehydrated
- Refusing or failing to seek needed medical care or to take prescribed medications
- Failing to attend to personal hygiene
- Wearing clothing that is dirty or unsuitable for conditions
- Being homeless

Indicators: Environment

- Hoarding (e.g., collecting trash, animals)
- Vermin or insect infestations
- Home is unclean or has hazardous conditions (e.g., holes in floor or roof, exposed electrical wires, piles of animal droppings, rotting food)
- Unpaid bills, rent, lapsed insurance policies
- Plumbing is broken; lack of clean running water
- Utilities unpaid, not working, services turned off



Self-Neglect is not a crime; however, what do you think is the relevance of elder self-neglect to law enforcement?

Consider what you have covered in previous courses regarding conducting an investigation. How does that information apply in the following scenario?

Scenario #7-

Neighbors called police to check on the welfare of Juan, their 91-year-old neighbor. Upon arrival, Juan is found to have had a serious medical condition and was unable to care for himself. The house is full of garbage and rotting food. There are large holes in the floor, exposed electrical wiring, and parts of the roof that are open to the sky.

Is Juan potentially living in an unsafe environment? Why or why not?

[Empty response area for the question: Is Juan potentially living in an unsafe environment? Why or why not?]

What evidence do you have? What evidence do you need to look for?

[Empty response area for the question: What evidence do you have? What evidence do you need to look for?]



How might you identify, document, and preserve the evidence?

Who should be interviewed and why?

What might you need to consider when interviewing Juan?

What other information would be helpful? What steps should you take?

What other resources do you need?



What might you do in this circumstance?

Resources

American Bar Association Commission on Law and Aging
www.americanbar.org/aging

International Association of Chiefs of Police
www.theiacp.org

National Adult Protective Services Association
www.napsa-now.org

National Center on Elder Abuse- A national resource center funded by the U.S. Department of Health and Human Services Administration on Aging
www.ncea.aoa.gov

U.S. Department of Justice- Elder Justice Initiative and the Elder Abuse Guide for Law Enforcement
www.justice.gov/elderjustice

Adult Protective Services (local)



Other Terms Related to Elder Abuse Investigations

Term	Definition	Relevance to Elder Abuse
Advance Directive	Advance directives are used to provide directions about health care decisions in case a person loses the capacity to make or the ability to express those decisions.	Advance directives and elder abuse sometimes intersect in ways that may involve crimes.
Deeds and Life Estates	<p>A deed is a legal document that transfers ownership of real estate to someone else. A deed may be used to add someone as a joint owner of the property.</p> <p>A life estate is created when an owner deeds real estate to someone else but reserves the right to continue living on the property for the remainder of his or her life or until some other specified event occurs.</p>	An older person's home may be taken through financial exploitation involving deeds or life estates.
Guardians/ Conservators	A guardian or conservator is appointed by a court to make personal and/or property decisions for a person who does not have decision-making capacity.	Sometimes guardians or conservators misuse their legal authority in ways that result in financial exploitation or neglect of the incapacitated person.
Joint Owners/ Joint Accounts	More than one person can own bank or credit union accounts, investments, securities, real estate, and other forms of property.	Sometimes an older person gives away or loses joint ownership of property through financial exploitation.



Long-Term Care Facility	Long-term care facility is a general term that includes two categories: <ul style="list-style-type: none">• Nursing homes• Residential care facilities (e.g., assisted living facilities, board and care homes, personal care homes)	Residents of nursing homes and other types of long-term care facilities can be highly vulnerable to physical and sexual abuse, neglect, financial exploitation, and emotional/ psychological abuse by: <ul style="list-style-type: none">• Facility management and staff• Visitors to the facility, including contractors or other workers, residents' family members or guests, family members or guests of other residents• Other residents
Power of Attorney	A power of attorney is a legal document that may be used to plan for possible incapacity because it gives someone authority to act for the person who made the document.	It can be misused to exploit an older person financially.
Representative Payees, VA Fiduciaries, and Other Government Benefit Money Managers	Federal or state agencies that provide retirement/pension or other benefits may name a person or entity to receive and spend money on behalf of a beneficiary who lacks the capacity to manage that money.	The person or entity may misuse the authority over the money to exploit the older person financially.
Trusts	A trust is a legal arrangement in which a person or an institution agrees to manage an adult's assets for that adult's benefit or someone else named by that adult.	A trust can be used as a tool for financial exploitation.
Wills	A will is a legal document that expresses a person's wishes to distribute money or property after death. Wills are not effective until the person has died and the will has been probated.	Financial exploitation related to wills can occur in a variety of ways.

Elder Abuse First Responder Checklist

Does the older adult have any impairments?

- Hearing impaired/uses hearing aid
- Visually impaired (wears glasses, full or partial blindness, cataracts)
- Requires walker, wheelchair or cane
- Wears dentures

Does the older adult take medications? If so, list:

Does the older adult any medical conditions? If so, list:

Can the older adult do the following things independently (without assistance)?

- | | | | |
|------------------------------|------------------------------|-----------------------------|----------------------------------|
| Bathing | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| Dressing | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| Toileting | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| Transferring | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| Continence | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| Ability to use the telephone | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| Transportation | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |

Signs of Physical Abuse

	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	Victim's Self Report Description
Victim's Self Report	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	
Bruises	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<hr/>
Black Eyes	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<hr/>
Lacerations	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<hr/>
Ligature / Restraint Marks	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<hr/>
Broken Bones	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<hr/>
Burns	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<hr/>
Bite Marks	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<hr/>
Over / Under Medicated	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	<hr/>
Hair Pulled Out	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	
Uncooperative Caretaker	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	
Weapons	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	

Elder Abuse First Responder Checklist

Signs of Sexual Abuse

Victim's Self Report	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	Victim's Self Report Description
Bruises: Breasts/Genital Area	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Torn/Bloody Underclothes	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Difficulty Walking/Sitting	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Sexually Transmitted Disease	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Broken Bones	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Burns	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Bite Marks	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Over / Under Medicated	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Hair Pulled Out	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Uncooperative Caretaker	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Weapons	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____

Signs of Neglect/Cruelty

Victim's Self Report	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	Victim's Self Report Description
Lack of Basic Services	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Lack of Assistive Devices	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Abandonment	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Inappropriate Clothing	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Inadequate Heating/Cooling	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Bed Sores	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Unsafe Environment	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Fleas/Lice/Roaches/Rodents	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Fecal/Urine Odor/Stains	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Lock/Chains On Interior Doors	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____

Signs of Emotional Abuse

Victim's Self Report	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	Victim's Self Report Description
Upset/Agitated	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Withdrawn/Non-responsive	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Nervous Around Caregiver/Other	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Caregiver Restricts Communication To Friends & Family	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____
Fearful Of Saying Or Doing Something Wrong	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	_____

Elder Abuse First Responder Checklist

Signs of Financial Abuse

Sign	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unknown	Victim's Self Report Description
Victim's Self Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Unemployed Adults Reside In Home	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
New Names on Signature Card(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Unauthorized Withdrawal(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Abrupt Changes In Will	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Disappearance of Funds/Possessions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Unpaid Bills/Adequate Funds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Forged Signature For Transactions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Appearance Of Uninvolved Relative	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Sudden Transfer Of Assets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Unlicensed Personal Care Home	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Large Purchases For The Abuser's Benefit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Inappropriate Financial Reimbursement For Services To The Older Adult	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Signs of Self-Neglect

Dehydration/Malnutrition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lack Of Medical Attention	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unsafe Living Conditions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Unsanitary Living Conditions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inappropriate Clothing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lack Of Assistive Devices	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inadequate Housing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Medical Records

- | | |
|------------------------------------------------|----------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Emergency room | <input type="checkbox"/> X-rays |
| <input type="checkbox"/> Treating physician(s) | <input type="checkbox"/> Social workers' notes |
| <input type="checkbox"/> Nursing facilities | <input type="checkbox"/> Adult Protective Services (APS) records of current & prior contacts |
| <input type="checkbox"/> Pharmacy | <input type="checkbox"/> Other |
| <input type="checkbox"/> Dentist(s) | |
| <input type="checkbox"/> Prescriptions | |
| <input type="checkbox"/> Lab reports | |
| <input type="checkbox"/> Nurses' notes | |

Legal Records

All law enforcement contacts with involved parties and witnesses, including:

- Physical inventory checklist (Elder Abuse First Responder Checklist)
- 911 tapes
- Arrest reports
- Criminal histories
- Jail records, including:
 - Phone calls
 - Visitor logs by or on behalf of suspects

Testimony & Background Evidence

- Psychological/psychiatric evaluation of victim (when consent, undue influence, or capacity may be an issue)
- Victim testimony or deposition with full-cross examination, as soon as possible after charging
- Videotape the victim at the early stage of the investigation, including the following:
 - Orientation (how does the victim perceive time and place)
 - Victim testifying to consent
 - Victim naming identity of suspect
 - Victim signing his/her name in video to compare to signature on questioned documents (financial abuse)
 - Impact of crime (video record a walk-through of neglect or abuse crime scene, if possible)

Consultation with Experts

- | | |
|-----------------------------------------------------------------------|---------------------------------------------|
| <input type="checkbox"/> Handwriting analysts | <input type="checkbox"/> Wound care experts |
| <input type="checkbox"/> Geriatricians | <input type="checkbox"/> Medical examiner |
| <input type="checkbox"/> Forensic accountants | <input type="checkbox"/> Civil attorneys |
| <input type="checkbox"/> Geriatric psychologists
and psychiatrists | |

Interviews

Witnesses who can describe the victim's condition, activities, and level of functioning and interaction with the defendant at time of incident and before. Describe changes over time.

Possible witnesses:

- Family and friends
- Acquaintances/social
- Banking/financial
- Medical providers (prior and current)
- Hair stylists/barbers
- Faith community
- Local businesses
- Neighbors
- Adult day care services
- Social services (Meals on Wheels, etc.)
- Adult Protective Services
- Payees for expenses the suspect paid with the victim's money
- Civil attorneys
- Delivery personnel
- Postal carriers
- Meter readers

Financial & Legal Records

- | | |
|-----------------------------------------------------|-----------------------------------------------------------------|
| <input type="checkbox"/> Credit card records | <input type="checkbox"/> Prior civil cases |
| <input type="checkbox"/> Investment account records | <input type="checkbox"/> Court/protection orders |
| <input type="checkbox"/> Credit reports | <input type="checkbox"/> Wills and trusts |
| <input type="checkbox"/> Suspect's bank records | <input type="checkbox"/> Property deeds |
| <input type="checkbox"/> Victim's bank records | <input type="checkbox"/> Conveyances |
| <input type="checkbox"/> Checkbook registers | <input type="checkbox"/> Advanced care directives/living wills |
| <input type="checkbox"/> Powers of attorney | <input type="checkbox"/> Guardianship/conservatorship documents |

Physical Evidence

Crime scene photos and video, including, if relevant:

- | | |
|-------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Suspect's living area | <input type="checkbox"/> Defendant's and victim's ISP records |
| <input type="checkbox"/> Victim's living area | <input type="checkbox"/> Defendant's computer, flash drives, etc. |
| <input type="checkbox"/> Major new purchases made by the suspect | <input type="checkbox"/> Legal file from victim's civil attorney |
| <input type="checkbox"/> Victim's body | <input type="checkbox"/> Assistive devices (or lack thereof) |
| <input type="checkbox"/> Injuries over time | <input type="checkbox"/> Nutritional supplements |
| <input type="checkbox"/> Other signs of neglect | <input type="checkbox"/> Receipts for purchases |
| <input type="checkbox"/> Clothing victim was wearing at time of incident
(include undergarments if applicable) | <input type="checkbox"/> Restraints and bindings |
| <input type="checkbox"/> Bedding | <input type="checkbox"/> Checkbooks, check registers |
| <input type="checkbox"/> Locks on outside of doors | <input type="checkbox"/> Contents of refrigerator, cupboards, medicine cabinets (include actual
bottles/containers for prescriptions to show physician and pharmacy,
possession and full/empty status given recommended dosage over time
from the date of the last refill) |
| <input type="checkbox"/> Writings/journals/letters | |
| <input type="checkbox"/> Photos and videos related to conduct | |
| <input type="checkbox"/> Address books and calendars | |

Emergency Vehicle Operations

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATKINS 1960-1980
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY NEED



Emergency Vehicle Operations

Instructional Goals:

This course is designed to introduce a new officers to safe and efficient operation of emergency vehicles.

This course is designed to enhance a new police officer's judgment and decision making regarding the use of emergency vehicles.

Learning Outcomes:

Upon completion of instruction, students will be able to:

1. Demonstrate safe emergency vehicle operations.
2. Demonstrate sound judgment and decision-making when operating an emergency vehicle.

Content Outline:

- The Science of Driving
- Legal Considerations
- Driving Techniques
- Electronic Safety and Control Systems
- Drivetrain Configurations
- Summary
- EVO Scoring/Expectations



The single most important factor in the EVO program is based on a very simple philosophy:
"It is not how fast you drive; it is how efficient and consistent you are in your driving."

DRIVING PHILOSOPHY

The DPSST Emergency Vehicle Operations program philosophy is quite direct and straight-forward and easily summarized by the following statement: ***"100% control of the vehicle, 100% of the time."***

We often refer to our approach to driving as the "Platform Stability" or "Stable Platform" model of driving. This driving model assumes the vehicles to be inherently stable by design and that these platforms are stable when they are the "flattest." The driver manages the stability of the platform with the physical inputs to the steering, braking, and acceleration systems of the vehicle.

To best implement the philosophy, we rely heavily upon being able to drive with technical regard to the available grip or traction between the vehicle tires and the driving surface. The science of driving is critical to our program philosophy and success. When most of us hear words such as "science," "math," "physics," or other words that remind us of our formative years and a particular topic that seemed somewhat complex and bewildering, our brains cease to function. We do not expect drivers to recite Newton's First Law of Motion in the course of an emergency vehicle response. We do expect drivers to manage the effects Newton's First Law has upon overall vehicle stability and grip.

When we are considering the need to be technically correct concerning grip, our driving decisions immediately begin to promote our philosophy.

The technological advances in vehicles are strengthening our overall program philosophy. While we will discuss ESC systems and other vehicle technologies in some detail later in this manual, all of the mathematical algorithms and programming of these systems are based upon being technically correct with grip, maintaining platform stability as much as possible, and truly attempting to aid the driver to retain 100% control of the vehicle.



When a crash is reconstructed, steering and brakes most frequently become the proximate cause. Whether the crash was a result of too much or too little steering input or the same failures with braking, the actual physics of the incident will typically lead to an error in judgment and application by the driver. A smaller percentage of crashes are a result of improper use of the gas pedal. Like the brake pedal, the gas pedal shifts weight. Abrupt use of the pedal shifts more weight.

THE SCIENCE OF DRIVING

In this section of the manual, you will learn about the impact vehicle dynamics has on the available grip levels between the vehicle tires and the driving surface, gain an understanding of the physics involved in the operation of vehicles, and gain awareness to some of the terminology.

DEFINITIONS

Acceleration	The rate of increase in velocity.
Centrifugal Force	An outward force apparent in a rotating reference frame; it does not exist when measurements are made in an inertial frame of reference.
Centripetal Force	A force that makes a body follow a curved path; its direction is always orthogonal to the motion of the body and towards the fixed point of the instantaneous center of curvature of the path.
Deceleration	The rate of decrease in velocity.
Direction	The way a vector is pointing.
Friction	A force that resists the relative motion or tendency to such motion of two bodies or substances in contact.
G-Force	A vector quantity that tends to produce an acceleration of a body in the direction of its application.
Grip	A one-word amalgamation of all of the physical properties a vehicle possesses relating to changes in speed and direction upon a driving surface; increased grip implies a more stable vehicle, while decreased grip implies a vehicle is losing stability.
Gyroscopic Precession	A phenomenon occurring in rotating bodies in which an applied force is acting 90° to the axis of a rotating object.
Inertia	The tendency of a body at rest to remain at rest or of a body in motion in a straight line to stay in motion in a straight line unless acted on by an outside force.



Kinetic Energy	Energy that a body possesses by virtue of being in motion.
Lateral Acceleration	The component of the vector acceleration of a point in the vehicle perpendicular to the longitudinal axis and parallel to the road plane.
Lateral Axis	An imaginary axis running through the vehicle from side to side through the center of gravity and parallel to the road plane.
Longitudinal Acceleration	The component of the vector acceleration of a point in the vehicle perpendicular to the lateral axis and parallel to the road plane.
Longitudinal Axis	An imaginary axis running through the vehicle from front to rear through the center of gravity and parallel to the road plane.
Magnitude	A property by which an object can be compared as larger as or smaller than other objects of the same kind.
Newton's 1 st Law of Motion	An object will remain at rest or in uniform motion in a straight line unless acted upon by an external force. It may be seen as a statement about inertia – objects will remain in their state of motion unless a force acts to change the motion.
Newton's 2 nd Law of Motion	The acceleration of an object as produced by a net force is directly proportional to the magnitude of the net force, in the same direction as the net force, and inversely proportional to the mass of the object.
Newton's 3 rd Law of Motion	To every action force, there is an opposite reaction force.
Oversteer	The tendency of a vehicle to turn more sharply than intended. This is referred to as a "REAR SKID" by instructors during training exercises.
Potential Energy	The energy possessed by a body by virtue of its position relative to others.
Pitch	Movement around the lateral axis of a vehicle.
Roll	Movement around the longitudinal axis of a vehicle.
Understeer	The tendency of a vehicle to take a straighter path than intended. This is referred to as a "FRONT SKID" by instructors during training exercises.
Vector	A quantity having direction as well as magnitude, especially as determining the position of one point in space relative to another.
Yaw	Movement around the yaw axis of a vehicle.
Yaw Axis	An imaginary axis running through the vehicle from top to bottom through the center of gravity and perpendicular to the road plane.



FRICTION

Friction will always exist when a vehicle is in motion. When a vehicle is in motion, the friction occurring between the vehicle tires and the driving surface is referred to as rotational friction. Rotational friction

Simply put, when the tires are not rotating, you cannot steer in a different direction. The vehicle will continue to travel in a straight line in the direction the center of gravity is moving until it comes to a stop.

is mandatory when operating a vehicle in motion. This resistance to the change in relative motion allows the vehicle to accelerate, decelerate, or change direction. When rotational friction between the tires and the driving surface is lost, a vehicle in motion

still has sliding friction. The resistance to change in relative motion still exists; however, the vehicle will no longer be capable of any directional change.

The chart illustrates the overall stopping distance measured at selected speeds from 30 mph through 80 mph with a vehicle retaining rotational friction and a vehicle where the tires slide and only sliding friction exists.

- Red (top) is locked/sliding tire (sliding friction)
- Blue (bottom) is a stop where rotational friction is maintained (rotational friction)
- These distances are based on the average deceleration rate of 26.84 fps^2 of a 2011 Ford CVPI.



Drivers use the terms “traction,” “rolling friction,” and “rotational friction” somewhat interchangeably. These terms are close in definition but are not synonymous with one another. What the drivers are describing is the concept of “Grip.”



NEWTON'S LAWS OF MOTION

The laws of nature (physics) are all in play when the movements and actions of vehicles are examined. While drivers are never asked to recite Newton's 1st law of motion while in the middle of an emergency or evasive steering maneuver, an understanding of the physical principles is critical to the driver attempting to avoid a major loss of grip. Driver training programs have historically spent a good deal of time and effort imprinting these physical principles and properties into the person they are working to improve, and this program is no different in that regard. Drivers need to understand the principles in play; however, being able to use the big words and recite nature's laws are not the primary focus of this section.

Newton's First Law of Motion

An object will remain at rest or in uniform motion in a straight line unless acted upon by an external force.

In terms of vehicle operations and stability, the implications of Newton's First Law of Motion are quite simple.

Example #1



When the SUV is parked, the SUV will remain in place unless it is forced to move.

Example #2



When the sedan is in motion, it will continue moving unless it is forced to stop.

When the vehicle is in motion (example #2), it possesses "Inertia." The sedan will travel in a straight line based on the center of gravity until forced to change. The fact that a vehicle will eventually come to a stop is not due to the lack of a force, but rather the presence of an opposing force, which is most commonly the force known as friction. (*See Newton's Third Law*). Drivers force directional change in the platform with steering. Drivers also change the status of the platform with braking and acceleration adjustments.

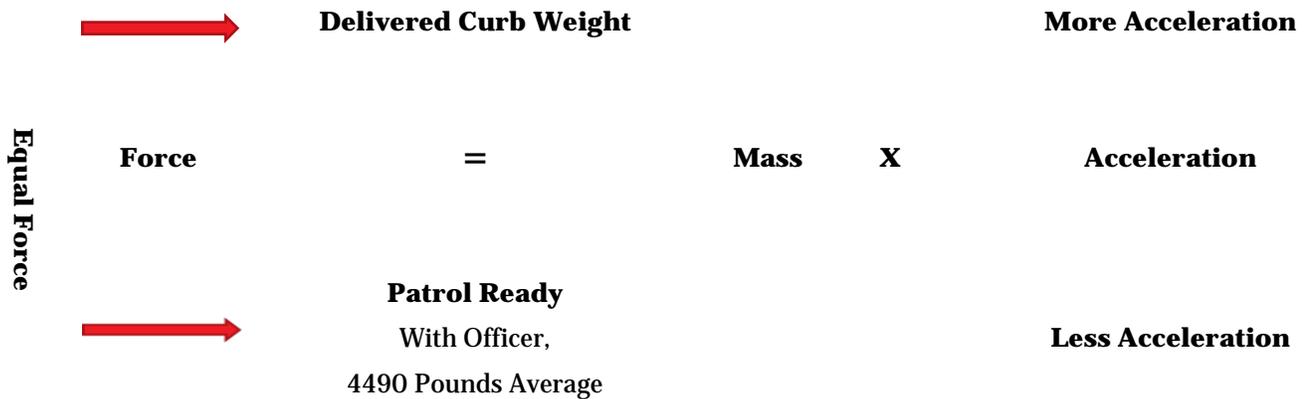


Newton's Second Law of Motion

The acceleration of an object as produced by a net force is directly proportional to the magnitude of the net force, in the same direction as the net force, and inversely proportional to the mass of the object.

Newton's second law speaks to the amounts of force needed to move objects. Force is the primary consideration of this natural law of motion. In mathematical terms, force is a result of mass multiplied by acceleration. Drivers become very accustomed to the configuration of their primary vehicle and do not grasp this physical principle until they attempt to operate a different vehicle with a substantial difference in weight.

In our example below, the force is identical in each situation. The mass in the top example is substantially less than the mass in the lower example. Since the mass has changed and the force has remained the same, the amount of acceleration must change as well.



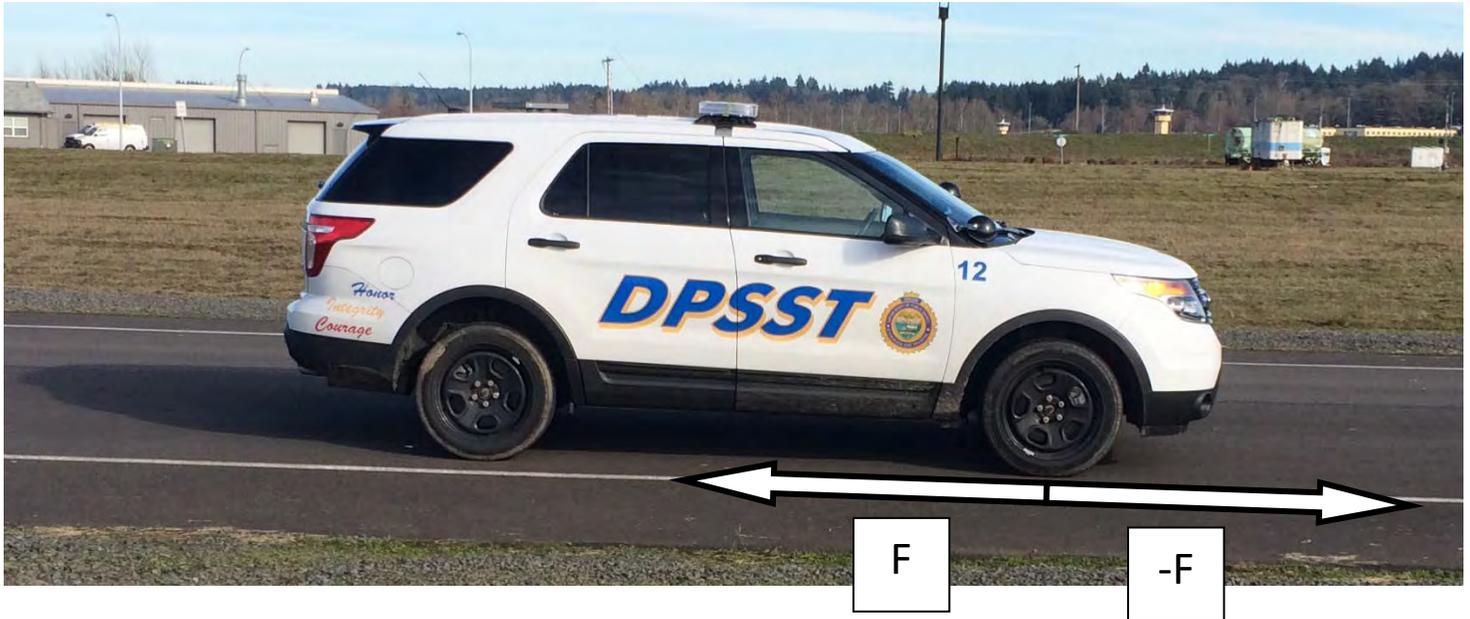
By adjusting the variable (mass) in this instance, the amount of acceleration with the same amount of applied force is greater with the lighter vehicle than the heavier vehicle.

Based on the curb weight at delivery and an average patrol-ready weight of a 2015 Dodge Charger 3.6L Patrol Vehicle.



Newton's Third Law of Motion

To every action force, there is an opposite reaction force.

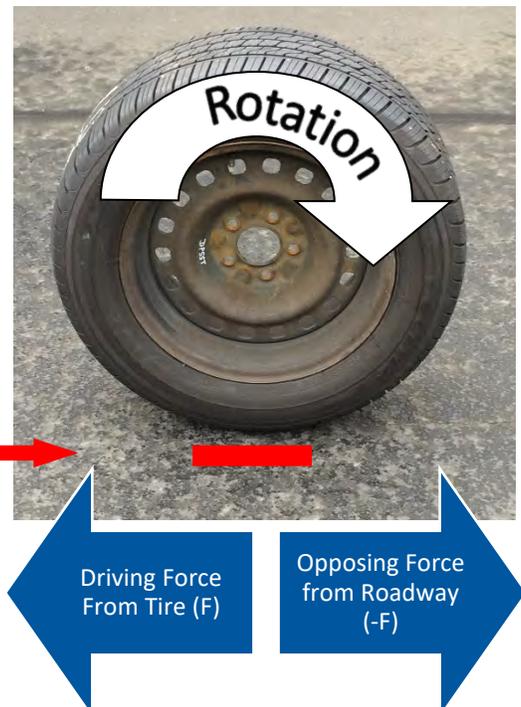


The vehicle's engine provides power to the wheels, which generates rotational friction. The wheels push against the roadway. *(Represented by the backward arrow labeled "F")*

The roadway applies the opposing force that enables the vehicle to move forward. *(Represented by the forward arrow labeled "-F")*

The point of contact between the driving surface and the vehicle is called the contact patch.

This concept is described in the following section.





GRIP AND CONTACT PATCHES

The surface area of a tire that is in contact with the driving surface at any precise moment in time is referred to as the contact patch. Contact patches change in size depending upon the dynamics exerted through the vehicle platform to the tire in relation to the intended change in speed, direction, or both.



The Tire Contact Patch

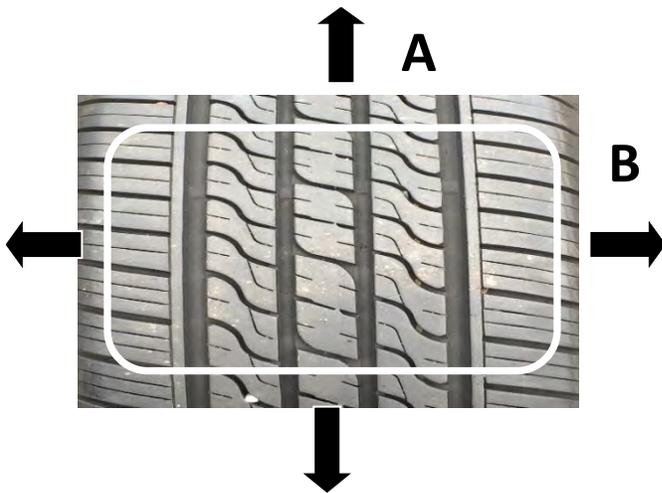


This little area of rubber can only supply a finite amount of grip

For the purpose of explanation, grip is divided between the front to back (longitudinal) and side to side (lateral) directions.

Longitudinal grip is used up when the driver is accelerating or braking. (Represented by “A” in this illustration.)

Lateral grip is used when the driver is turning corners and steering. (Represented by “B” in this illustration.)



When the safety of the driver is directly correlated to the levels of grip, it is easy to understand why our philosophy and techniques are designed to prepare drivers to be technically correct with regard to the levels of grip throughout all of the driving process.



Here are critical points of the concepts of grip with relation to the tire contact patches:

If the available grip is utilized to move in one direction (for example, braking – longitudinally), no grip will be available to change directions (for example, steering – laterally). Fortunately, the techniques and concepts of EVO are designed to assist drivers in maintaining a balance between the forces, leaving grip available for simultaneous demands upon the contact patch. The vehicles are also equipped with technologies that assist the driver in maintaining or restoring this balance. These vehicle technologies are discussed later in this manual.

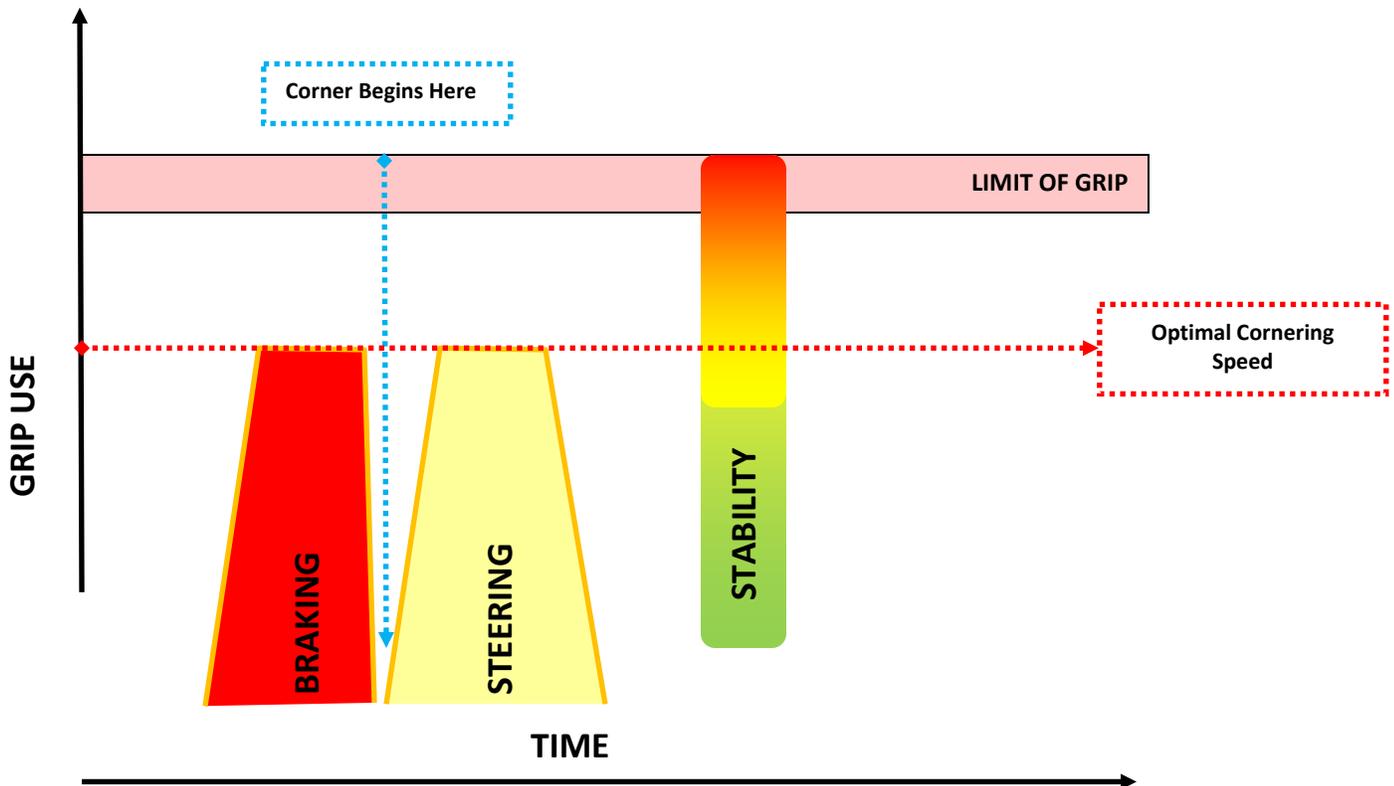
When the driver turns the steering wheel to take the vehicle into a corner, the rotational friction of the front tires increases. In mathematical terms, the increase is approximately 1.5% for each degree of steering input on the front tires, up to a maximum of 20 degrees.

The result of this increase in grip is about a 30% increase in the braking ability of the front tires. This is sometimes referred to as “steering brake,” however, because steering causes weight shift from side and side and forward, overall “grip” is generally decreased when the combined rotational friction of all four tires are analyzed.

The impact to the driver due to this physical reality is quite simple. The additional weight increases the size of the front tire contact patches and makes steering more efficient. The driver can use the advantage of this weight transfer and increase of grip if the weight remains on the front tires throughout the time the steering is needed. Since a significant amount of braking is going to occur due to the addition of steering, the driver can release a proportional amount of brake pedal pressure.



The following graph illustrates the concept of separating forces competing for grip.

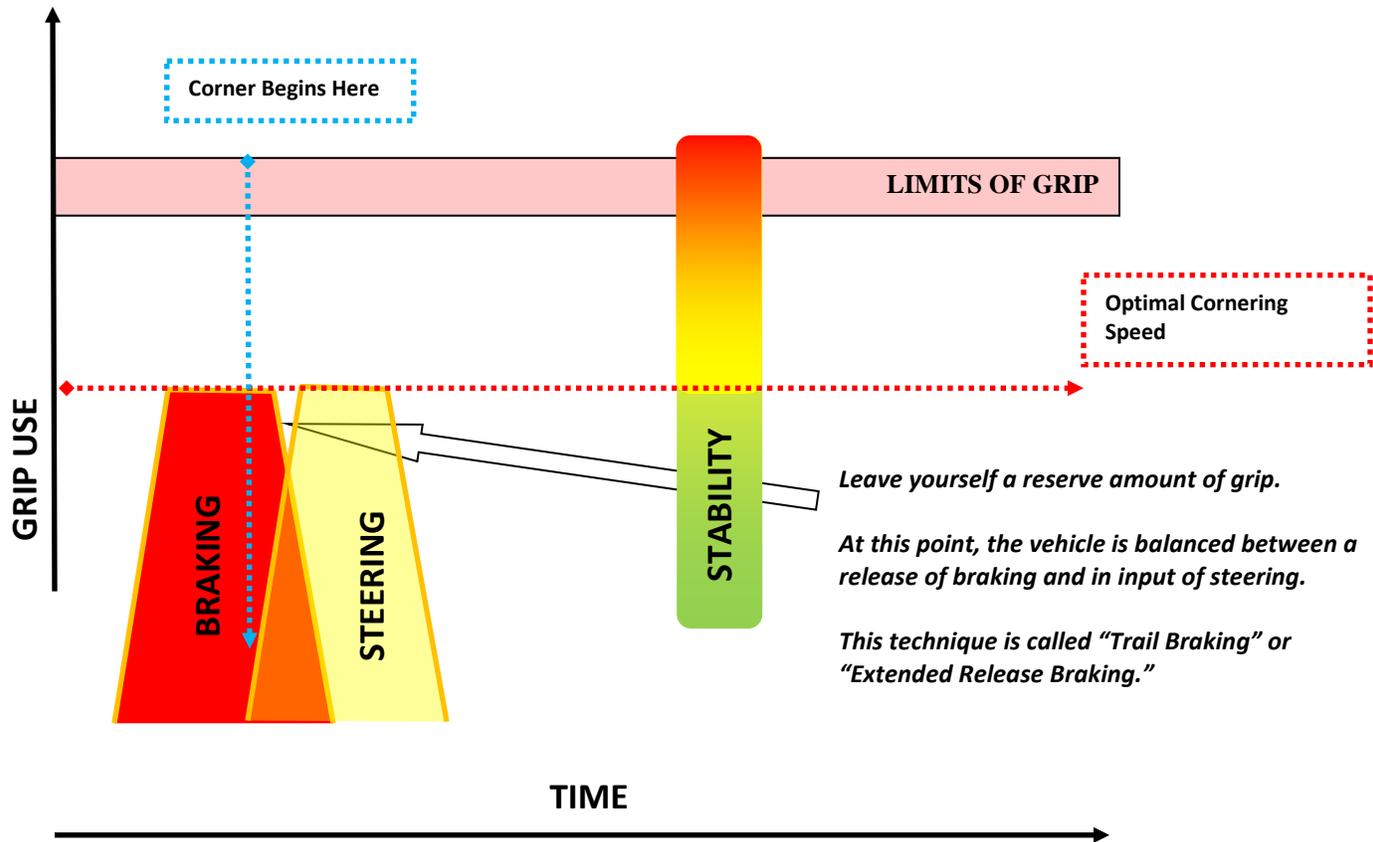


Separation of Controls

When a driver first begins learning to drive near the limits of grip, they frequently try to perform the most grip-demanding longitudinal and lateral actions separately. In the example above, the driver recognizes that his speed is above the optimal cornering speed for a turn and applies brakes early. Immediately before the driver needs to start steering when the corner actually begins, the driver releases all of the brake pedal pressure. The driver then begins to input the steering needed for the corner. While the driver has separated the demands on the tire contact patches, the immediate transfer of weight towards the rear when the brake pedal is released is the genesis of a front skid situation if the speed is below the optimal cornering speed. This is neither efficient with regard to grip and weight management, nor is it efficient with regard to optimal speeds for the given driving situation.



The following graph illustrates the concept of balancing forces competing for grip.



Balance of Controls

Drivers that learn to maximize grip throughout the driving experience have learned to combine lateral and longitudinal elements in an effort to extract the last bits of grip and stability from their vehicles. In the graph above, by combining the braking and steering elements in a corner, the amount of weight transfer is significantly reduced, and smaller changes are apparent in the stability.

Technique/Decision-Making Tip

Avoid operating any vehicle at the limits of grip. Drive with a reserve. This means you will still retain some grip and stability should you miscalculate a turn or stop. In the graph above, a driver that uses enough thought and discipline to operate below the thresholds of grip and stability will always have a reserve.



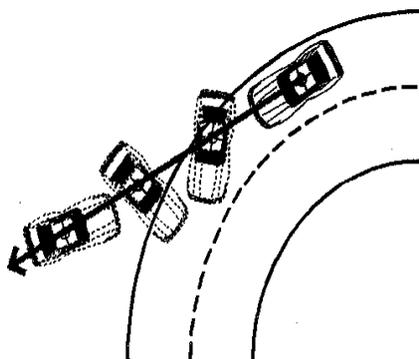
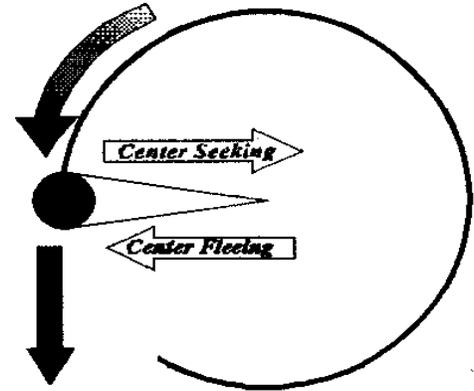
Centripetal– Centrifugal Force

The force that is experienced pushing outward from the center is called centrifugal force. This is a “center fleeing” force. The force, which pulls toward the center, is called centripetal force. This is a “center seeking” force.

Centripetal force is generated by the front tires and allows the vehicle to change direction and turn into a corner. Centrifugal force is the inertia the vehicle possesses and its physical nature to travel in a straight line away from the center of the turn.

The rear tires do not provide a cornering force unless the vehicle is one of those rare platforms manufactured with rear-steer tires. The vehicles currently used by Law Enforcement agencies typically do not have this option available.

If you lose the cornering force (centripetal), the vehicle’s center of mass will continue to travel in a straight line. This is true of a vehicle regardless of its orientation (forwards, backward, sideways, or spinning



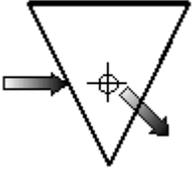
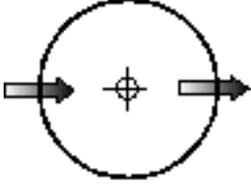
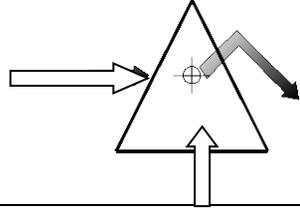
Like a rock on a string, if the turn force of a vehicle in a curve is eliminated, the vehicle’s center of mass will go in a straight line!



Stability – Flat Stable Platform

The definition of “stability” is quite simple. How far the center of mass must rise before falling determines the level of stability an object possesses.

The center mass of a stable object must rise before the object can be turned over.

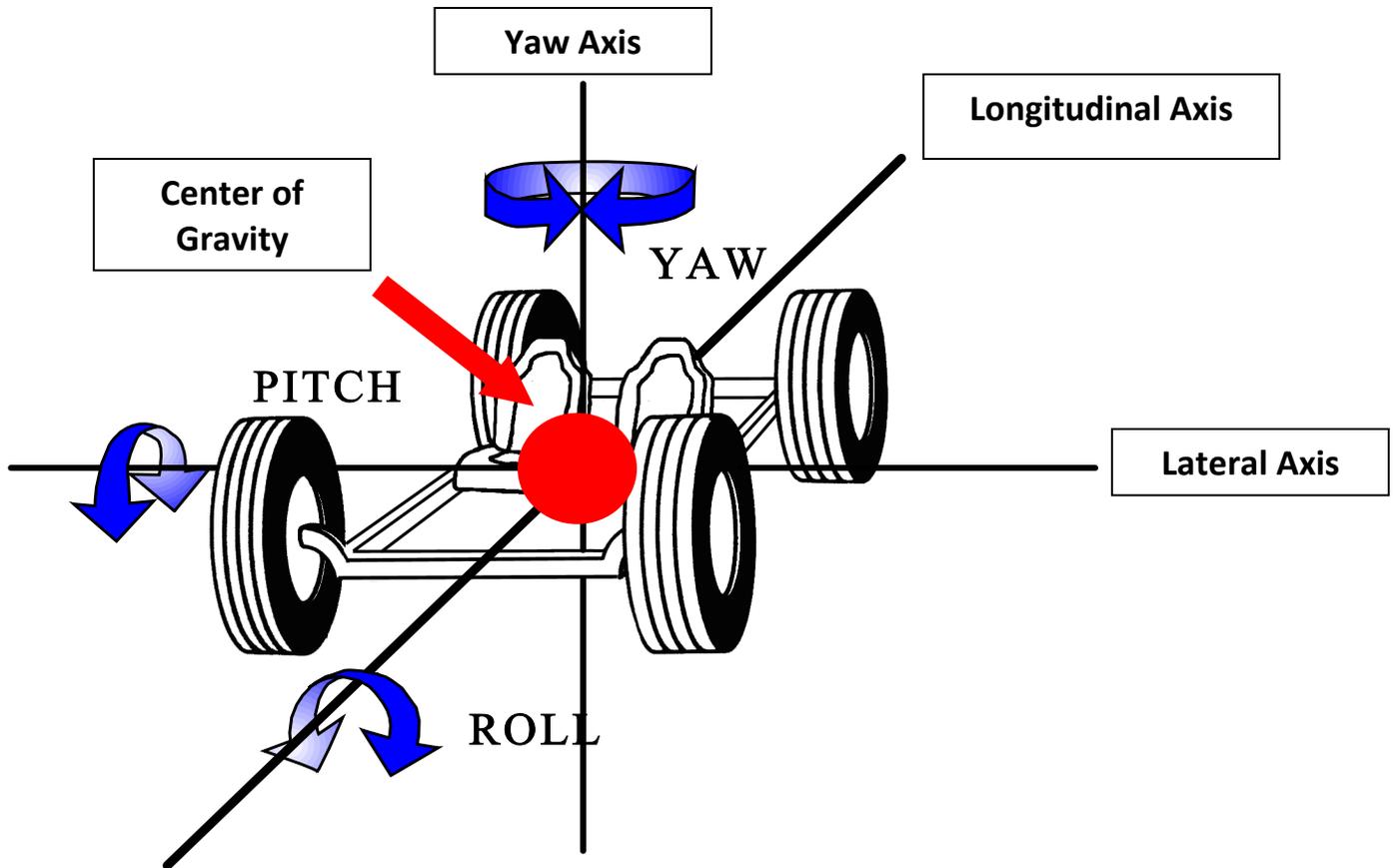
<i>Unstable Object</i>	<i>Neutral Object</i>	<i>Stable Object</i>
		
<p>Any force applied to the center of mass on this object will result in the center of mass falling.</p>	<p>Any force applied to the center of mass of this object will result in no change of stability.</p>	<p>Any force applied to the center of mass of this object will cause it to slide. Only when a second force is applied raising the center of mass, will these objects tip over.</p>

Vehicles operated by emergency personnel are all stable by definition. None of the emergency vehicles will just simply “fall over” without external factors raising the center of gravity. While the vehicles used in emergency services are extremely stable by design (and therefore difficult to roll over), the demands placed upon the platform by the drivers create significant changes in overall stability.



AXIS OF MOTION

Movement around the center of gravity will occur along at least one (and typically more) axis of motion. These movements cause the center of mass to rise, drop and shift direction. There are three axes of motion to consider, and they intersect at the center of gravity.

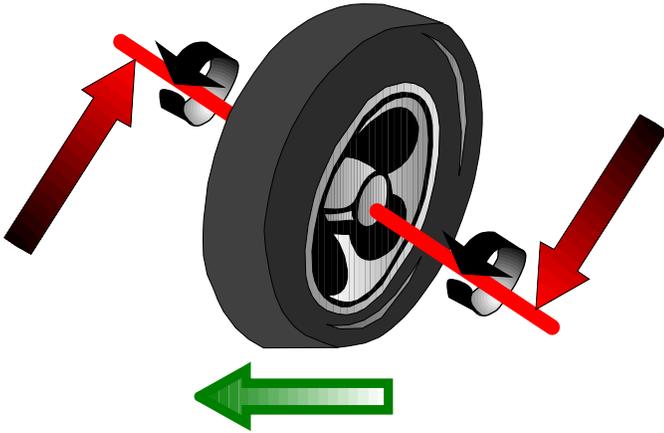


<i>PITCH</i>	<i>YAW</i>	<i>ROLL</i>
Pitch is the movement of weight around the lateral axis. Pitch happens under acceleration, braking, or turning.	Yaw is the movement of weight around the yaw axis. Yaw happens under acceleration, braking, or turning.	Roll is the movement of weight around the longitudinal axis. Roll happens when the vehicle is turning.



GYROSCOPIC PRECESSION

A phenomenon occurring in rotating bodies in which a force is applied acting 90° to the axis of a rotating object.



This force is manifested as “body roll” in a vehicle.

TECHNIQUE/TIP

Utilize a method of steering wheel control where the force of gyroscopic precession is managed.

- Steering Inputs should be completed in one smooth and continuous movement.
- Inputs should not be greater than necessary.

The technique endorsed by this program is referred to as “Shuffle Steering.” Refer to the section on driving technique for further information on this technique.



CASE STUDY #1

EXAMINING THE MOVEMENT OF WEIGHT AROUND THE PLATFORM DURING A SINGLE VEHICLE INCIDENT

THE SITUATION:

What happens when a driver allows a vehicle to “drop” one or more tires off of the driving surface?

In our example, a driver is simply traveling down the roadway minding personal thoughts and business. No other traffic or hazards are even present in the environment. This is a common situation drivers find themselves facing, and it creates a situation where the focus of driving is temporarily lost.

When a driver loses focus on the task at hand due to other distractions that can occur in a vehicle, the actual path of travel the vehicle takes begins to deviate from the intended path. In this situation, the course deviation has taken the vehicle over the fog line and resulted in the passenger side of the vehicle having the front tire leave the paved asphalt surface and drift into the graveled shoulder.

What happens next is influenced by multiple factors. The driver, the vehicle, the driving surface, the elements, the condition of the shoulder...all of these things are immediately in play, and the distracted driver is now faced with a critical skill test.

THE FACTS AS THEY CURRENTLY EXIST:

- The passenger front tire in the gravel is traveling at a different speed than the tires on the asphalt.
- The overall rate of speed of the vehicle has not substantively changed.
- The passenger front tire is now causing the front corner of the vehicle to drop.
- The relative center of mass has been raised slightly.



TYPICAL RESPONSE OF THE DRIVER:

The typical reaction of most drivers facing this sudden challenge to their mental and physical driving skills is to steer quickly to the left in an attempt to regain asphalt roadway with the outside tires. This sudden and quick movement of the steering wheel induces significant gyroscopic precession, which causes a continuing rise in the center of mass. One of two things will now occur:

1. The vehicle regains the roadway suddenly and veers into oncoming lanes. This result has its own set of potentially catastrophic outcomes.
2. The vehicle tire significantly slows and begins to dig into the softer shoulder of the roadway, eventually reaching a “tripping point” – a point where the center of mass is high enough to “fall over.”

To prevent outcome either outcome #1 or #2, the driver must be aware of the relative center of mass and not attempt any sudden input to the platform when the vehicle’s mass has raised or is rising. If the driver fails this sudden and unexpected test of physical driving skill, the vehicle will begin to roll over in outcome #2.

PREFERRED RESPONSE OF THE DRIVER:

The most obvious solution is to be an active participant in the driving experience at all times when operating a vehicle. This is not a completely realistic expectation, so the driver needs to hone the understanding of platform stability and weight management.

The proper technique is to straighten the steering wheel and slow the vehicle down until the return to the roadway can be done safely and in a controlled manner.



OBSERVED VEHICLE DYNAMICS

Weight Transfer to the Front under Braking Application

In this photograph, the driver has applied a significant amount of BRAKING to the vehicle. The vehicle has shifted weight to the front.

An overall increase of grip has occurred on the front tires, but a subsequent loss of grip has occurred on the rear tires.

Rear to Front weight shifts are typically easier to observe from outside than the weight shifts that occur from the Front to the Rear.



The driver will be able to sense the weight shift as different physical forces are exerted upon the driver's body.

Weight Transfer to the Side and Front under Steering Input



In these photographs, the driver has input significant amounts of steering at speed. The weight shifted to the side and also visibly to the front.

The front tires on each platform are bearing the majority of responsibility with regard to grip.





CASE STUDY #2

ONE VEHICLE ROLLOVER INCIDENT IN PHOTOS



In the first photo (left) in this series, the driver lost grip on an asphalt runway and started sliding across a dirt apron along the runway. In the second photo (right), you can see a significant change in grip as the vehicle continues across the dirt apron based on the amount of debris coming off of the wheels.



In the three photos above, the crash begins when the vehicle enters the soft field with the vehicle wheels pointed to the right. This caused the weight shift to the front around the lateral and yaw axes to continue, and when the front tire began to “dig” into the soft dirt in the field, the center of gravity began to rise rapidly.

This is the result of not straightening the steering wheel when leaving the roadway.





LEGAL CONSIDERATIONS OF EMERGENCY VEHICLE OPERATIONS

OREGON REVISED STATUTES

The following statutes are related to the operation of emergency vehicles and the manner in which emergency vehicles are defined, exempted, and restricted in Oregon. These statutes are drafted and modified by the Oregon Legislature on occasion and should be checked against the most current printing of the Oregon Vehicle Code.

Police drivers must be fully aware of the limitations imposed on them by ORS. Personnel should be as familiar with these statutes as they are with the use of force guidelines. Officers must understand the scope of their authority and what restrictions and exemptions are granted them by the statutes.

801.260 Emergency Vehicle

Emergency vehicle means a vehicle that is equipped with lights and sirens as required under ORS 820.350 (Ambulance warning lights) and 820.370 (Ambulance or emergency vehicle sirens), and that is any of the following:

1. Operated by public police, fire, or airport security agencies.
2. Designated as an emergency vehicle by a federal agency.
3. Designated as an emergency vehicle by the Director of Transportation. [1983 c.338 §43; 1993 c.751 §5

811.145 Failure to Yield to Emergency Vehicle or Ambulance

1. A person commits the offense of failure to yield to an emergency vehicle or ambulance if an ambulance or emergency vehicle that is using a visual or audible signal in a manner described under ORS 820.300 (Exemptions from traffic laws) and 820.320 (Illegal operation of an emergency vehicle or ambulance) approaches the vehicle the person is operating and the person does not do all of the following:
 - (a) Yield the right of way to the ambulance or emergency vehicle.
 - (b) Immediately drive to a position as near as possible and parallel to the right-hand edge or curb of the roadway clear of any intersection.
 - (c) Stop and remain in such position until the emergency vehicle or ambulance has passed.



2. A person is not in violation of this section if the person is acting as otherwise directed by a police officer.
3. This section does not relieve the driver of an emergency vehicle or ambulance from the duty to drive with due regard for the safety of all persons using the highway, nor does this section protect the driver of any such vehicle from the consequence of an arbitrary exercise of the right of way granted under this section.
4. The offense described in this section, failure to yield to an emergency vehicle or ambulance, is a Class B traffic violation. [1983 c.338 §582; 1985 c.16 §289; 1995 c.383 §46]

820.300 Exemptions from Traffic Laws

1. Subject to conditions, limitations, prohibitions, and penalties established for emergency vehicle and ambulance drivers under ORS 820.320 (Illegal operation of an emergency vehicle or ambulance), the driver of an emergency vehicle or ambulance may do any of the following:
 - (a) Park or stand in disregard of a statute, regulation, or ordinance prohibiting that parking or standing.
 - (b) Proceed past a red signal or stop sign.
 - (c) Exceed the designated speed limits.
 - (d) Disregard regulations governing direction of movement or turning in specified directions.
 - (e) Proceed past the flashing bus safety lights without violating ORS 811.155 (Failure to stop for bus safety lights) if the driver first stops the vehicle and then proceeds only when the driver:
 - (A) Determines that no passengers of the bus remain on the roadway; and
 - (B) Proceed with caution.
2. The provisions of this section:
 - (a) Do not relieve the driver of an emergency vehicle or ambulance from the duty to drive with due regard for the safety of all other persons.
 - (b) Are not a defense to the driver of an emergency vehicle or ambulance in an action brought for criminal negligence or reckless conduct.
 - (c) Except as specifically provided in this section, do not relieve the driver of an emergency vehicle or ambulance from the duty to comply with ORS 811.155 (Failure to stop for bus safety lights). [1983 c.338 §757; 1985 c.16 §362; 1995 c.209 §5]



820.320 Illegal Operation of Emergency Vehicle or Ambulance

1. A person commits the offense of illegal operation of an emergency vehicle or ambulance if the person is the driver of an emergency vehicle or ambulance, and the person violates any of the following:
 - (a) The driver of an emergency vehicle or ambulance may only exercise privileges granted under ORS 820.300 (Exemptions from traffic laws) when responding to an emergency call or when responding to, but not upon returning from, an emergency. The driver of an emergency vehicle may exercise privileges granted under ORS 820.300 (Exemptions from traffic laws) when in pursuit of an actual or suspected violator of the law.
 - (b) The driver of an emergency vehicle or ambulance must use a visual signal with appropriate warning lights when the driver is exercising privileges granted under ORS 820.300 (Exemptions from traffic laws).
 - (c) In addition to any required visual signal, the driver of an emergency vehicle or ambulance must make use of an audible signal meeting the requirements under ORS 820.370 (Ambulance or emergency vehicle sirens) when the driver is proceeding past a stoplight or stop sign under privileges granted by ORS 820.300 (Exemptions from traffic laws) (1)(b).
 - (d) A driver of an emergency vehicle or ambulance who is exercising privileges granted under ORS 820.300 (Exemptions from traffic laws) by parking or standing an emergency vehicle in disregard of regulation or ordinance prohibiting that parking, stopping, or standing, shall not use the audible signal.
 - (e) In exercising the privileges under ORS 820.300 (Exemptions from traffic laws) (1)(e) relating to buses and bus safety lights, the driver of an emergency vehicle or ambulance must first stop the vehicle and then must:
 - (A) Determine that no passengers of the bus remain on the roadway; and
 - (B) Proceed with caution.
 - (f) In proceeding past any stoplight or stop sign under the privileges granted by ORS 820.300 (Exemptions from traffic laws), the driver of an emergency vehicle or ambulance must slow down as may be necessary for safe operation.
 - (g) The driver of an emergency vehicle or ambulance must not exceed any designated speed limit to the extent that endangers persons or property.



2. The driver of an emergency vehicle that is operated as an emergency police vehicle is not required to use either visual signal or the audible signal as described in this section to exercise the privileges granted in ORS 820.300 (Exemptions from traffic laws) when it reasonably appears to the driver that the use of either or both would prevent or hamper the apprehension or detection of a violator of a statute, ordinance or regulation.
3. The offense described in this section, illegal operation of an emergency vehicle or ambulance, is a Class B traffic violation. [1983 c.338 §759; 1985 c.16 §364; 1995 c.209 §1]

LIABILITY ISSUES

The following are several examples of restrictions and guidelines for emergency vehicle operation further defined by our Courts through case law. The case decisions discussed are primarily from operations during police pursuits and during emergency runs to incidents, and nearly every case follows similar logic in determining the levels of liability and responsibility be placed on officers during these activities. While the Courts have generally been supportive of the initiation of police pursuits and emergency runs, they have also determined officers have an opportunity to adapt during police activity lasting several seconds to minutes, and unlike some use of force decisions that occur in split seconds, expect that officers to make increasingly better decisions as the timeline extends.



UNITED STATES SUPREME COURT DECISIONS

Graham v. Connor, 490 U.S. 386 (1989)

The Supreme Court vacated and remanded a 4th Circuit decision relating to the use of force. This case has established guiding principles for officers to follow when determining the reasonable amount of force necessary to affect Fourth Amendment seizures.

This particular case involved a diabetic, suspicious activity at a convenience store, an investigatory stop, and force. Following is a quotation from the summary of the incident.

“Petitioner Graham, who has diabetes, asked his friend, Berry, to drive him to a convenience store to purchase orange juice to counteract the onset of an insulin reaction. Upon entering the store and seeing the number of people ahead of him, Graham hurried out and asked Berry to drive him to a friend's house instead. Respondent Connor, a city police officer, became suspicious after seeing Graham hastily enter and leave the store, followed Berry's car, and made an investigative stop, ordering the pair to wait while he found out what had happened in the store. Respondent backup police officers arrived on the scene, handcuffed Graham, and ignored or rebuffed attempts to explain and treat Graham's condition. During the encounter, Graham sustained multiple injuries. He was released when Conner learned that nothing had happened in the store.”

Following are several selected quotes from the opinion delivered by Chief Justice William Rehnquist.

“This case requires us to decide 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 his person. We hold that such claims are properly analyzed under the Fourth Amendment's "objective reasonableness" standard, rather than under a substantive due process standard.”



“Determining whether the force used to effect a particular seizure is “reasonable” under the Fourth Amendment requires a careful balancing of “the nature and quality of the intrusion on the individual’s Fourth Amendment interests” against the countervailing governmental interests at stake.”

“Our Fourth Amendment jurisprudence has long recognized that the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.”

“Because “[t]he test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application; however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he 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”).”

“The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”

Brower v. County of Inyo, 489 U.S. 593 (1989)

The Supreme Court reversed and remanded a 9th Circuit decision relating to Fourth Amendment seizure issues regarding the amount of force being applied to affect a seizure. This particular case involved a high-speed police pursuit of a stolen vehicle being operated by Brower, the construction of a roadblock, and the subsequent crash of the vehicle into the roadblock. Brower died as a result of injuries sustained in the crash. The case was filed, claiming excessive force was utilized to seize Brower.

Following are some selected quotes from the opinion of the Supreme Court delivered by Justice Antonin Scalia.

“On the night of October 23, 1984, William James Caldwell (Brower) was killed when the stolen car that he had been driving at high speeds for approximately 20 miles in an effort to elude



pursuing police crashed into a police roadblock. His heirs, petitioners here, brought this action in Federal District Court under 42 U.S.C. § 1983, claiming that respondents used "brutal, excessive, unreasonable and unnecessary physical force" in establishing the roadblock, and thus effected an unreasonable seizure of Brower, in violation of the Fourth Amendment.

Petitioners alleged that "under color of statutes, regulations, customs, and usages," respondents (1) caused an 18-wheel tractor-trailer to be placed across both lanes of a two-lane highway in the path of Brower's flight, (2) "effectively concealed" this roadblock by placing it behind a curve and leaving it unilluminated, and (3) positioned a police car, with its headlights on, between Brower's oncoming vehicle and the truck, so that Brower would be "blinded" on his approach. Petitioners further alleged that Brower's fatal collision with the truck was "a proximate result" of this official conduct.

The District Court granted respondents' motion to dismiss the complaint for failure to state a claim on the ground (insofar as the Fourth Amendment claim was concerned) that "establishing a roadblock [was] not unreasonable under the circumstances." A divided panel of the Court of Appeals for the Ninth Circuit affirmed the dismissal of the Fourth Amendment claim on the basis that no "seizure" had occurred."

As the initial part of Justice Scalia's opinion suggests, the 9th Circuit ruled in favor of the County of Inyo in a divided panel.



Nearing the end of Justice Scalia's opinion, we get several of the following statements.

"Seizure" alone is not enough for § 1983 liability; the seizure must be "unreasonable." Petitioners can claim the right to recover for Brower's death only because the unreasonableness they allege consists precisely of setting up the roadblock in such manner as to be likely to kill him. This should be contrasted with the situation that would obtain if the sole claim of unreasonableness were that there was no probable cause for the stop. In that case, if Brower had had the opportunity to stop voluntarily at the roadblock, but had negligently or intentionally driven into it, then, because of lack of proximate causality, respondents, though responsible for depriving him of his freedom of movement, would not be liable for his death."

"Thus, the circumstances of this roadblock, including the allegation that headlights were used to blind the oncoming driver, may yet determine the outcome of this case."

"The complaint here sufficiently alleges that respondents, under color of law, sought to stop Brower by means of a roadblock, and succeeded in doing so. That is enough to constitute a "seizure" within the meaning of the Fourth Amendment. Accordingly, we reverse the judgment of the Court of Appeals and remand for consideration of whether the District Court properly dismissed the Fourth Amendment claim on the basis that the alleged roadblock did not affect a seizure that was "unreasonable."

On the basis of this Supreme Court decision, it is clear that officers and agencies involved in making decisions to terminate pursuits with force should continue to look to the guidelines established by *Graham v Connor* in use of force decisions. It is also clear that roadblocks in general, and certainly "dead man" roadblocks such as the one constructed in this case will require the clear articulation of facts to support the force implied with this tactic.



Sacramento v. Lewis, 523 U.S. 833 (1998)

The Supreme Court looked at a 9th Circuit ruling on a case where the question to consider was “Are the Fourteenth Amendment's substantive due process protection, or the Fourth Amendment's guarantee against illegal seizure, violated by a police officer who, in the course of pursuing a subject, causes their death through deliberate or reckless indifference?”

The facts of the situation involve Philip Lewis, a passenger on a motorcycle that was involved in a high-speed police chase, and James Smith, a deputy from Sacramento County that was involved in the pursuit. The chase ended when the motorcycle's driver lost control and tipped the bike over, hurling both the rider and passenger Lewis to the pavement. Smith was unable to stop his car in time and skidded into Lewis, who sustained fatal injuries from the crash. Lewis's parents filed a lawsuit accusing Smith and the Sacramento County Sheriff's Department of “deliberate and reckless conduct,” which ultimately deprived their son of his due process right to life and his protection against unconstitutional seizure.

In a unanimous decision, the Court first ruled that the Fourth Amendment's reasonableness standards prevented its illegal seizure protections from applying to high-speed police chases. Such incidents are merely pursuits and do not constitute actual seizures, especially if they fail due to the death of the subject. Moreover, addressing the Fourteenth Amendment challenge, the Court held that Smith's actions, while perhaps unwise, were not intended to injure or kill those pursued. As such, the negligent infliction of harm during a police chase does not violate due process since it is not an unexpectedly shocking or egregious result under the circumstance.

The result of the Court's ruling was that for a case of this nature to be filed in a Federal Court (based on the violation of constitutionally protected right), the standard of proof to be applied is one that “shocks the judicial conscience.”

With specific regard to the standard of proof discussion, one significant issue the US Supreme Court mentioned was that this type of case should have been filed in a State Court. A State Court filing would be based on the constitutional protections of the state's constitution, and the standard of proof may be much lower in one of these courts.



Justice David H. Souter wrote the Court’s majority opinion. The following are a few quotes from Justice Souter’s opinion.

“The issue, in this case, is whether a police officer violates the Fourteenth Amendment’s guarantee of substantive due process by causing death through deliberate or reckless indifference to life in a high-speed automobile chase aimed at apprehending a suspected offender. We answer no, and hold that in such circumstances only a purpose to cause harm unrelated to the legitimate object of arrest will satisfy the element of arbitrary conduct shocking to the conscience, necessary for a due process violation.”

*“The Fourth Amendment covers only “searches and seizures,” neither of which took place here. No one suggests that there was a search, and our cases foreclose finding a seizure. We held in *California v. Hodari D.*, 499 U.S. 621, 626 (1991), that a police pursuit in attempting to seize a person does not amount to a “seizure” within the meaning of the Fourth Amendment. And in *Brower v. County of Inyo*, 489 U.S. 593, 596–597 (1989), we explained: “that a Fourth Amendment seizure does not occur whenever there is a governmentally caused termination of an individual’s freedom of movement (the innocent passerby), nor even whenever there is a governmentally caused and governmentally desired termination of an individual’s freedom of movement (the fleeing felon), but only when there is a governmental termination of freedom of movement through means intentionally applied.”*

“Rules of due process are not, however, subject to mechanical application in unfamiliar territory. Deliberate indifference that shocks in one environment may not be so patently egregious in another, and our concern with preserving the constitutional proportions of substantive due process demands an exact analysis of circumstances before any abuse of power is condemned as conscience-shocking. What we have said of due process in the procedural sense is just as true here: The phrase [due process of law] formulates a concept less rigid and more fluid than those envisaged in other specific and particular provisions of the Bill of Rights. Its application is less a matter of rule. Asserted denial is to be tested by an appraisal of the totality of facts in a given case. That which may, in one setting, constitute a denial of



fundamental fairness, shocking to the universal sense of justice, may, in other circumstances, and in the light of other considerations, fall short of such denial.”

“Regardless whether Smith’s behavior offended the reasonableness held up by tort law or the balance struck in law enforcement’s own codes of sound practice, it does not shock the conscience, and petitioners are not called upon to answer for it under §1983.”

UNITED STATES FEDERAL DISTRICT COURT DECISIONS

Biscoe v. Arlington County, VA, 738 F.2d 1352 (1984)

This particular case is often referred to as a “Landmark Case,” where the issues of liability during police pursuits can be attached to police officers, agencies, and governmental bodies. Prior to this Federal District Court decision, very few instances of liability being attached to pursuit existed. This case involves the liability of Arlington County, Virginia, and one of its police officers, for serious injuries to an innocent bystander arising out of a high-speed police pursuit of a suspected bank robber into the District of Columbia. Issues of immunity and standards of conduct expected of law enforcement were the primary matters examined in this case.

The Court of record held a jury trial, and the jury found in favor of the plaintiff, awarding him \$4,000,000 and his wife an additional \$1,000,000. The Court of Appeals heard the case and found with the plaintiffs in nearly every part of the complaint.

The following are several quotes from the opinion filed by Circuit Judge Harry T. Edwards, United States Court of Appeals for the District of Columbia Circuit, including a synopsis of the facts as presented during the trial.

“Late in the morning of September 29, 1979, Lyntellus Brooks and Orlando Durantes robbed the Arlington, Virginia branch of the Washington-Lee Savings & Loan Association. Shortly thereafter, an alarm was broadcast to all Arlington County Police Department (“ACPD”) units; some of these units went to the robbery scene, and others to probable escape routes in the County. Police radio broadcasts alerted units to look for the persons who had been involved the



previous day in a robbery of the Potomac Savings and Loan Association and informed them that the car used in that robbery was a green Dodge Dart or Plymouth Duster, with a District of Columbia license plate.

Officer Michael Kyle responded to the alert by positioning his cruiser eastbound along Route 50. About nine minutes after the initial bank alarm transmission, he spotted a light green car driven by a man who resembled pictures of a suspect from the Potomac bank robbery that Kyle had seen the day before. A woman was seated beside the driver. Kyle radioed his suspicion regarding the driver and began to follow the green car along Route 50, with each car traveling within the speed limit. Kyle followed the car onto the Theodore Roosevelt Bridge (which connects Virginia with the District of Columbia), pulled in behind it, and turned on his overhead lights and siren. The car took the E Street Ramp off the Bridge into the District of Columbia, slowed to a stop in the breakdown lane of the ramp, and came to rest three car lengths in front of the police car. Before the stop, the ACPD dispatcher broadcast that the District of Columbia ("D.C." or "District") and United States Park Police were being notified. Also, before the stop, Kyle radioed that the car appeared to have a third passenger--another woman--in the back seat

Once stopped, Brooks, the driver of the car, immediately got out of his vehicle and walked toward Kyle with his hands in the air, leaving his car door open. Kyle got out of his cruiser, with his portable radio in hand, and notified the dispatcher that he had made the stop. Whether the officer also had his revolver drawn at this time was a matter of considerable dispute at trial. Kyle turned Brooks around, walked him back to his car, had him put his hands on the trunk, and ordered him to stay there.

According to plaintiffs' evidence, Kyle did not tell Brooks to turn off the car motor, throw his keys to the ground, or shut the car door; he did not instruct him to lie on the ground, and he did not handcuff or frisk him. Instead, the officer turned to the passenger side of the car to look in the back seat, and, with his hand radio, broadcast his location and requested a clothing description of the bank robbery suspects. While Kyle was so preoccupied--leaving Brooks wholly unattended and unrestrained--Brooks ran to his side of the car, jumped in and drove



off. Brooks testified that he was able to make a quick escape because he had left the engine running and the car door ajar.

Kyle informed his dispatcher of the departure and returned to his car. With his lights flashing and his siren blaring, he pursued Brooks down the E Street Expressway and through the tunnel. Kyle radioed that a fourth passenger in the car was shooting at him, and also that, "I don't know where I'm at." Brooks, who by now was well within the city limits of the District of Columbia and traveling at more than 70 to 80 m.p.h., drove through a red light at 20th Street and sped toward the 19th and E Street intersection. The speed limit over this distance was 30 m.p.h., until one and a half blocks before the intersection, at which point it dropped to 25 m.p.h. Kyle, who knew neither his speed nor the speed limit, followed. The plaintiffs contend that the officer averaged 55.38 m.p.h. over this distance and that his speed during the chase increased to 80 m.p.h. Defendants dispute this assertion but do not deny that Kyle was traveling well in excess of the speed limits.

As Brooks approached the intersection, he saw a car traveling south on 19th Street into the intersection. Brooks' car struck that vehicle and careened off into the southeast corner of the intersection, where it pinned a pedestrian, Alvin Biscoe, against a light pole. The impact, which knocked Biscoe in the air, severed one of his legs and severely injured the other, ultimately requiring amputation.

Officer Kyle, who had by then arrived on the scene, saw Brooks flee from his car. Kyle removed his shotgun and followed. When Kyle reached Brooks, the suspect had been restrained by pedestrians. Kyle hit Brooks on the right side of his head with the butt of the shotgun. Soon thereafter, other police from various jurisdictions, as well as the United States Park Police helicopter, arrived on the scene.

Alvin Biscoe and his wife Eleanor filed a suit for damages against numerous parties, including Officer Kyle, Arlington County, and Brooks. They asserted that from the time Kyle first stopped Brooks' car on the E Street Ramp in the District of Columbia, the officer committed violations of a series of generally accepted police standards--in particular, in his conduct of the felony



stop and the high-speed pursuit--which resulted in the accident. Moreover, they claimed that Officer Kyle violated Arlington County regulations that specifically prohibit its officers from engaging in high-speed chases--defined as greater than 20 m.p.h. above the speed limit--in the District of Columbia.¹ In addition, they alleged that Arlington County's negligent training and supervision of Officer Kyle were a cause of the accident that injured Alvin Biscoe. After an 11-day trial, a jury returned a verdict finding that defendant Kyle was negligent in his conduct of the felony stop on the bridge and negligent in his high-speed pursuit of Brooks' vehicle, and that his employer, Arlington County, was similarly liable on a theory of respondeat superior. The jury also found that defendant Arlington County was negligent in its training and supervision of Kyle, and that defendant Brooks was negligent as well. The jury additionally found that all defendants' acts and omissions proximately caused the injuries to the plaintiffs. It awarded \$4 million to Alvin Biscoe and \$1 million to Eleanor Biscoe; the award to Eleanor Biscoe was reduced on remittitur to \$350,000

"Under existing precedent in this Circuit, we have no doubt that the activities at issue here--supervising and instructing officers, conducting a felony stop, and conducting a felony pursuit--are ministerial, not discretionary, acts. They involve day-to-day operational matters, not planning and policy. Thus, addressing the first of these activities, supervision, and instruction, it has been aptly noted that from the very nature of these activities, it is clear that they do not involve the kind of policy-formulating, judgment-making processes encompassed by the term "discretionary." Once the decisions have been made to have a police department, to organize it in a particular way, and to hire a specific individual to be a member of that department, the acts of training, instructing, supervising, and controlling the individual officer are merely "ministerial."

"Similarly, regardless of whether the initial decision of a police officer to stop or pursue a car is ministerial or discretionary, a police officer's execution of such activities is ministerial. This is especially so where, as here, the officer is constrained both by regulations and clearly established policy and standards, about which experts can, and have testified. The judgment that limits must be imposed--as for example, on the speed of a vehicle in hot pursuit--indicates that the ACPD already had made the decision to limit the officer's exercise of discretion;



imposition of such limits also suggests that effective law enforcement would not be hindered by enforced adherence to such regulations. Similarly, established procedures for the conduct of a felony stop, once the stop has been made, curtail an officer's need or opportunity to make policy decisions on the scene.”

“Accordingly, we conclude that the particular acts of which plaintiffs complain are ministerial and that both Officer Kyle and the County were properly found to be liable for damages.”

Ultimately this case established a higher standard of conduct for police drivers involved in pursuits and mandated that the benefits of immediate apprehension must be weighed against the risks of pursuit. Wording to the effect will be found in nearly every defensible pursuit policy in existence.

SEEKAMP v. MICHAUD, 109 F.3d 802, 1997

This is a case involving a police pursuit and a roadblock that was used to terminate the pursuit. It is an interesting contrast to the prior roadblock case discussed in this manual (*Brower v Inyo*). In this situation, the court affirmed the judgment of the lower court, finding on behalf of the defendants (Officer Michaud and the Maine State Police, that the Fourth Amendment rights of the plaintiff (Seekamp) were not violated and that the case should be dismissed on summary judgment.

BACKGROUND (*From the Case Brief*)

The material facts are not in dispute. At approximately 1:00 a.m. on July 14, 1994, Seekamp left his parents' residence in Scarborough, Maine, for the asserted purpose of picking up the pieces of his former life in Arkansas, where his relationship with a girlfriend and his career in the United States Air Force was abruptly ended by an automobile accident in April 1993, which left him with a brain injury. As Seekamp was proceeding south through a 50-m.p.h. zone on Route 1, his Chevrolet Monte Carlo was clocked at 63 miles per hour by Scarborough Police Sergeant Eugene O'Neill. After Seekamp failed to heed Sergeant O'Neill's signal to stop, O'Neill followed him into Saco, where local police units joined the pursuit. Undeterred, Seekamp not only ignored the pursuing police vehicles but drove through the Maine Turnpike toll plaza at Saco, and onto a southbound lane, without stopping.

Alerted by Sergeant O'Neill, the MSP assumed further responsibility for the pursuit after learning that the driver of the Monte Carlo had eluded a police officer-a felony under Maine law. Situated farther



south near the Biddeford exit, MSP Trooper Ronald Michaud took up the pursuit at approximately 1:35 a.m. In an effort to force Seekamp to a stop, Trooper Michaud attempted a “rolling roadblock” by driving in front of the Monte Carlo then decelerating to force Seekamp to slow as well. Michaud soon abandoned the rolling roadblock when Seekamp responded with reckless attempts to get around the police cruiser.

At approximately 1:45 a.m., Trooper Michaud received a radio dispatch to the effect that Seekamp's father had advised that his brain-injured son was operating the Monte Carlo but was unarmed and neither suicidal nor under the influence of alcohol or drugs. Trooper Michaud considered the information both stale and unverifiable because Seekamp, Sr., could not have known what happened to his son after leaving the family home some 45 minutes earlier.

Meanwhile, MSP Sergeant Steven Beal and MSP Trooper Thomas Arnold had joined the pursuit north of the Wells exit. During this phase, Seekamp continued his erratic driving and was clocked by Trooper Michaud at speeds up to 97 miles per hour. About the same time and at Trooper Michaud's request, MSP Sergeant Beal directed MSP Trooper Larry McAfee to establish a roadblock north of the York toll plaza.

The roadblock was set up approximately 800 feet north of the York toll plaza, at the end of a 1500-foot straightaway. First, Trooper McAfee commandeered a flatbed tractor-trailer unit loaded with lumber sheathed in white plastic and directed that it be parked across the three southbound travel lanes, with its cab at the guardrail. Once in place, the tractor-trailer unit extended almost entirely across the southbound travel lanes. McAfee completed the blocking of the southbound travel lanes by parking his police cruiser at the rear of the tractor-trailer unit, with its headlights pointing north in the direction from which Seekamp would be approaching.

After turning on the cruiser's headlights, blue lights, and flashers, McAfee directed other tractor-trailers to park along the breakdown lane parallel to the blocked travel lanes. A fifty-foot gap was left between two of the tractor-trailer units parked in the breakdown lane, to permit vehicular traffic to proceed onto the breakdown lane and around the roadblock at slow speed, with police assistance. The headlights



of the tractor-trailer unit at the northern end of the fifty-foot gap illuminated the avenue of vehicular egress along the breakdown lane.

The entire roadblock area was brightly illuminated by overhead street lights, the lights from Trooper McAfee's cruiser, and the headlights of the commandeered tractor-trailer blocking the southbound travel lanes. In addition, upon arrival at the roadblock site to assist Trooper McAfee, MSP Trooper Kevin Curran parked his cruiser in a southbound travel lane with its flashers on and its headlights directed at the roadblock as well.

What with the bright white plastic sheathing around the lumber on the tractor-trailer unit blocking the southbound travel lanes, the roadblock area was visible from approximately 1500 feet along the straightaway approaching the York toll plaza. As the Monte Carlo approached the roadblock, it appeared to brake several times yet failed to come to a complete stop even though the pursuing police cruisers had slowed to allow Seekamp room to maneuver. Ultimately, it collided with the rear axle of the tractor-trailer unit parked across the southbound travel lanes, causing Seekamp a hairline fracture of the hip and a severe facial laceration.

Seekamp brought suit under 42 U.S.C. § 1983 against the subordinate MSP defendants, alleging Fourth Amendment violations; and against MSP Chief Alfred Skofield, Jr., for failure to provide adequate training and supervision. The district court awarded summary judgment to all defendants on the alternative grounds that the roadblock was reasonable, and all defendants were entitled to qualified immunity.



DISCUSSION- Did the Roadblock Effect a Fourth Amendment Seizure?

“The defendants contend that the roadblock did not constitute a Fourth Amendment seizure because it permitted vehicular traffic to maneuver through the fifty-foot opening designedly left between two of the tractor-trailer units parked in the breakdown lane to the right of the westernmost, southbound travel lane. “

“Almost a decade ago, the Supreme Court dealt with a vehicular collision involving a so-called “deadman's roadblock,” designed and constructed to block off an entire roadway by placing an unilluminated tractor-trailer unit just beyond a curve and locating a police cruiser directly in front of the roadblock with its headlights aimed at the oncoming target vehicle, thereby blinding the driver to the impassable highway obstruction just around the curve.” *Brower v. Inyo County*

“Brower nevertheless enunciates a rule that renders its egregious facts largely immaterial to the required Fourth Amendment inquiry into whether a roadblock “seizure” has occurred.”

“Writing for the Court, Justice Scalia explained that a Fourth Amendment seizure occurs “only when there is a governmental termination of freedom of movement through means intentionally applied, explaining that “it [is] enough for a seizure that a person be stopped by the very instrumentality set in motion or put in place to achieve that result.”

“A roadblock is not just a significant show of authority to induce a voluntary stop, but it is designed to produce a stop by physical impact if voluntary compliance does not occur. It may well be that respondents here preferred, and indeed earnestly hoped, that Brower would stop on his own, without striking the barrier, but we do not think it practicable to conduct such an inquiry into subjective intent. Nor do we think it possible, in determining whether there has been a seizure in a case such as this, to distinguish between a roadblock that is designed to give the oncoming driver the option of a voluntary stop (e.g., one at the end of a straightaway), and a roadblock that is designed precisely to produce a collision (e.g., one located just around a bend).”



“Thus, for purposes of determining whether the roadblock, in this case, worked a Fourth Amendment seizure under *Brower*, the controlling consideration is not whether it was brightly illuminated, located at the end of a long straightaway, or afforded a restrictive avenue of egress. Rather, it constituted a Fourth Amendment seizure because *Seekamp* “was meant to be stopped by the physical obstacle of the roadblock-and he was so stopped.”

“The *Brower* standard for determining whether a Fourth Amendment seizure has occurred applies whenever “there is a governmental termination of freedom of movement through means intentionally applied.” Thus, for example, if the MSP troopers had resorted to some other method, such as the use of spike mats, a Fourth Amendment seizure would have occurred provided *Seekamp* was “stopped by the very instrumentality set in motion or put in place to achieve that result.”

ONOSSIAN v BLOCK, 175 F.3d 1169 (9th Cir. 1999)

This case is an interesting follow-up case to the decision rendered in *Lewis V Sacramento County* that we previously discussed. In this case, the Ninth Circuit Court of Appeals addressed the application of *Lewis* to injured bystanders rather than suspects and reached a similar result. It relied upon the observation in the *Lewis* decision that “A police officer deciding whether to give chase must balance on the one hand the need to stop a suspect and show that flight from the law is no way to freedom, and, on the other, the high-speed threat to everyone within stopping range, be they suspects, their passengers, other drivers, or bystanders.” (Emphasis added by *Lewis* court.) The Ninth Circuit concluded, “if a police officer is justified in giving chase, that justification insulates the officer from constitutional attack, irrespective of who might be harmed or killed as a consequence of the chase.”

BACKGROUND (TEXT FROM COURT DECISION):

On the evening of August 17, 1991, Scott Reed passed defendant Los Angeles County Sheriff’s deputies Finn and Yates in his hardtop Oldsmobile “muscle car,” moving in and out of traffic at about 60 miles per hour on busy Santa Monica Boulevard in Los Angeles. Finn and Yates followed Reed, who continued to drive erratically and recklessly. Finn, who was driving the patrol car, turned on his siren and lights and gave chase. Rather than stopping, Reed attempted to elude Finn and Yates, maintaining speeds of up to 60 or 70 miles an hour.



Defendant deputy Thomas, who was monitoring the chase on his patrol car radio, saw Reed's Oldsmobile run a red light on Melrose Avenue. Finn and Yates had not been able to keep up with Reed, so Thomas took up the pursuit. Three or four seconds later, Reed crashed into the Onossians' vehicle. The entire pursuit lasted about a minute. The deputies' speeds in the two patrol cars never exceeded 45 miles per hour. The closest either car came to Reed's car was a distance of 100 yards.

The Onossians were severely injured. They sued Finn, Yates, Thomas, and various Los Angeles County officials under 42 U.S.C. § 1983, seeking damages for violation of their Fourteenth Amendment due process rights. The district court granted defendants' motion for summary judgment, using this court's then-standard for high-speed chases set forth in *Lewis v. Sacramento County*, 98 F.3d 434 (9th Cir.1996). Before we heard the Onossians' appeal, the United States Supreme Court reversed our decision in *Lewis v. Sacramento County*. *County of Sacramento v. Lewis*, 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998).

The Supreme Court held in *Lewis* that when injury or death results from a high-speed police chase, “only a purpose to cause harm unrelated to the legitimate object of arrest will satisfy the element of arbitrary conduct shocking to the conscience, necessary for a due process violation.”

“[W]e hold that high-speed chases with no intent to harm suspects physically or to worsen their legal plight do not give rise to liability under the Fourteenth Amendment, redressible by an action under § 1983.”

DISCUSSION (TEXT FROM COURT DECISION):

We must decide two questions in this case. First, does the *Lewis* test apply not only to harm caused to those pursued in a high-speed chase but also to harm caused to other drivers? In *Lewis* itself, two boys on a motorcycle were pursued by a police patrol car, and one of the boys was accidentally killed. The words of the *Lewis* holding, read narrowly, apply only to suspects pursued by the police. For example, in the language quoted above, the Court referred to harm to “suspects” rather than harm to people generally.



Similarly, the justification for the Lewis test, understood narrowly, might also apply only to suspects. That is, Lewis establishes a high threshold that must be overcome before someone injured in a police chase can show a due process violation. It might be contended that the duty of police toward innocent people is greater than to fleeing suspects so that another driver or an innocent bystander should be able to recover from the police upon a lesser showing of recklessness or misconduct than that required by Lewis' "shock-the-conscience" test.

We find that such a narrow interpretation does not fully capture the meaning of Lewis. At several points in the Court's opinion, the duty of the pursuing police officer is defined generally, without specific reference to the suspect being pursued. Perhaps most telling is the Court's description of the dilemma of a police officer who must make a "split-second" decision whether to pursue a suspect: "A police officer deciding whether to give chase must balance on the one hand the need to stop a suspect and show that flight from the law is no way to freedom, and, on the other, the high-speed threat to everyone within stopping range, be they suspects, their passengers, other drivers, or bystanders."

As we read the Court's opinion, if a police officer is justified in giving chase, that justification insulates the officer from constitutional attack, irrespective of who might be harmed or killed as a consequence of the chase.

We have already come close to answering the question of a police officer's obligation to non-suspects in a high-speed chase. In *Moreland v. Las Vegas Metropolitan Police Dept.*, 159 F.3d 365 (9th Cir.1998), we held that the Lewis test applied where police killed a bystander in a gunfight outside a bar: The question we face today is whether this newly minted explanation of the 'shocks the conscience' standard also controls in cases where it is alleged that an officer inadvertently harmed a bystander while responding to a situation in which the officer was required to act quickly to prevent an individual from threatening the lives of others. We conclude that it does.

It is a small step from applying Lewis to a bystander harmed in a gunfight to applying it to another driver harmed in the very situation in which the Lewis test originated. We, therefore, hold that for the Onossians to show that their due process rights have been violated, they must show that the behavior of the police in this case "shocks the conscience."



SUMMARY:

The court concluded as a matter of law that the conduct of the officer in Onossian did not “shock the conscience” as the Supreme Court had used that phrase in Lewis. Quoting the conclusion of the Court:

“Comparing the facts in this case to those in Lewis, it is clear that no reasonable trier of fact could find that defendants' actions shock the conscience. There is no evidence that deputies Finn, Yates, and Thomas intended to cause harm to anyone. Indeed, their actions support precisely the opposite conclusion, for they were attempting to remove a dangerous driver from the streets. Especially convincing is the fact that Reed was endangering the public even before the chase began. It is possible, perhaps even likely, that Reed would have collided with the Onossians or someone else, whether or not the police had been chasing him.”

OREGON COURT DECISIONS

Lowrimore v. Dimmitt is an Oregon Court of Appeals remand from 1996. This case was tried in Marion County Circuit Court then appealed. The Court of Appeals said officers must evaluate their justification for a vehicle pursuit in an ongoing fashion.

The case involves the stop of a known suspect and a high-speed pursuit through a residential area. The pursuit terminated in a crash resulting in injuries to an uninvolved third party. The Court of Appeals looked at the concept of Discretionary Immunity with regard to pursuit in this matter.

Ultimately the Court indicates that while an officer is protected by discretionary immunity from the decision to initiate enforcement action on a traffic violation, the officer is not protected from a decision to continue the pursuit. Original justification does not provide a blanket authority to continue if the risks could reasonably be seen to be greater than the offense warrants.

LEGAL ISSUE SUMMARY



When the relevant case laws and the Oregon Revised Statutes are carefully examined and reviewed, the message from the Courts and our Legislators is quite clear.

- Officers exercising their privileges in an emergency vehicle, during the performance of their duties, must operate the vehicle both safely and prudently.
- You are required to slow down as may be necessary for safe operation.
- Operators of emergency vehicles are not immune from decisions they make while operating an emergency vehicle.

It is also quite clear from the cases tried in the Federal Circuits, Federal Appellate Courts, and the US Supreme Court, that the cases filed in State Courts will be subject to the statutes and constitution of the state and different standards of proof may be applied.



DRIVING TECHNIQUES

The techniques presented in this manual and during EVO courses instructed both Regionally and at DPSST are based upon the science of driving, and the legal considerations of driving that are discussed in this manual. While there are many methods of steering, braking, accelerating and positioning a vehicle upon the roadways and a large number of them are based upon the same science, the EVO program has adopted the following techniques as “approved techniques” for vehicle operation.

It is the goal of the EVO programs to allow drivers opportunities to develop patterns of behavior behind the wheel that encompass the mental and physical requirements of professional emergency vehicle operations. As Newton’s Third Law of Motion suggests, every action has a reaction. When this law is considered within the context of driving behavior, every decision resulting in an action by a driver has a reaction that is manifested in the movement of weight around the center of gravity in the vehicle.

GENERAL BODY POSITIONING

Ergonomics is defined as “an applied science concerned with designing and arranging things people use so that the people and things interact most efficiently and safely.” (*Merriam-Webster*)

In practical application, ergonomics is designing the job to fit the worker, not forcing the worker to fit the job. When we apply this thinking to a driver and a vehicle, we must set up our “office” to fit the driver. When the emphasis is not on this approach, and we force the driver to fit the vehicle, everything from comfort to performance is adversely impacted, and overall vehicle control suffers.

The correct seating position allows the driver to have a better grip on the steering wheel and better access to the brake and accelerator pedals. Seating positions that seem “cool” will most likely inhibit the driver during emergency or evasive maneuvering.



Getting in the Vehicle/Adjusting the Seat

1. Adjust the height. Try to sit as high up in the car as possible to get the best view of the road and possible dangers.
2. Check the proper distance from the pedals. Have your left foot propped flat against the footrest to push yourself against the seat. This allows the driver to be firmly planted in the seat when cornering.
3. Extend your arm to place your wrist on top of the steering wheel. Your wrist should rest on the top part of the wheel. The driver should be able to grasp the steering wheel with a small bend in the arms, allowing for good steering input and movement in each direction.
4. Properly support your back. Shoulders should rest comfortably against the backrest. Most drivers slouch in the seat with only the lower back supported by the backrest. This makes it very tiring to drive over long periods because the weight of the upper-body is resting on the hands of the driver, which are on the steering wheel.



EYE PLACEMENT

The first component of eye placement begins with the effectiveness of the driver's eyes from a physiological basis. It is important to recognize that every driver will have certain advantages or disadvantages simply from genetics.

VISUAL ACUITY

Visual acuity is a measure of the spatial resolution of the visual processing system. Visual acuity depends upon how accurately light is focused on the retina, the integrity of the eye's neural elements, and the interpretative faculty of the brain. Some people may suffer from other visual problems, such as color blindness, reduced contrast, mild amblyopia, cerebral visual impairments, inability to track fast-moving objects, or one of many other visual impairments and still have "normal" visual acuity. Thus, "normal" visual acuity by no means implies normal vision.



The good news is that drivers can improve their visual acuity. Athletes frequently work on exercises designed to improve focus flexibility, peripheral awareness, depth perception, and dynamic visual acuity.

Focus Flexibility

This is the ability of a driver to change focus from a distant object to a close object (or vice-versa). Drivers should constantly be scanning the driving environment, and the focal points necessarily are constantly changing and evolving.

Drivers can improve their focus flexibility by constantly switching visual focus from close objects to those farther away and back to other objects at varying distances. This does not even require the driver to be in a vehicle and moving down the roadway. Simply shifting focus from a book to a photo on a wall to a scene outside of the window in rapid succession and focusing on what is observed in each of those areas will help to develop flexibility.

While operating a vehicle, the driver should be looking in the distance, scanning back towards the vehicle, looking to the sides, moving in closer to the vehicle, and continuing this process throughout the driving process. Drivers can avoid eye strain created by “staring” into the same area for prolonged periods of time using this method as well.

Peripheral Awareness

Awareness of activity in the periphery is a skill that will not only enhance driving safety but will increase the safety of public safety personnel outside of vehicle operations. This is a skill that must be developed from a simple “officer safety” point of view.

To improve your peripheral awareness, try watching television with your head turned to the left or the right and observing things on the screen carefully and mentally describing the activity. Practice this with your head turned both to the left and the right to develop the periphery in both eyes.



Depth Perception

This component of visual acuity is the ability of a driver to make spatial judgments. Things such as closing speeds, approaching barriers or obstacles, or snow depth are examples of a few spatial judgments a driver makes. While genetic disposition of a driver (how close the pupils are together, for example) determine depth perception to some degree, drivers can again improve their abilities and learn their limitations.

A good method of improving depth perception is to take a straw and a BB. Hold the straw and BB in opposite hands and at arm's length from the body. Practice dropping the BB into the straw.

Dynamic Visual Acuity

This measure of visual acuity is the ability of the eye to see objects when both the eye and an object are moving quickly. This is more difficult to practice as movement is required when you are in a driving environment. Drivers can use some sports testing programs when objects and words move rapidly across a screen, and then identification of the objects is required.

VISUAL PERCEPTION

This concept is the ability to interpret the surrounding environment by processing information that is contained in visible light. In a simple context, what does "seeing" something mean to the driver?

Psychologists, neurologists, and others who study the brain and body suggest that visual perception relies on one of two basic processes (Bottom-Up and Top-Down), and these methods of interpreting the data available through the driver's eyes are competing processes.

The importance of understanding these processes is underscored by a few excerpts from an online newsletter published by MEA Forensic Engineers and Scientists, Ltd. In a 2011 article by Jason Droll, Ph.D. (*"Think Fast! The Velocity of Visual Attention in Vehicle Accidents"*), there are several good examples and descriptions of factors influencing driver perception.



“Imagine driving home from work while listening to a radio interview with an actor you can’t quite place. Your spouse calls you on your cell phone, and you answer on your blue tooth headset as the radio plays. Can you pick up the dry cleaning? He sounds like the action star. The blue suit. Was he in that Oscar movie last year? The cleaners by the drug store; use your GPS. Dang, the drug store you just passed. Change lanes. Crunch! How could you not have seen that truck pulling out from the stop sign?”

“Collision hazards are often visible, but not seen, because the driver was not attending to the hazard at the critical time or location. These are not uncommon lapses; 78% of all crashes are estimated to involve driver inattention (Dingus et al., 2006). How can inattention account for such frequent lapses in perception, especially for conspicuous and obviously visible hazards?”

Bottom-Up / Top-Down Processing

“What dictates where we attend and where we look? Visual attention and gaze are guided by two factors.”

“The first are called “bottom-up” low-level visual properties of the environment, such as a bright spot of color or an area of sharp contrast. A flashing hazard light may capture attention in a bottom-up manner and cause the eye to look to the stimulus (Itti & Koch, 2001). Less conspicuous stimuli, such as a stopped car without lights, may not be attended because it does not “pop-out” of the scene.”

“The second way drivers direct their attention and gaze is through “top-down” cognitive goals and task demands, such as when changing lanes or driving on a tight curve. Both tasks require critical visual movements, and drivers typically direct their gaze to predictable key areas at predictable key times.”

“The complexity of driving is evident when bottom-up influences compete for a driver’s attention. For example, when planning a lane change, drivers may shift their gaze from the car they are following to their rear-view and side-view mirrors to look for surrounding cars. If the lead car brakes during this time, the sudden bottom-up onset of bright vehicle lights compete against the top-down task of searching for surrounding cars.”



To read the entire paper on this process, refer to the information in the bibliography.

Ultimately it is the responsibility of the driver to improve visual perception skills and ability. When a driver has active eyes that are constantly gathering data from the driving environment, most immediate demands are reduced to “future” demands – in other words – by seeing and processing data sooner, the surprise is removed. Drivers should develop the ability to become PROACTIVE with their vision.

Eye Placement Considerations

With the background of physiology and the limitations we face as a result of being human beings, it is not important to identify “WHAT” to look for in our driving. Each of the following encompasses visual markers and data the driver should be attempting to identify in the driving environment.

Surface Appraisals

Learning to interpret the actual driving surface is one of the most important tasks a driver must accomplish continuously. The actual driving surface is one of the two main components of grip. As discussed in the section “The Science of Driving” concerning tire contact patches, the roadway is the component that friction from the tire contacts to generate movement.

The following are several examples of what drivers should scan the actual surface of the roadway for and remember the list is by no means all-inclusive.

- Changes in surface type
 - Asphalt
 - Concrete
 - Gravel
 - Dirt
 - Clay



- Changes in the quality/aging of each surface
 - Driving from older and seasoned asphalt onto a new asphalt patch
- Surface Coverings
 - Gravel
 - Dirt
 - Mud
 - Water
 - Snow
 - Ice
- Combinations of surfaces
 - Spots of snow or ice over asphalt
 - Spots of water
- Undulations or depressions in the surface
- Off-camber turns
- Banked turns
- Flat turns
- Amount of improved shoulder space
- Painted lines on roadways
- Wet vs. Dry

Identifying Straight Lines

The stable-platform concept of driving that science demands and that this manual instructs relies upon the driver to identify locations in the driving environment where the vehicle can achieve platform stability. This occurs when the vehicle is able to travel in a straight line, and all of the energy stored in the suspension components is released.

Drivers should always try to be traveling in straight lines. This becomes a complex exercise visually when drivers are in areas with multiple turns, such as mountainous terrain. Learning to identify the straight line will increase the success a driver has with regard to safe and efficient cornering.



The concept of driving lines (paths of travel through corners) will be discussed later in this manual, and in that discussion, the concept of “apexes” will be explained. Drivers must train their eyes to find an apex by locating a straight line. Often this process is reversed, and drivers focus on the roadway looking for the apex of a turn. Drivers should allow the identification of a straight line (a place the vehicle can stabilize) to dictate the location of the apex.

Roadway Hazards

There are times during vehicle operations where hazards in the intended path of travel will be impacted by the vehicle. These hazards can be relatively low-risk such as a small pot-hole or small dead animal in the roadway, or the hazards can be of greater risk to vehicle control and stability such as a large dead animal, washout, or other hazards.

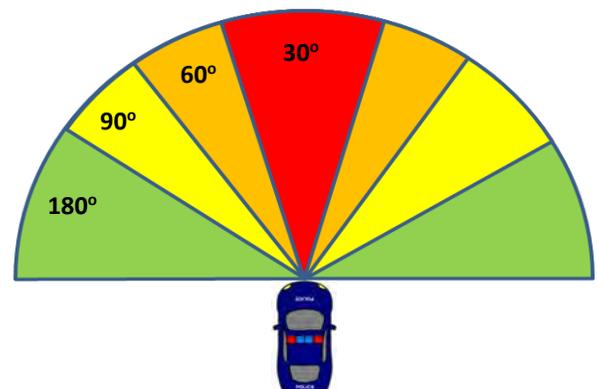
When the driver is faced with the option of either increasing the risk by attempting to avoid the hazard or impacting the hazard itself, early recognition of the potential hazard is a key element to the overall risk the driver will face.

Speed Adjustments

As the speed of the vehicle increases, drivers must begin to scan even farther down the roadway. The perception of speed and depth is critical to success as speed increases, and ***drivers must make the mental adjustment for increased speed operations prior to making the actual adjustment to speed.***

Drivers must continuously scan the environment because the field of vision narrows with the addition of speed and stress. As a driver

increases speeds, the field of vision narrows. A driver enjoys approximately 180° of vision at low speed; however, as speeds reach 80 mph, the field of vision has narrowed to approximately 30°.





Night Adjustments

Night driving presents drivers with extreme problems and must be factored into the decision-making process. Reflective paints and lights artificially enhance everything a driver sees. Light travels in a straight line and object between your focal point, and your position will cause the focal point to “blink out.” When this situation occurs to a driver, the driver immediately needs to begin adjusting speed and actively scanning for the source that interrupted the previous line of sight.

The reflectivity of the driving surface is an important visual technique to consider in night driving applications. If the road in front of you is getting lighter, the road is on an incline. If the road is getting darker, the road is on a decline.

The physiology of the eye in reduced lighting conditions is a primary limiting factor.

REACTION DISTANCES: DAY vs. NIGHT

Speed in <i>M.P.H.</i>	Velocity in <i>F.P.S.</i>	Day Time Reaction Distance (Reaction Time 1.6 Seconds)	Night Time Reaction Distance (Reaction Time 2.5 Seconds)
25	36.65	58.64 feet	91.62 feet
30	43.98	70.36 feet	109.95 feet
35	51.34	82.14 feet	128.35 feet
40	58.64	93.82 feet	146.60 feet
45	65.97	105.55 feet	164.92 feet
50	73.3	117.28 feet	183.25 feet
55	80.63	129.00 feet	201.57 feet
60	87.96	140.73 feet	219.90 feet
65	95.29	152.46 feet	238.22 feet
70	102.62	164.19 feet	256.55 feet
75	109.95	175.92 feet	274.87 feet
80	117.28	187.64 feet	293.20 feet

Reaction times from Forensic Aspects of Driver Perception and Response by Dr. Paul L. Olsen



Reflective signs and paints are artificially enhanced at night. Look out ahead at the reflectors lining the road; should one blink out and then back on, it means something passed between you and the reflector.

STEERING (GENERAL CONSIDERATIONS)

There are many on-going debates in the driver training community centered on “proper steering” techniques. “Push-pull,” “fixed input,” “palming,” “hand over hand,” and many other steering methods are presented as the “best way” to have responsible car control.

Rather than focusing on an in-depth discussion of the positives and negatives of every technique, we focus on the science of driving and managing the contact patches in the most consistent, efficient, and predictable methods we can select. The true answer is that certain steering methods are better than others in certain conditions and less effective in other situations. The truly experienced driver understands this and chooses the correct technique for the task at hand, ensuring the method allows a safety margin for those unforeseen events.

The steering wheel is shifting weight throughout the platform of the vehicle. Inputs of steering are sending weight forward and to the sides, while steering being released is shifting weight back towards the rear of the vehicle and closer to the center of gravity.

In order to minimize excessive and unnecessary shifts in weight, the following concepts must be addressed with steering technique:

- Grip is light and firm on wheel
- Knowledge of the direction the tires/wheels are pointed
- Smooth and continuous input
- Inputs are made at a speed consistent with the vehicles ability to change direction
- Avoids micromanaging or steering adjustments when possible
- Manages the effects of gyroscopic precession
- Steering release is controlled
- Hands remain in a position of advantage throughout steering maneuver



SHUFFLE STEERING TECHNIQUE

The technique we endorse is called “Shuffle Steering.” Shuffle Steering allows the driver to meet all of the conceptual criteria listed and is a behavior that works predictably, efficiently, and consistently in nearly every environment of driving a public safety vehicle. Other steering techniques may allow the driver to manage the concepts; however, shuffle steering meets the criteria as outlined.



Begin with the grip on the steering wheel. The hands should be placed in the “3” and “9” positions or slightly lower towards the “4” and “8” positions, depending upon vehicle steering wheel design and ergonomic considerations necessary to each individual driver. The grip is firm between the fingertips and the thumbs.



Drivers should avoid creating a “death grip” on the steering wheel. When the grip is too hard on the steering wheel, the larger muscles in the hands, forearm, biceps, and even the shoulders begin to tense, and this creates a situation where inputs of steering will be made with the large motor-muscle groups in the body. A lighter grip promotes the use of fine motor muscle groups and will

result in smoother inputs to the steering. Smoother inputs will equate to better weight transitions throughout the platform.

The right hand will be responsible for the right side of the steering wheel (“12” to “3” to “6”) and the left hand responsible for the left side (“12” to “9” to “6”).

The hands should not cross over the “12” or “6” positions on the steering wheel.



Shuffle steering is often referred to as “Anticipated Steering,” and this moniker fits nicely when the driver begins to prepare for a change in direction. The driver must utilize the eyes correctly, looking for the point where steering is needed and the point where steering can be released. For the purpose of example, we will demonstrate a turn to the left in the description and photos that follow.

As the driver sees a corner, turn, lane change, or other reason input steering, the driver begins to move the left hand towards the “12” position on the steering wheel. While the left-hand moves, the right-hand remains in control of the steering wheel.



With the left hand now at the “12” position, the driver grips the steering wheel and begins to “pull” the steering wheel with the left hand towards the “6” position. The right hand will allow the steering wheel to slide through the grip.

As the left-hand pulls the steering wheel down and through the “9” position, the right hand begins a “mirroring” of the left hand, sliding down the steering wheel towards the “6” position.



As the left-hand moves through the “9,” and towards the “6,” the right hand begins to mirror the movement by moving towards the “6” as well.



The hands physically touch at the “6,” and the right hand will begin to push the steering wheel up towards the “12” position until the necessary steering input is achieved.



When the left hand has pulled the steering wheel down to the “6” position, the right hand should be in the same position. (see the previous photo). At this point, the right hand begins to “push” the steering wheel up towards the “12” position. The left hand allows the steering wheel to slide through the grip and “mirrors” the movement of the right hand.

When all of the necessary steering for the maneuver is into the platform, the driver will maintain the steering input until it is time to begin feeding the steering back out of the platform until the tires and wheels are once again straight.

To release the steering, the process is simply reversed. The right hand will begin to “pull” the steering wheel towards the “6” position. As the right-hand passes the “3” position (if the input was beyond), the left hand begins to slide down the steering wheel to the “6” position. When the right hand has pulled the steering wheel to “6”, the left hand should be in position at “6” and begin to “push” the steering wheel up towards the “12” position. The right hand will mirror the movement of the right hand, stopping in the area of “3”. Once the left hand has reached the “12” position, the driver knows the tires and wheels are pointed straight, and the driver can slide the left hand back towards the “9” position, regaining a good firm grip for straight-line operations.

Steering inputs should be smooth, and the rate of input should be no faster than the vehicle can change direction on the driving surface. Drivers should avoid allowing the steering wheel to slide freely through the hands when the steering is released.

This is due to the necessity to manage the energy that has been stored in the suspension components of the vehicle during the input of steering. In our example, with the right-hand turn, weight was shifted to the front and the driver's side of the vehicle. This weight shift caused the front suspension components (struts/springs) to compress and to store energy. Once this energy has been stored in the components, it is considered to “potential energy” due to its positioning in relation to its design. The energy must be released, so it is to the advantage of the driver to manage the release in a controlled manner. Merely letting the steering wheel slide freely will allow the suspension to manage the rate of release rather than the driver.



BRAKING TECHNIQUES

In many ways, braking is as much a decision-based technique or skill as it is a physical skill. “WHEN” the brakes are applied will more often than not dictate “HOW” the brakes are applied. Drivers that learn to anticipate situations where braking will be required will be inherently smoother, use less brake, and shift weight more efficiently than drivers that are continually surprised. Several braking techniques and concepts are discussed in the following section. A few definitions of different types of braking follow.

Anti-Lock Braking	<p>A vehicle technology that assists drivers to maintain steering ability in emergency braking situations. This most often occurs in situations where the driver needs maximum braking to stop or avoid colliding with an obstacle.</p> <p>The ABS ECU contains thousands of parameters that can be tuned for the car - although most ABS systems are supplied by companies such as Bosch, it's the software tuning that makes individual systems different for different cars. Vehicle manufacturers strike a compromise between stability and braking distances and set parameters for braking on different surfaces and driving scenarios. Even if two different cars have identical ABS hardware - they will be tuned very differently.</p> <p>ABS works best with a firm, steady application of pressure to the brake pedal. During ABS operation, you're likely to experience some vibrations, which are the pressure release valves opening and closing and an indication that the system is working correctly. Do not release pedal pressure until you have safely slowed or stopped.</p>
Cadence Braking <i>(Non-ABS Vehicles)</i>	<p>A style of braking application where the driver manually applies brake pedal pressure until the wheels/tires lock and slide and then releases slight pressure to regain grip, then repeats until the desired speed or stop is attained.</p> <p>Typically used in reduced grip environments such as snow, ice, or gravel. Attempting to Cadence Brake on dry surfaces will result in dramatic weight shifts that will create significant vehicle control problems.</p> <p>THIS IS NOT A COMMON TECHNIQUE, NOR SHOULD IT BE USED UNLESS ABS HAS FAILED AND THE SURFACE IS OF REDUCED GRIP.</p>
Emergency Braking	<p>Braking that is necessary when the driver is surprised by something in the environment requiring an emergency stop or slow-down to avoid a collision. This typically leads to intervention from the ABS and possibly the ESC systems in a vehicle.</p>



<p>Left Foot Braking</p> <p><i>(Not Endorsed or Instructed)</i></p>	<p>This is a racing technique. It is often confused with a person who simply uses the left foot to apply the brake when the right foot would normally do so and, as such, becomes a strict liability to being able to separate the control inputs to a vehicle.</p> <p>By definition, left foot braking allows the driver to change the brake bias by either adding power or brake pressure. For example, a driver in a turn begins to experience a rear skid (oversteer) situation and simultaneously releases some brake pressure while adding throttle to change oversteer into a slight understeer. The reverse is also true. If the front begins to understeer, the driver can create a movement towards oversteer by increasing brake pedal pressure against the throttle.</p> <p><u>Left foot braking applications are not recommended and will not be instructed in EVO courses taught at DPSST.</u></p>
<p>Long Braking</p>	<p>A decision-based braking technique where the driver realizes that the need to slow or stop is approaching and releases the accelerator sooner, allowing the vehicle to shift weight forward slowly. The driver then applies light pedal pressure earlier than in threshold situations; this allows the weight to continue shifting forward but under very direct management from the driver.</p> <p><i>SKIDCAR System Inc. ©</i> describes this technique as “applying brake sooner and over a longer distance” to keep the chassis squarely loaded.</p>
<p>Straight-Line/One Pedal Pressure Braking</p>	<p>This is effective braking completed in a straight line, where the driver “rolls” onto the brake pedal smoothly until the necessary pedal pressure is achieved—no additional adjustments (additions or releases of pedal pressures are needed).</p>
<p>Threshold Braking</p>	<p>In early generations of this manual, threshold braking was defined as “Braking to the point of incipient skid.” That description is still relevant today; however, vehicle technology begins to intervene once the skid is realized rather than relying on the driver to modulate the pedal pressure manually.</p> <p>Threshold braking is the best strategy to adopt to gain maximum braking performance. The point of maximum braking performance is found before immediately before wheel lock. When using threshold braking, the driver attempts to try and keep the braking pressure just before this point.</p> <p>Practically, it is very difficult to know exactly the point at which wheels will lock will occur. Factors such as grip conditions, tire conditions and temperatures, brake temperatures, and weather play a role in determining the point of wheel lock.</p> <p>Drivers should understand that maximum braking can occur at the threshold. Still, once the system enters into an ABS-assisted mode, the driver should maintain pedal pressure and no longer try to manage the threshold.</p>

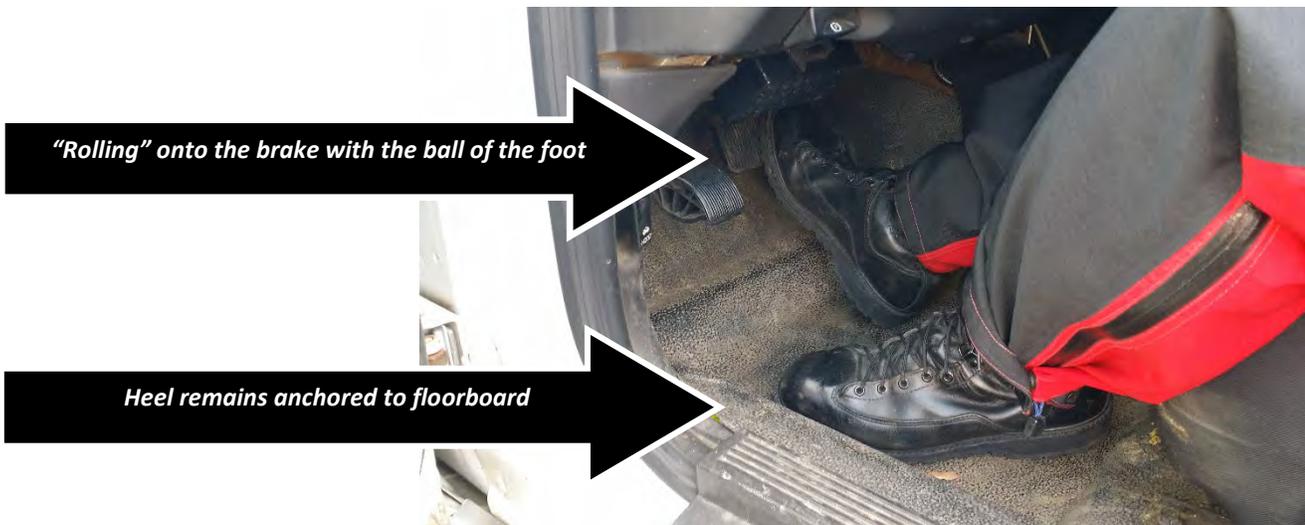


<p>Trail Braking / Extended Release Braking</p>	<p>This is a technique drivers should develop to help maintain a good balance in the platform when the vehicle is turning. It is a technique born on the race tracks of the world and not frequently instructed beyond those environments.</p> <p>Drivers should develop the habit of extending the release of the brake pedal as the steering inputs are made, to a point when necessary steering into the platform, braking pedal pressure is removed.</p> <p>When performing this technique at speed, it's important to remember that the majority of the braking should still be completed in a straight line. However, to maximize grip performance from the vehicle (improved stability = improved safety margin), the driver will not begin the release of brakes until steering is beginning.</p>
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Foot Positioning During Braking

The brake pedal should be applied with the ball of the foot by “rolling” onto the brake pedal in a sideways manner. The heel of the foot should remain firmly anchored on the floor of the vehicle. When drivers pick their foot off of the floor to apply the brakes, fine motor skills are sacrificed, and inputs to the braking system become increasingly harsh.

GOOD FOOT POSITIONING FOR BRAKING





<p>If you hear comments from the instructor such as:</p>	<p>You are not as effective with your braking inputs as you should.</p>
<p><i>“Don’t charge the corners.”</i></p> <p><i>“Try to squeeze the brake pedal smoothly.”</i></p> <p><i>“Use the ball of your foot on the brake pedal.”</i></p> <p><i>“Don’t lift your foot off of the floor to apply the brake.”</i></p>	

Acceleration Techniques

Smooth, progressive accelerator inputs are more important in more powerful cars as there is a greater likelihood of wheel-spin. Drivers should avoid “stomping,” “stabbing,” “mashing,” or any other descriptive form of heavy application of accelerator.

The strategy drivers should adopt is to transmit as much torque from your engine to your wheels as possible (and necessary) without slipping the wheels relative to the ground. If the driver winds up the engine by holding the brake and then pops off of the brake, a wheel-spin is likely. This is because the amount of torque immediately transmitted to the wheels is exceeding the friction between the wheels and the roadway. In most vehicles operated by public safety personnel, the ESC and/or Traction Control systems will sense the wheel-spin and intervene with acceleration. This outcome can place the driver at increased risk.

Drivers should “roll” onto the accelerator pedal, much the same as with the brake pedal, depressing with the ball of the foot in a smooth and controlled manner. As the vehicle begins to move and the friction changes from “static” friction to “kinetic” friction, more acceleration can be added through the pedal.

When a driver can input acceleration without the traction control system kicking in and without the wheels spinning, the maximum acceleration has most likely been achieved.



ROADWAY POSITIONING / CORNERING

When a driver attends any driving school and begins to consider critical tasks such as stability while the vehicle is changing direction, drivers will receive instruction on “apexing,” “racing lines,” “late apex lines,” “early apex lines,” “outside, outside, inside lines,” “outside-inside-outside lines,” and the list goes on. The “best” path of travel (or line) through a turn is the one that makes the most sense, given all of the information available to the driver at the time of the turn. This implies that multiple paths of travel should be considered by drivers using good proactive driving skills.

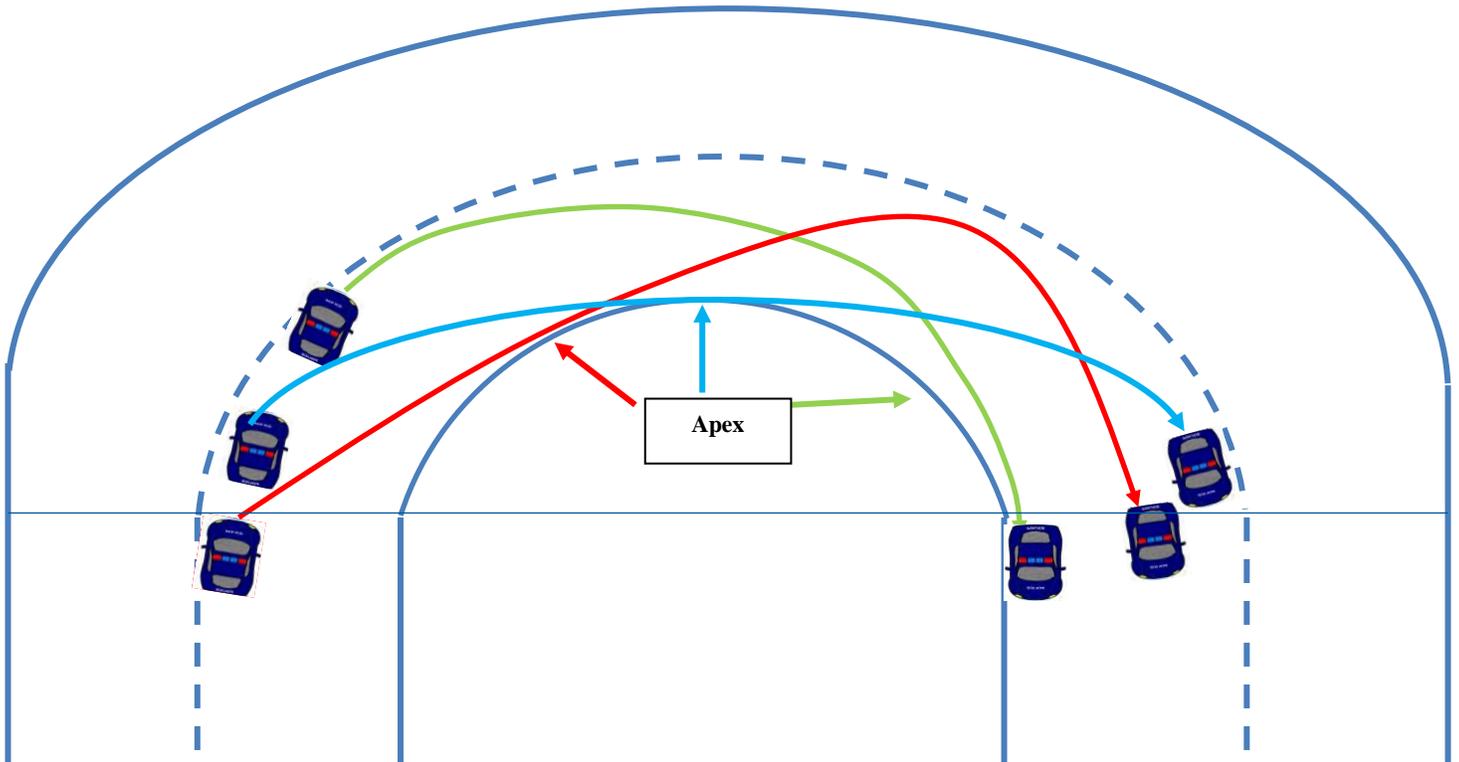
The basis for determining a path of travel during a change in direction, whether the change is a minor adjustment in a lane, a change of lanes, a gentle turn on a highway, a blind intersection in an urban environment, or any other change of direction, is where the driver looks as the directional change approaches. ***A driver should adopt “Line of Sight Cornering” skills.***

To make the best decision during a change in direction, the first skill the driver must develop is the active use of eyesight. Eyesight has previously been discussed in some detail, and the visual acuity and visual perception skills are critical to success (or failure) during operations where drivers are changing direction. Driving within your line of sight will help you select the best path of travel in any situation.

A few definitions concerning roadway positioning and cornering follow.



Term	Definition
Apex	The point at which the vehicle is closest to the inside usable portion of the roadway. This is often at the theoretical/mathematical center of a turn, but not always based on the definition used in driver training.
Early Apex Line	A path through a corner where the vehicle is close to the inside of the roadway prior to the mathematical center of the turn. (This path is depicted as the RED PATH on the next page.)
Center Apex Line	A path through a corner where the vehicle is close to the inside of the roadway at the mathematical center of the turn. (This path is depicted as the BLUE PATH on the next page.)
Late Apex Line	A path through a corner where the vehicle is close to the inside of the roadway after the mathematical center of the turn. (This path is depicted as the GREEN PATH on the next page.)
Multiple Apex Line	A path of travel through a long corner where it is possible to stabilize the vehicle in a straight line while still confined within the geographic constraints of the corner.
Straight Line Priority	A method of visually identifying a “straight line” – regardless of where it lies on the roadway (even in the middle of a turn) – where the driver can stabilize a vehicle.



Basic Guidelines to Path Selection

Lane discipline is required. Drivers should not seek paths of travel that intentionally take the vehicle into oncoming traffic lanes.

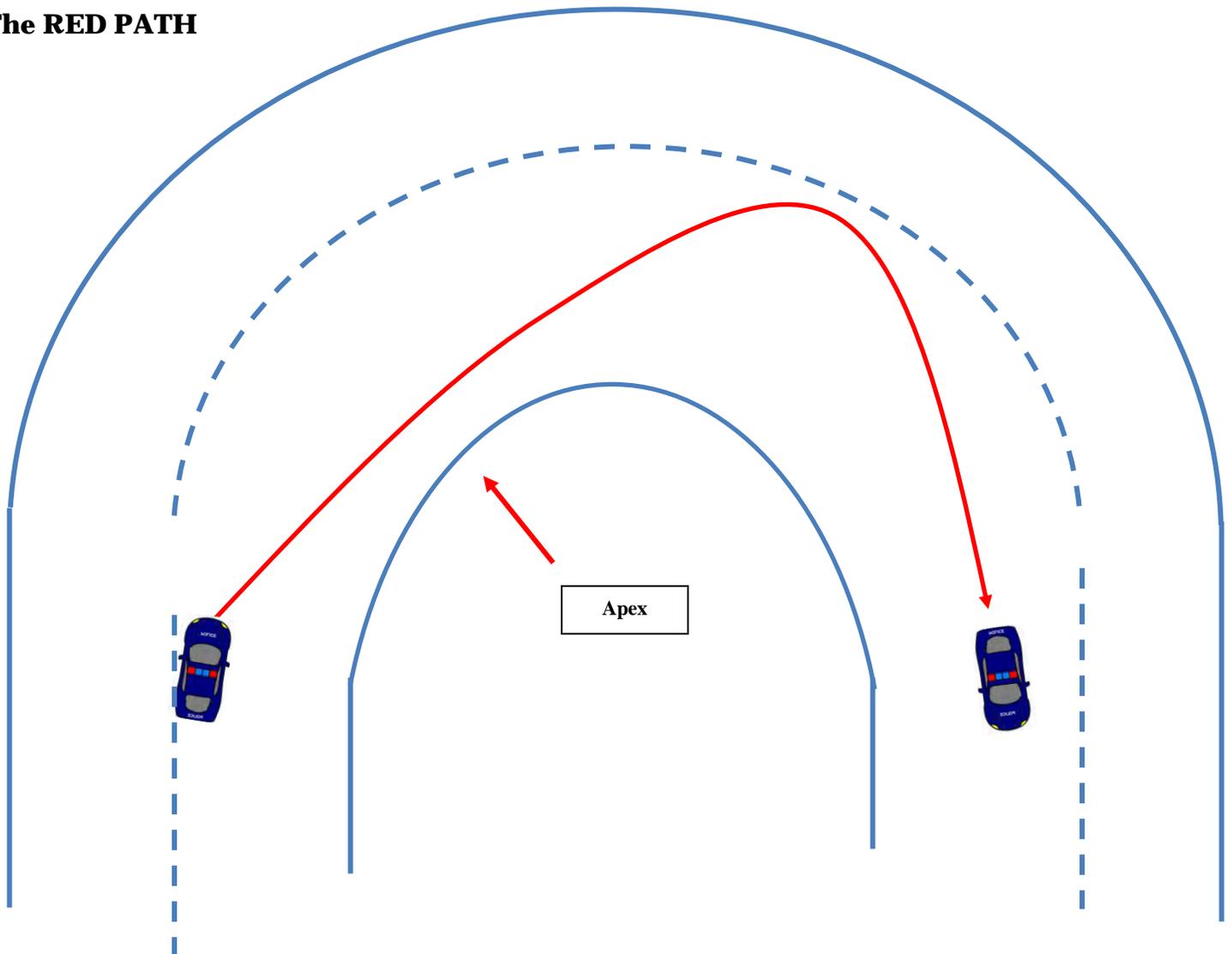
Drivers should select a path of travel based upon what the eyes say about the environment as it exists in the “here and now” and not based upon prior experiences in the turn. For example, a driver that always drives a blue path “because there is never traffic on the road at this time” will eventually face a test in their ability to control a vehicle in an emergency crash-avoidance maneuver.

Whenever any doubt exists in the mind of the driver, the red and blue paths of travel should not be utilized by the driver.

The red path should only be utilized at very low speeds when the driver can easily stop within the line of sight.



The RED PATH

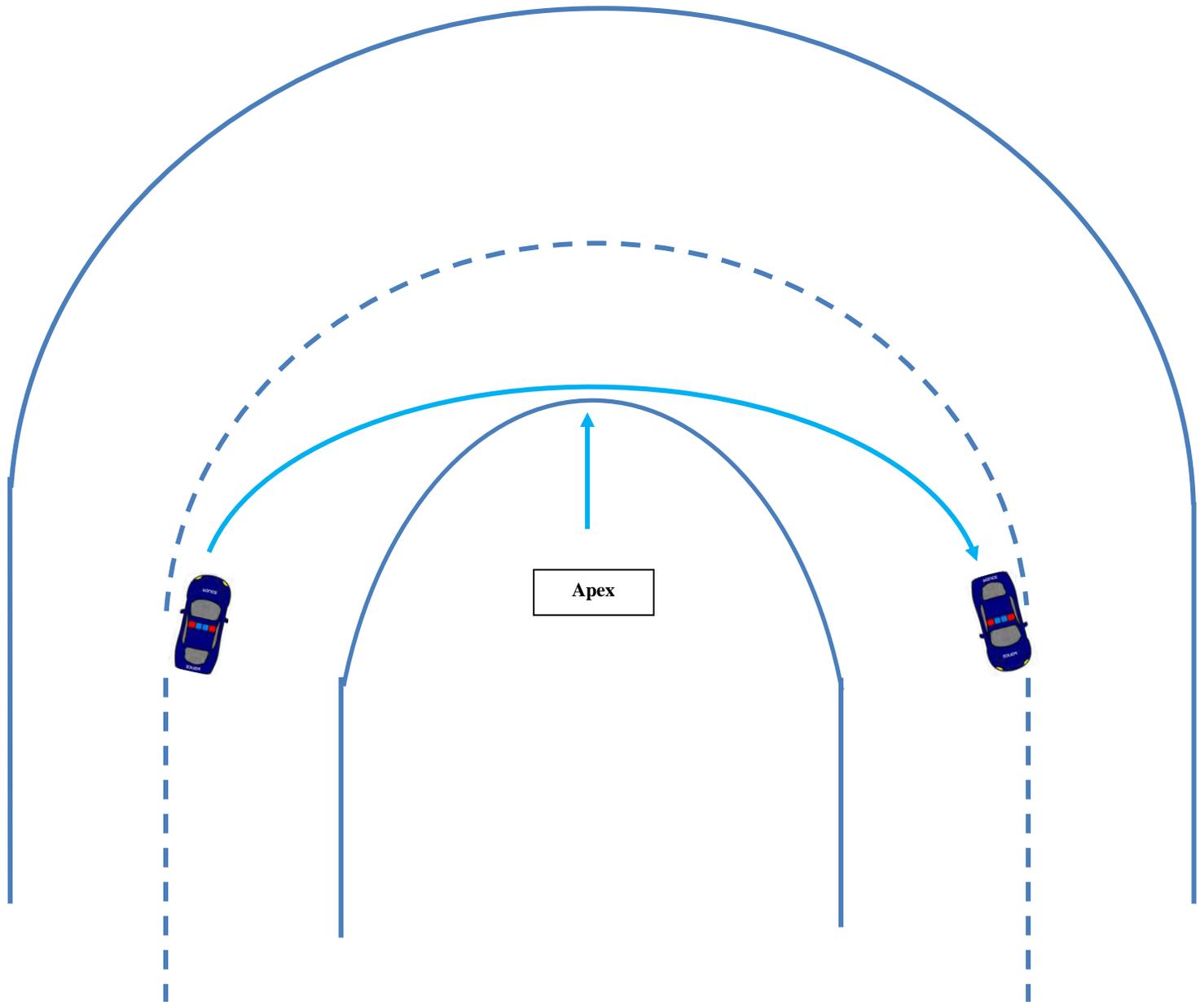


Inexperienced drivers often choose the red path and begin to steer as soon as they “see” the paint on the road starts to turn. This causes the vehicle to take a very shallow approach to the turn and creates a false sense of security to the driver because of the available driving surface out the driver's side where a mistake can be corrected.

Experienced crash investigators will tell you that crashes that occur in turns due to speed or vehicle path of travel typically occur in the last third of a corner, so our inexperienced driver will not crash where the perceived safety margin is, but in a part of the turn that has not been visually cleared in most circumstances.



THE BLUE PATH



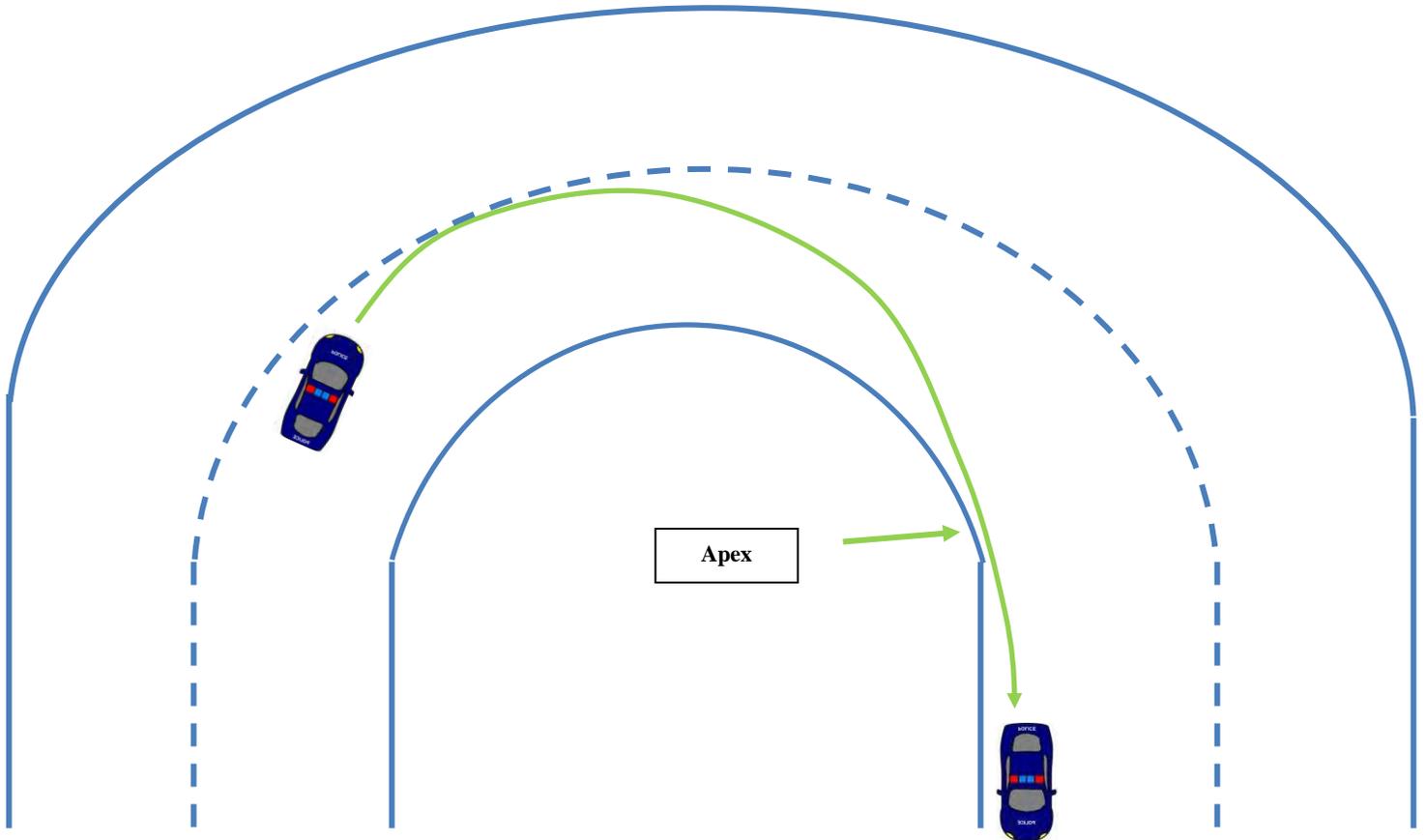
The blue path will work for drivers in certain situations. There are two primary guidelines to consider if this path of travel is selected for use by a driver.

1. The road surface is clear, consistent, and dry.
2. The exit is clearly visible, and no oncoming traffic or other obstructions are present.

In any other circumstances, the blue path becomes difficult to defend when the driver must place the vehicle into unknown grip and obstruction scenarios.



THE GREEN PATH



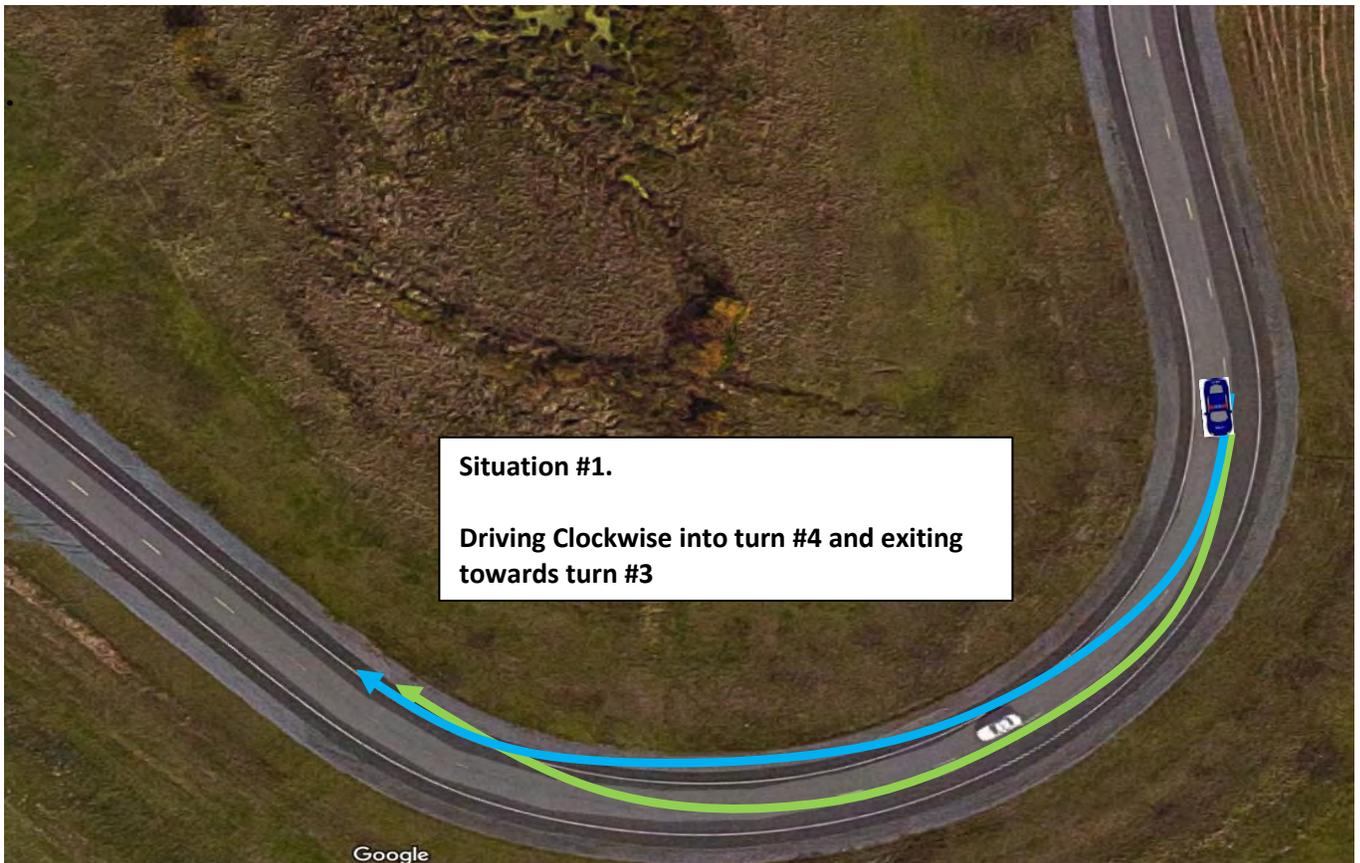
The green path will work for drivers in nearly every driving situation. While the path of travel is not quite as fast through a turn, the path is very efficient because the driver will not be surprised by changes in grip or the presence of traffic or other obstructions at the corner exit. This path is often called a “Late Apex” line. It is the preferred path of travel for an operator of an emergency vehicle unless specific criteria concerning grip and vision are met in a blue path. This path should be used when:

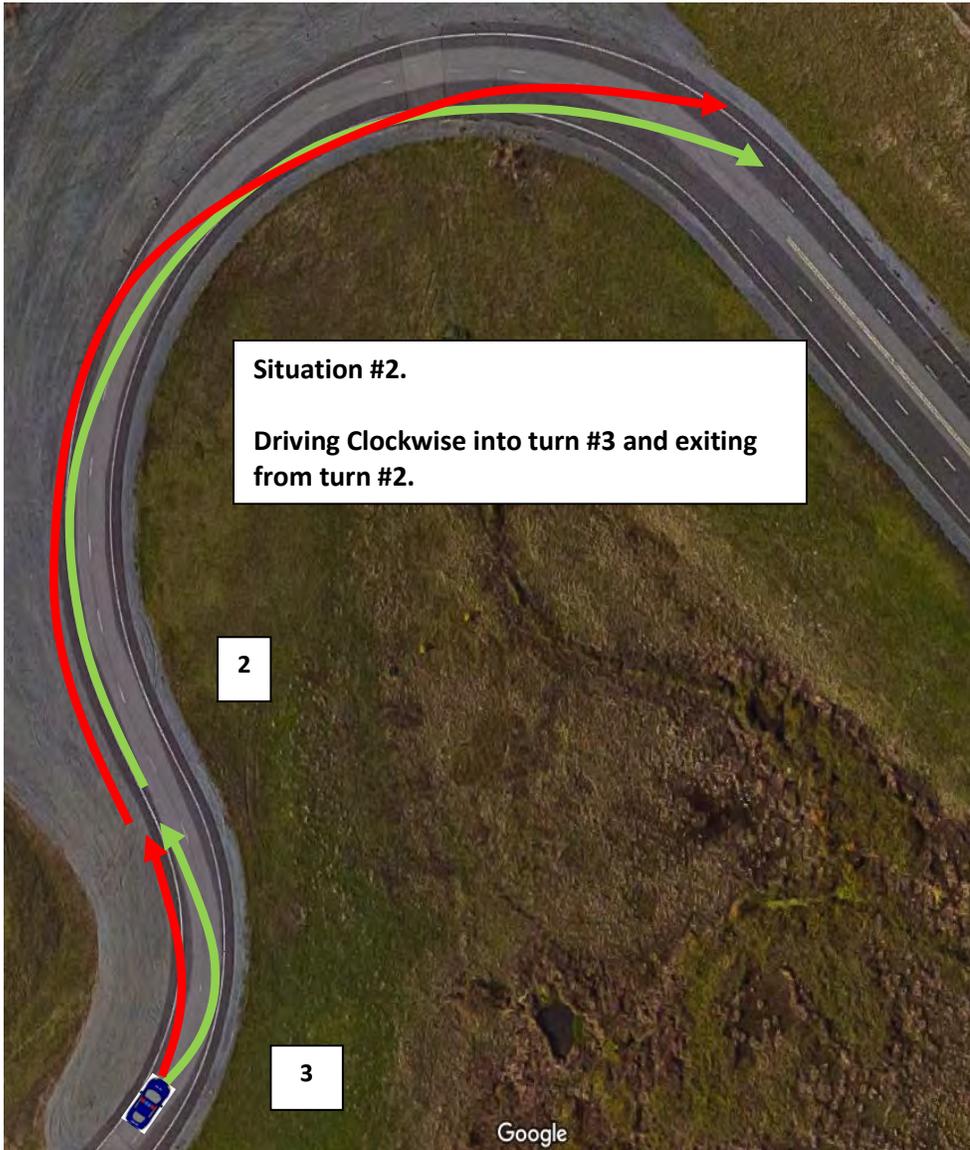
1. The grip/texture of the roadway are inconsistent or otherwise reduced.
2. The exit is not visible until the driver has moved farther into the corner.

This method of cornering is akin to “Slicing the Pie” while clearing a room, hallway, or other right angles during a tactical search of a location.



The following are several examples of corners on the training facility at DPSST and paths of travel that might be taken while driving those corners. The images used are taken from screenshots of DPSST by Google Maps.





In situation #2, the roadway is gaining elevation from the entry of corner #3 towards the entry of corner #2, and oncoming traffic is not visible. A driver on the green path is adhering to lane discipline and will be not only safe in the event an unseen vehicle appears at the crest of the hill, but will also be in a defensible position, allowing the driver more options to select paths of travel if an emergency develops.

Continuing on the blue path, the driver will face the potential of oncoming traffic at the exit of the turn and be left with few evasive options in the event such activity is needed.

The green path of travel is the better choice in this complex of turns due to the lack of visibility from the entry to the complex of turns through to the exits.



Situation #3 presents some different options to the driver

The roadway is descending in the orientation in which the vehicle is traveling and making a sharp turn to the right. Because of the open nature of the turn and the descending approach, visibility from the vehicle position clear through the turn to the entry for Turn #9 is possible.

BLUE PATH

If the driver chooses to utilize the blue path, the driver should be able to absolutely certify that the driving surface is dry and no grip issues will intervene with stability, and that the exit from #10 and the approach into #9 is clear from any oncoming traffic or obstruction. In the case of no information to the contrary of either situation, the blue path is a good choice because it involves less movement of the steering wheel, less weight shift, and maintains a good pace.

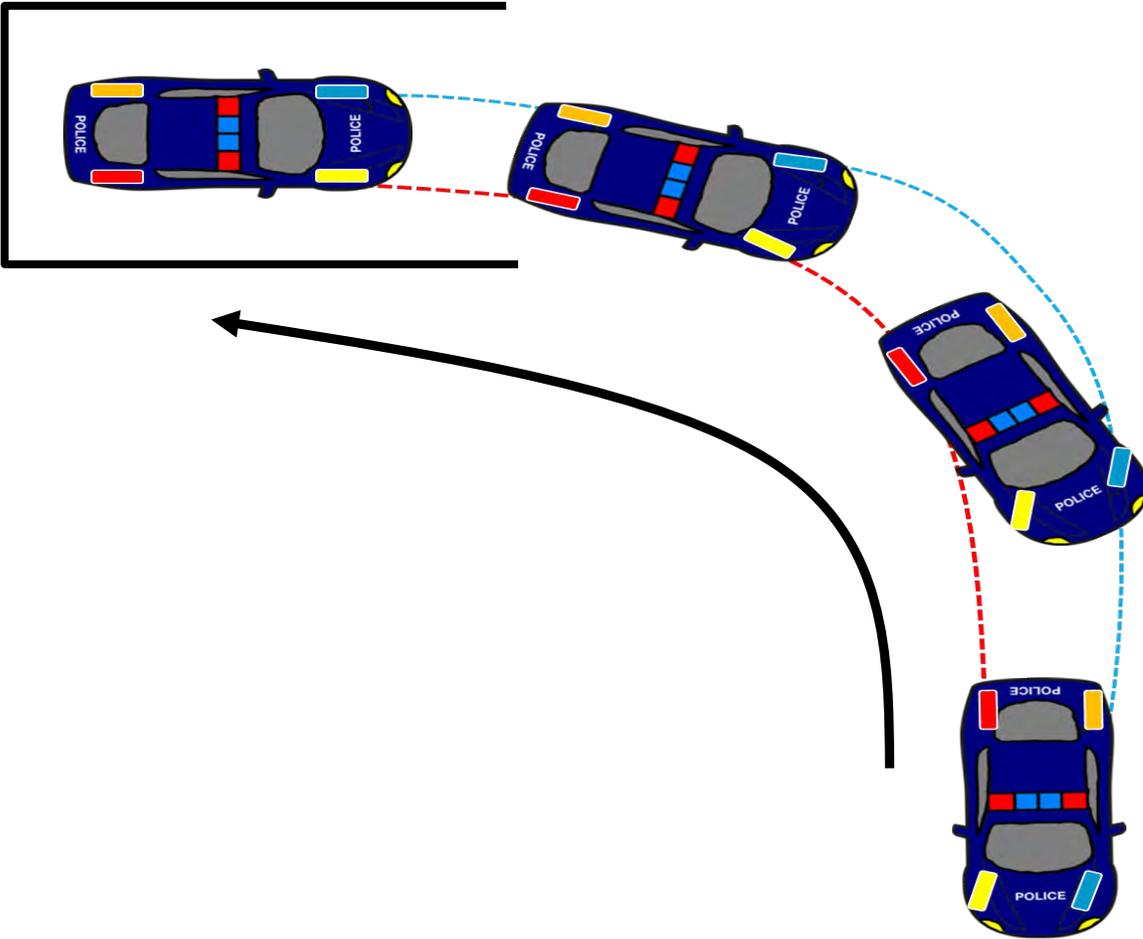
GREEN PATH

In the event the roadway surface is wet or if a vehicle or other obstruction is present near the exit of #10, the driver should select the green path.

This is a corner when the driver should visually identify the straight section of roadway between #10 and #9 as soon as possible and then steer to the straight line. This will be different for some drivers as the “corner” actually occurs before the painted roadway indicates.



VEHICLE POSITIONING IN REVERSE (BACKING)



In this diagram, the vehicle is in reverse and maneuvering into a parking area.

Note the red dotted path indicates the path the passenger rear tire travels, and the blue dotted path is that of the driver side front.

The front of the vehicle takes a wider radius path and must be accounted for when the driver has selected a driving maneuver requiring reverse.



DRIVER POSITIONING WHILE BACKING



Good driver position while backing is critical to the safe backing of vehicles.

The best position for backing remains looking over the right shoulder with the left hand against the steering wheel at the “12” position.

Steering inputs are made by maintaining firm pressure against the steering wheel with the left hand.

The driver should occasionally peek at the front of the vehicle to assure that the front-end path of the vehicle is clear.

The design of many patrol platforms enhances the temptation to use mirrors. Small rear windows, higher decks over the rear seats, and protection cages all create visibility issues when trying to see out the rear window. In certain vehicles, the use of mirrors may be unavoidable.

Many vehicles are equipped with back-up cameras.

These cameras are very effective at clearing the path of the vehicle while in reverse. If a vehicle is equipped with this technology, drivers should practice using the camera and gain comfort with depth and distance. The driver must still take several peeks at the path of the vehicle as the front-end swings around while backing.





CRASH MANAGEMENT

An emergency vehicle is statistically about eight times more likely to be involved in a crash than other vehicles on the roadway. A significant number of the crashes that do occur involving public safety vehicles involve right-angle intersections, often due to the line of sight the public safety driver is relying upon is not sufficient for the speed the vehicle is operating.

Intersections are not the only high-risk area, unfortunately, and collisions with fixed objects, loss of control due to leaving the driving surface, and even driving into parked vehicles are some of the frequent types of crashes public safety with which public safety is involved.

The most preventable collision for public safety officers is a backing accident. If the driver simply walks around the vehicle before getting inside and driving away, nearly every backing incident will be eliminated.

It is an unavoidable fact that public safety vehicles will still be involved in on-duty incidents and crashes. Once the driver has done every pro-active step available to avoid a crash, there are still options for the driver to choose from. Once a crash is imminent, the driver needs to move from a mindset of "Crash Avoidance" into a mindset of "Crash Management." By choosing how to crash, the driver can begin to minimize the effects of a crash.



CRASH MANAGEMENT PRIORITY

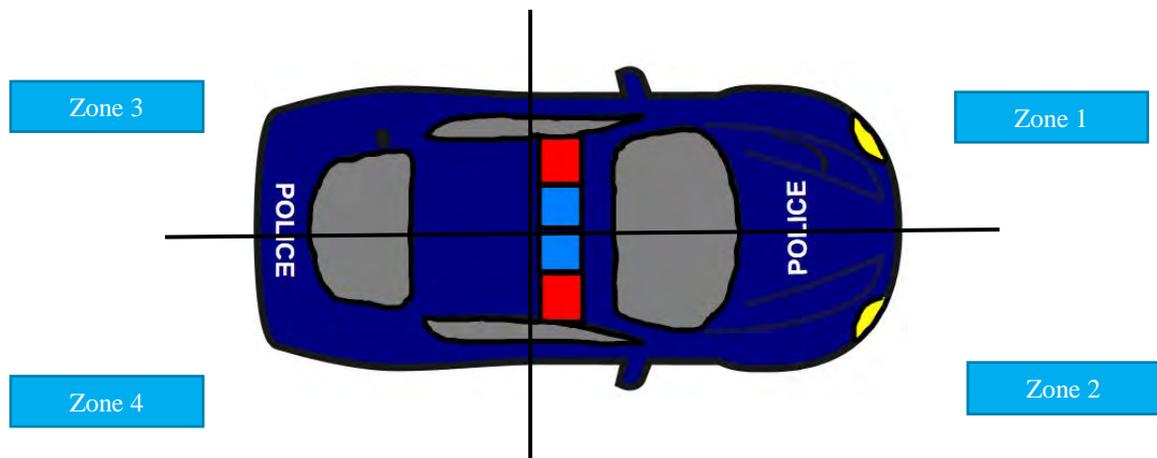
Once a crash is going to occur, the driver should focus completely on continuing to operate the vehicle to satisfy the priorities of life.

Protect Life	Reduce Injury	Protect Property
The driver does everything possible to continue driving throughout the crash, setting up multiple impacts and situations where energy exchanges are reduced to forces less likely to cause death or serious physical injury.	The driver continues to drive through the crash, making the crash last longer in both time and distance. This creates multiple small exchanges of force between the vehicle, occupants, and other objects, reducing the overall risk of injury to occupants.	This is the last thing drivers in a crash should worry about. Once a crash has started, property damage has occurred, so the driver should continue to use driving strategies consistent with the protection of life and reduction of injury.

ZONES OF PROTECTION

When a vehicle is involved in a crash, the driver can still actively influence and manage the outcome by continuing to visually scan for paths of travel, moving the steering wheel to leave the roadway with the tires pointed straight, and other actual driving techniques and decisions. This means the driver needs to take every available opportunity to maneuver the vehicle into “selected” crashes.

One way of structuring a crash is by using a hierarchy of protection, known as “Zones of Protection.” Look at the photo of the vehicle below to visualize this concept.





In a crash situation, the driver should attempt to move the vehicle to areas of contact, placing the largest amount of sheet metal between the point of impact and the driver.

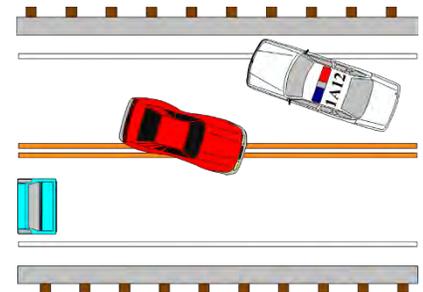
The best place to have contact is in Zone 4. This is an area behind the driver and on the other side of the vehicle. A crash in Zone 3 is preferable to a crash in Zone 1 if the crash will occur on the driver's side of the vehicle. If the crash is going to occur in the front half of the vehicle, the driver should attempt to create the contact in Zone 2. A Zone 1 crash is the least desirable location for a crash to occur.

MINIMIZING / REDISTRIBUTING IMPACT FORCES

The following are a couple of examples where an attentive and well-prepared driver might utilize the concepts of Crash Management.

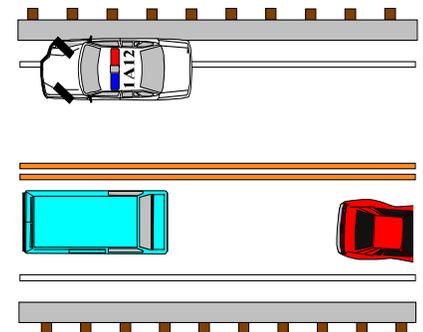
CRASH MANAGEMENT EXAMPLE #1:

In this example, the police driver is attempting to avoid a crash with the red vehicle that has crossed into the police vehicle's path. While the police driver can avoid the Zone 1 crash with the oncoming vehicle, contact with the guard rail is now certain.



The driver of the police vehicle makes the mental jump from crash avoidance to crash management and simply turns the vehicle into the guard rail, holding it against the guard rail until the vehicle comes to a stop.

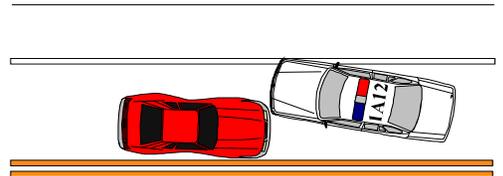
By holding the vehicle into the guard rail, the police driver removes the risk of "bouncing" off of the object and into traffic once again; this time with a vehicle that has sustained unknown damage to the front tires, brakes, wheels, etc.





CRASH MANAGEMENT EXAMPLE #2:

In this example, the police vehicle and the red vehicle are going to have a Zone 1 crash.

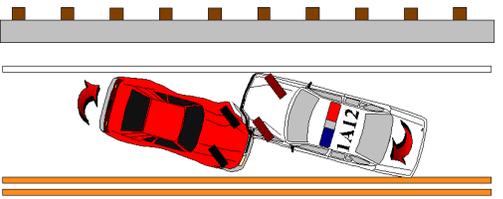


The driver of the police vehicle (and the red vehicle as well) can still both take driving measures that will reduce the exchange of force that will happen.

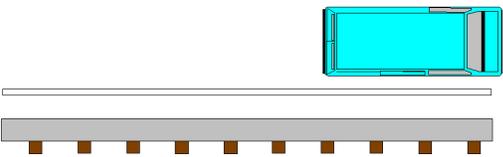


In the first section of this manual, the physics of weight transfer and grip were discussed at length. The driver of the police vehicle can choose to steer away from the crash or to steer into the crash.

The natural response for drivers is to try and steer away from the contact. When this action is taken, the vehicle begins to rotate. Unfortunately, the rotation is only adding to the force of the crash.

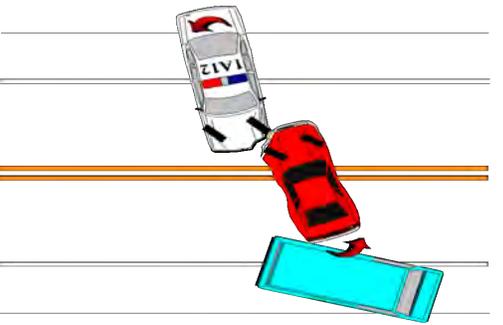


In this diagram, the police driver turns away from the impact. So does the driver of the red vehicle. Their actions counter each other, and neither is effective.



The driver should steer into the crash at impact. This action will cause the back of the police vehicle to begin to rotate away from the point of impact – rather than towards the point of impact when the steering is made away from contact.

This helps to create a spin in the vehicle. When the vehicle is spinning, the energy being dissipated between the tires and the roadway is reducing the overall crash forces being exchanged between the vehicles.





GENERAL RULES FOR REDUCING IMPACT FORCES

1. Try to set up a rear half (Zone 3 or Zone 4) impact.
2. Just prior to impact, turn into the object and hold the steering into the impact.
3. If a Zone 1 or Zone 2 impact is going to occur, steer into the object at impact.
4. Once an initial collision occurs, continue driving and trying to extend the duration of the crash.
5. Mentally prepare for crash situations and rehearse both the mental and physical responses necessary to reduce risks on a continual basis; preparation must be prior to any incidents and should be completed when the situation suddenly occurs – not during the event.

After a crash, the driver needs to continue to think and act in a manner to preserve life. A public safety vehicle - whether it is a police car, ambulance, or piece of fire apparatus – that has crashed is going to draw a significant amount of attention from other motorists. The driver should conduct a thorough assessment of his or her physical condition, and once it is good to move physically, the driver should get away from the vehicle. Remember that the crash is a visual magnet and that people will drive towards what they are focusing upon.

VEHICLE TECHNOLOGY / ACTIVE SAFETY MEASURES

Vehicle technologies are advancing at an exponential rate, and with the advancement of technology, drivers are faced with continuing challenges on the interaction between vehicles and humans. Despite all of the emerging safety, stability, and driver comfort systems in vehicles, the science of driving has not changed, and physics remains the absolute arbiter when everything is examined concerning grip.

The driver is the most important active safety and control system in a vehicle and will continue to be until machines completely replace the need for a driver. Technology is incredible, and the electronic control units (ECU) in a vehicle can make calculations and adjustments to overall vehicle stability in milliseconds – the same adjustments a driver might take several times as long to implement – however a driver relying upon the insight, experience, and judgment derived from active utilization of eyesight is still the only component available to make critical choices and decisions with regard to vehicle operation.



In this segment of the manual, several electronic systems are discussed in some detail as they are technologies that exist in nearly every platform in use as an emergency vehicle and the general public driving fleet. As with any type of technology, the systems in vehicles are evolving and adapting rapidly to the demands of the public, and different manufacturers have decided to calibrate and program their systems slightly differently to gain market advantages and to provide specialized responses to the primary purchasing demographic.



(Photo of Dodge Charger Data Information Center when Traction Control is Active)

TIRE PRESSURE MONITORING SYSTEM

One of the basic components of all current vehicle technologies is the Tire Pressure Monitoring System (TPMS) installed on vehicles. There are a couple of different systems in use by automobile manufacturers including a “Direct” system that measures actual air pressures in real-time using pressure sensors either internally or externally mounted on the wheel, or “Indirect” systems that rely upon the programming of tire sizes and compare wheel speeds against expected rotation rates at certain speeds (an underinflated tire is slightly smaller in diameter and would rotate at an unexpected rate compared to a properly inflated tire at specific speeds.)



Regardless of the type of system in use by vehicles, this information is integral to all of the algorithms needed to program the electronic control modules in modern vehicles.

Tire performance intimately related to tire inflation pressure. Grip begins with the contact patch, and critical performance factors such as braking distance or lateral stability mandate the inflation pressures to be maintained as specified by the vehicle manufacturer. Severely under-inflated tires can lead to thermal degradation and mechanical overload caused by overheating and subsequent, sudden destruction of the tire itself. Fuel efficiency and tire wear are also affected by under-inflated tires.



The physics of vehicles requires the reliability of the mechanical components of vehicles, and nothing is more critical than the relationship of grip that develops between the tires and the driving surface. The science of driving is based on the grip (maximum grip demands that tires are properly maintained and managed to enhance vehicle stability), handling and braking efficiencies, and to provide greater safety for the driver others on the road.

ANTI-LOCK BRAKING SYSTEMS

Anti-lock braking systems (ABS) are active safety features designed to help drivers retain steering control by preventing wheels from locking up during an episode of heavy braking. When a tire ceases to rotate, a skid or slide begins to develop between the tire contact patch and the driving surface. ABS allows a tire that is momentarily locked and, therefore, not rotating, to regain rolling friction with the surface immediately. It does not matter that a roadway or surface is wet, icy, or dry – any heavy or excessive application of brakes on a vehicle that is not equipped with ABS will most likely result in one or more locked (and sliding) tires.



In our section discussing the science of grip, we learned that a tire that ceases to rotate would no longer respond to driver inputs for directional change. Although the vehicle will still be producing sliding friction and slowing down, as a result, the corresponding loss of steering control means the driver no longer has control over the vehicle.

Anti-Lock Braking Systems are designed to activate any time a driver makes heavy applications of brakes and inputs of steering. This is realistically a “stab” and “steer” situation for most drivers, resulting in dramatic shifts of weight and balance in the vehicle platform.

- A vehicle or animal suddenly veers in front of you, forcing you to brake and swerve.
- Bad weather makes the roads slippery, making wheel lock more likely when you must brake to stop.

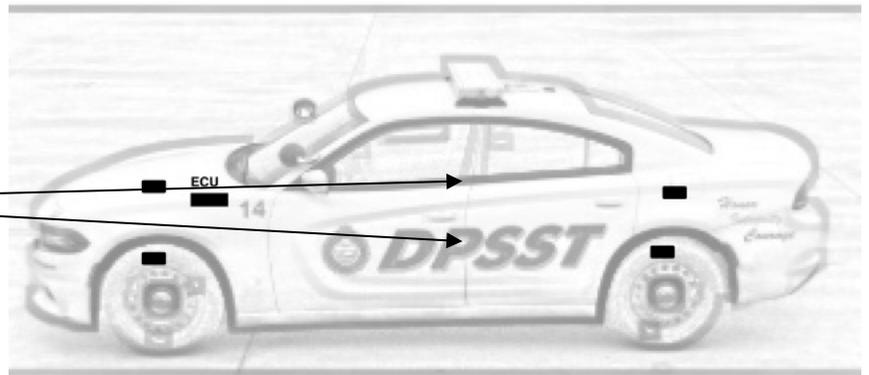
Not all ABS setups are the same. Some prevent wheel lock on all four wheels, while others prevent only the rear wheels from locking. However, all ABS work by monitoring individual wheel speeds and when potential wheel lock is detected, rapidly applying and releasing the brake to the problematic wheel.



ABS functions by effectively “pumping the brake,” using a technique that was taught to drivers before the development of ABS to prevent wheels from locking. The difference is that ABS setups can sense potential wheel lock and address the problem faster and with more efficiency than drivers. All ABS are comprised of three major components:

- Wheel speed sensors that monitor wheel rotation speed;
- Hydraulic units that pump the brakes, and;
- An electronic control unit (ECU) that receives information from the wheel speed sensors and, if necessary, directs the hydraulic units to pump the brakes on one or more of the wheels.

WHEEL
SPEED
SENSORS



In most ABS setups, the ECU and the hydraulic units are attached together so that while they have different functions, they are physically one unit. The ECU continually checks for signs of rapid wheel-speed deceleration, an indicator that a wheel is about to lock. If a wheel is about to lock, the ECU directs the hydraulic unit to pump the brake to that wheel until it resumes normal rotation.

The primary purpose of ABS is to allow drivers to have directional control over their vehicles after heavy braking. In support of the effectiveness of ABS, it has been associated with:

- a 35% decrease in frontal collisions on wet roads, and;
- a 9% decrease in frontal impacts on dry roads. (A decrease in frontal collisions suggests that ABS allows drivers to steer to avoid a collision.)

Source – National Highway Traffic Safety Administration



One misconception about ABS is that its purpose is to help reduce stopping distance. However, a reduction in stopping distance is not guaranteed and is only a secondary benefit of ABS.

Steering too aggressively can still have severe consequences. On a vehicle without ABS, a panicked driver steers the wheel sharply out of instinct to avoid a collision, but nothing results from this action as steering control is lost when the wheels lock up. Contrast the same response by a panicked driver in a vehicle equipped with ABS. The addition of ABS means that those same exaggerated steering commands will have an effect and could lead to other dangerous situations like road departure, collisions, or rollovers. Regardless of the presence of a functioning ABS unit in a vehicle, drivers should continue to steer as calmly as possible throughout all situations.

Like many other safety features, realizing the full benefits of ABS depends largely on whether or not drivers interact appropriately with it. Interacting appropriately with safety features like ABS means continuing to drive safely and attentively. Driver behaviors like speeding, tailgating, or driving while fatigued can negate the beneficial aspects of ABS.

ABS does not compensate for unsafe driving or poor road conditions. To ensure the ideal performance of ABS, drivers must continue to use caution and good judgment behind the wheel.

ELECTRONIC BRAKE FORCE DISTRIBUTION

Electronic brake-force distribution (EBFD) is an active vehicle safety feature designed to make braking as efficient as possible. As the name suggests, EBFD distributes braking power according to which wheels are braking most effectively at the time. Just as heavy braking causes a driver's body to move forward, slamming on the brakes also pushes the weight of the vehicle forward, so the front wheels bear the most weight. When this happens, the rear wheels may not have enough grip on the road. This can cause the rear wheels to spin and eventually lock up. Locked-up back wheels not only increase the risk of yaw but also force the front wheels to do all the braking work with only half of the total brake force available (since the other half is still being applied to the back wheels). This can result in longer stopping distances and an increased risk of collision.



EBFD reduces these dangers by automatically balancing the brake force applied to each wheel according to the overall weight distribution of the vehicle. The safety systems not only prevent wheel lockage by reducing brake force to spinning wheels but can also allocate more brake-force to wheels that it detects are already braking effectively.

While it may seem like all the tires bear the vehicle's weight evenly, this is rarely the case. EBFD is useful whenever a driver brakes while the vehicle's weight is unevenly distributed across all four tires.

Examples of these situations might be:

- While braking, one wheel goes over a pothole, making braking less efficient.
- One of the wheels is on ice and threatening to lock up during an episode of braking.
- A large animal comes out into the road, forcing you to brake and swerve.

EBFD is always installed with ABS and works very similarly to ABS. The important difference between EBFD and ABS is that while both systems prevent wheels from locking, EBFD can also redistribute brake-force according to which wheels are performing better.

As with modern ABS setups, the brake-force modulators and ECU are attached, so while they have different functions, they appear as one unit. The ECU monitors each wheel's responsiveness to the brake and then tailors the amount of brake force applied to each wheel. If the EBFD system senses that one of the wheels is about to lock, or that the car is swaying too much from side-to-side, it redistributes brake force to obtain optimal braking power.

BRAKE ASSIST

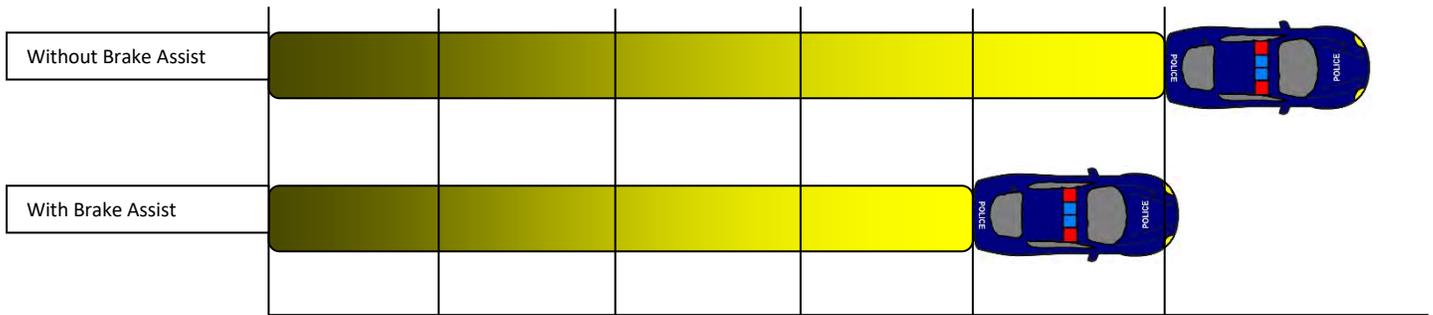
Brake assist (*Predictive Braking by some manufacturers*) is a safety feature typically installed in conjunction with ABS. It is designed for use in emergency stopping situations. No shortage of examples may prompt a driver to use a heavy application of braking.

- A cyclist loses balance and veers sharply in front of the vehicle
- A large animal runs out into the road, forcing an emergency stop
- Cresting a hill or exiting a corner, an unexpected line-up of cars awaits



According to the National Highway Traffic Safety Administration (NHTSA), brake assist systems fall into two general categories: electronic and mechanical. The main difference between the two is in the method used to distinguish panic braking from normal braking.

Electronic brake assist systems use an electronic control unit (ECU) that compares instances of braking to pre-set thresholds. If a driver pushes the brake down hard enough and fast enough to surpass this threshold, the ECU will determine that there is an emergency and boosts braking power. Many of these systems are adaptable, which means they will compile information about a driver’s particular braking style and tweak the thresholds to ensure the highest accuracy in emergency-situation detection.



BRAKE OVERRIDE

Brake override is an active vehicle safety feature designed to work as a failsafe measure in the event that your vehicle receives mixed signals from the driver. This can happen when both the accelerator pedal and the brake pedal are both applied simultaneously. In vehicles with brake override, the brake pedal is enhanced with “smart” technology that detects when something abnormal occurs. The system recognizes driving behavior that is not “normal” and begins to intervene by overriding the acceleration command and bringing the vehicle to a stop. Brake override is called by several other names, including “smart pedal” and “smart stop technology.” Despite the different names, all of the systems function in similar ways.

Figure 1 – Accelerator only

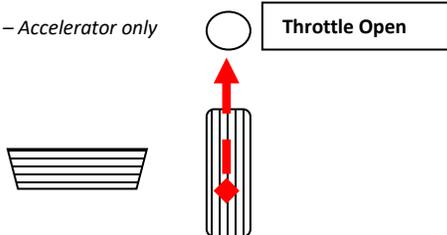
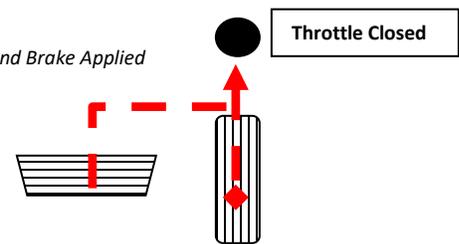


Figure 2 – Accelerator and Brake Applied





TRACTION CONTROL SYSTEMS

Traction control is an active vehicle safety feature designed to help vehicles make effective use of all the traction available on the road when accelerating on low-friction road surfaces. When a vehicle without traction control attempts to accelerate on a slippery surface like ice, snow, or loose gravel, the wheels frequently slip on the surface. The result of wheel slip is that the tires spin quickly on the surface of the road without gaining any actual grip, so the vehicle does not accelerate. Traction control activates when it senses that the wheels may slip, helping drivers make the most of the traction that is available on the road surface.



It is important to remember that traction control cannot create traction where there is none. On a truly frictionless surface such as ice, vehicles with traction control will perform just as poorly as vehicles without traction control.

Traction control is used to help drivers accelerate on slippery or low-friction conditions. These conditions include when roads are wet, icy, uneven, loose, or poorly maintained. Examples of when traction control would be beneficial include the following:

- When accelerating up a hill where the surface is loose and gravelly.
- Hitting a patch of slushy road that causes the vehicle to slow down as the wheels lose traction.
- Accelerating at a green light on an icy road with traffic approaching from behind.

Traction control works similarly to anti-lock braking systems (ABS) and is often considered a supplement safety system to existing ABS configurations. Traction control uses the same components as ABS. It is set up with the ECU and the hydraulic modulator attached together so that while they have different functions, they are physically one unit. The ECU continually checks whether some wheels are spinning faster than others - an indicator that the wheel is losing traction. When possible, wheel slippage is detected, the ECU directs the hydraulic modulator to apply and release the brake in rapid succession to the problem wheel to reduce the speed of its rotation. Some traction control systems also reduce engine power to wheels that are about to slip. Once the wheel has regained traction, the system returns to monitoring wheel speed and comparing the rotational speed of the vehicle's wheels.



As with any safety system installed in vehicles, traction control has limitations. Like many other safety features, the full benefits of traction control depend on whether or not the driver interacts appropriately with the system. Behaviors like speeding, tailgating, and aggressive driving all work against the benefits of traction control. While a vehicle without traction control may experience a reduction in speed on slippery roads, the same speed reduction might not be observed in vehicles with traction control. As such, traction control might allow vehicles to reach a higher speed than is safe for road conditions. Drivers must take extra care to monitor their speed.

ELECTRONIC STABILITY CONTROL SYSTEMS

Electronic stability control (ESC) is an active safety feature designed to reduce the number and severity of motor vehicle crashes that result from a loss of control. ESC helps the driver to assure that grip is being used efficiently and correctly by rapidly intervening in situations where an understeering or oversteering condition begins to develop.



ESC systems are recognized by a variety of trade names including:

- AdvanceTrac
- Dynamic Stability Control
- Electronic Stability Control
- Electronic Stability Programming
- StabiliTrak
- Vehicle Stability Control

ESC systems are made up of several subcomponents that are monitored and controlled by an electronic control unit (ECU). The subcomponents include:

- Yaw sensor that measures the vehicle's rotation
- Wheel speed sensors that measure the speed of rotation for each wheel
- Steering angle sensor that monitors steering input and the driver's intended path of travel
- Hydraulic unit that increases braking or decreases wheel speed



The ECU continually retrieves information from these sensors and compiles the data to determine if any difference exists between the driver's steering input and the vehicle's actual direction of travel. The wheel speed sensors tell the ECU whether some wheels are spinning more quickly than others, an indication that those wheels are losing traction. If the ECU senses that something is going wrong, it will direct the hydraulic unit to apply more brake force to certain wheels to bring the vehicle back under the driver's control. Most ESC systems can initiate a reduction in engine power.

Based on the statistics from a 2011 NHTSA report, ESC is very effective at reducing the number of severe motor vehicle crashes involving both passenger cars and sport utility vehicles.

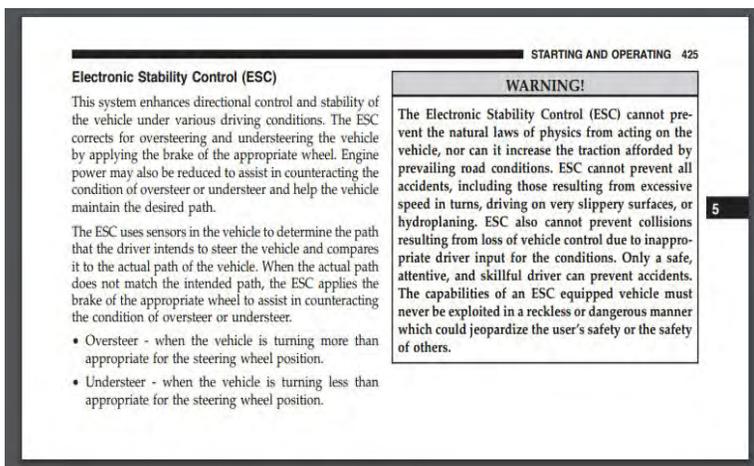
To completely realize the benefits of ESC, like other safety systems, success is largely dependent upon whether or not the driver interacts appropriately with the vehicle controls. Driver behaviors can completely negate the benefits of ESC. Drivers should remember ESC cannot create traction where none exists.

The following images are taken from the owner's manuals of the commonly used police vehicles.

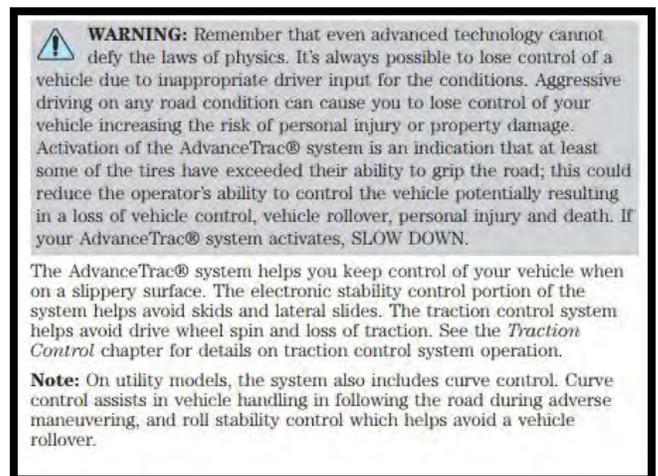
Table 1
ESC Lives Saved Estimates, by Year and Vehicle Type, 2008–2010

	Year	Passenger Cars With ESC Standard	Light Trucks/Vans With ESC Standard	Passenger Vehicles With ESC Standard
ESC Lives Saved Estimates	2010	497	366	863
	2009	384	321	705
	2008	328	306	634

Source: NHTSA, NCSA, FARS 2010 ARF and FARS 2008-2009 Final File, IIHS
*Fatality counts used to estimate ESC lives saved are limited to single-vehicle crash fatalities, where the crash did not involve a pedestrian, pedalcyclist, or animal in the first harmful event.



Excerpt From the 2015 Dodge Charger Owner's Manual



Excerpt From the 2015 Ford Police Interceptor Owner's Manual



EMERGING VEHICLE TECHNOLOGY

Several technologies are emerging with each new model year of vehicles. While it is not feasible to include all of these technologies in this manual, it is the responsibility of drivers to read the materials provided to them by automobile manufacturers such as owner's manuals, supplements, technical bulletins, and other sources of specific information to the platform being operated.

Following are a few more of the vehicle technologies drivers can expect to see entering the market in the next few years. *Images were taken from www.bosch-mobility-solutions.us*

Construction zone assist



Helps maintain a lateral safety distance on construction sites

The construction zone assist is an extension of lane keeping support and is also intended for narrow highway construction sites. It is based on a stereo video camera and is active at speeds of up to 100 km/h (62 mph). The function helps the driver to maintain a lateral safety distance between vehicles in the adjacent lane and guard rails or crash barriers when driving in a narrow lane.

By measuring the height of objects and detecting open spaces thanks to the stereo video camera, the construction zone assist can also detect other vehicles and lane markings, as well as lane boundaries such as cement walls, guard rails and crash barriers. If the vehicle approaches a boundary or a vehicle, the system can warn the driver or correct the vehicle motion via a steering or braking intervention.

The function can also prevent the driver from driving into a space that is too narrow by either warning the driver or automatically braking the vehicle at a later stage. For this purpose, the stereo video camera is supplemented with ultrasound sensors to monitor the lateral close range.

Driver drowsiness detection



Can detect the onset of drowsiness

Monotonous driving, e.g. on expressways, is exhausting and quickly leads to loss of concentration. Based on steering-angle data, the function driver drowsiness detection continuously analyzes the steering behaviour of the driver to identify phases during which the driver does not steer for a brief period and then makes an abrupt correction – often a sign of failing concentration and arising tiredness. The function combines the frequency and strength of these reactions with other data such as vehicle speed, time of day and use of other indicators to calculate a tiredness index. If this index exceeds a specific value, a visual and/or audible signal can warn the driver of becoming tired reminding her/him of the danger of nodding off at the wheel.

As well as warning the driver, data concerning the tiredness of the driver can be used by other systems in the vehicle. In combination with a navigation system, for example, it is possible to display the next available opportunity to stop or take a rest break.

Predictive pedestrian protection



Helps to prevent collisions and minimize accident severity

A predictive pedestrian protection system can recognize impending accidents with pedestrians who are in the same lane as the vehicle or who are moving dangerously into this direction. If the system detects a critical situation for pedestrians, it can warn the driver or automatically initiate emergency braking. In this way, the collision with the pedestrian can be avoided, or the vehicle's speed can at least be reduced as much as possible prior to impact. This can reduce the risk of serious injury to an absolute minimum.

Component

- > Mid-range radar sensor
- > Radar/video
- > Multi purpose camera
- > Stereo video camera



DRIVETRAIN CONFIGURATIONS

Whether you drive a 500-hp sports car or a 96-hp economy hatchback, all that potency under your car's or truck's hood is useless if the engine's torque doesn't get to the drive wheels through a complicated maze of gears.

The drivetrain may be the least understood part of a vehicle. Innovations in four-wheel and all-wheel drive have only made that confusion worse for many drivers. Similar to the explosion of vehicle technologies designed to enhance grip and promote vehicle safety, automobile manufacturers have been developing drive systems in vehicles rapidly. There are four types of drive systems in the current public safety fleet, including Front-Wheel Drive (FWD), Rear-Wheel Drive (RWD), All-Wheel Drive (AWD), and Four-Wheel Drive (4X4).

A “drivetrain” is the combination of the engine which powers the car, and a transmission, which uses the engine’s power to turn the wheels and put the car in motion. The engine and transmission are two separate and very different mechanical systems that are closely mated. Together they make up your car’s drivetrain, also referred to by some as a “powertrain.”

Vehicle Power

Each drivetrain configuration sends the engine’s power to the wheels in a different way. The power of a car is measured (generally) in two ways: horsepower (measured in horsepower units) and torque (measured in foot-pounds). Publications will highlight the advantages of vehicles using either or both of these measures.

Horsepower is a measurement of power. Horsepower propels a car down the road and makes higher top speeds possible. Horsepower is not what actually gets the wheels rotating.

$$\text{Horsepower} = (\text{Torque} \times \text{RPMs}) / 5252$$

Torque is what gets the vehicle moving from a stopped position. Torque begins at the engine and must be transferred to the drive wheels.



Torque is nothing more than a measurement of twisting or rotational force. The easiest way to think of this is to imagine a long shaft — like a car’s axle — and imagine it’s in a room suspended in midair. Hanging on the bottom of one end is a rope with a weight attached — a very heavy weight. Now imagine using your hands to twist the shaft, thus lifting the weight as the rope rolls around the axle. The amount of force you generate to lift the weight in this manner is the torque that you are able to produce. The measurement for this force is the foot-pound. A foot-pound is the rotational ‘force’ generated by hanging a one-pound weight at the end of a 1-foot wrench.

So, a technical answer to the question of, “What makes acceleration: torque or horsepower?” is torque— but torque at the wheels, not at the engine. Since drivers are interested in torque at the wheels and not at the engine, the best answer becomes horsepower, because horsepower encompasses not only the engine’s torque but the total torque that gets delivered to the wheels.

The ability of a vehicle to move is measured in both horsepower and torque. This is where the drivetrain becomes important. The driver needs to understand the abilities, designs, and limits of each configuration so that a reasonable margin of safety can be maintained during operations. Whether the car is driven by its front wheels, rear wheels, all four wheels, or something in between, there are advantages and drawbacks to each system.



DRIVE COMPARISON CHART

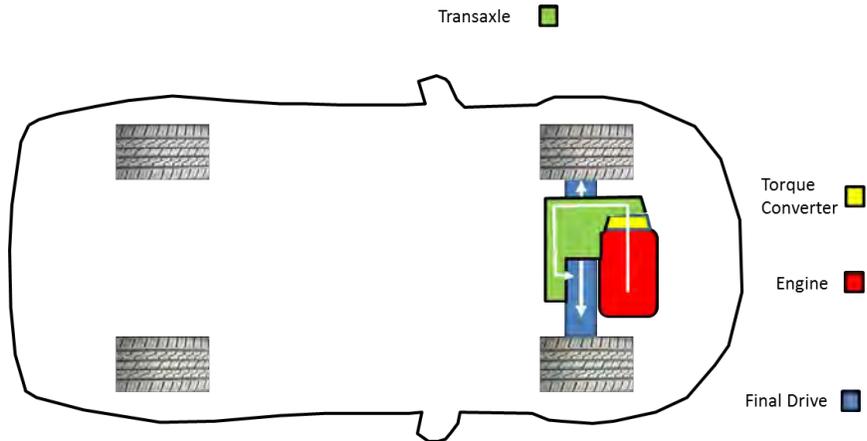
The majority of the patrol vehicles in use across the country are FWD, RWD, or AWD. The agencies utilizing 4X4's typically have those types of vehicles assigned for very specific patrol functions. Following is a comparison chart on the advantages and disadvantages of the popular drivetrain configurations.

	Front-Wheel Drive	Rear Wheel Drive	All Wheel Drive
Production Cost	Least to produce as the need for drive shafts and rear differentials are removed	Higher in cost due to additional components needed	Highest cost to produce
Repair Costs (if needed)	Higher costs as the transaxles, gearboxes, and differentials are all packaged together	Least to repair as most of the components can be worked on individually	Highest cost to repair; more moving parts to wear out; most are extremely reliable and do not require repair however
Weight	Least amount of weight due to the integration of gearbox, drive, etc.	Higher weight	Highest weight
Engine Size	Limited in size due to transverse mounting configuration	No limit in engine size	No limit if longitudinally mounted
Interior Space	Maximum interior space; no humps on the floor for the driveshaft, more trunk space due to lack of rear differential	Lesser interior space due to tunnel for drive shaft; trunk space can be limited by fuel tank installation shifting due to rear axle	Similar to RWD; interior space is compromised by mechanicals intruding into the passenger compartment
General Handling	Tends to understeer (Front Skid); torque steer under acceleration	Generally good, however, tends to oversteer under heavy braking or acceleration	Best handling due to the ability to drive all or selected tires; some tendency to understeer due to weight
Tire Load / Wear	Acceleration, Braking, Steering / Cornering forces all come together on front tires; very little load/demand on rear tires	Tire loads are more evenly distributed – rear tires driving/pushing the vehicle and front tires changing directions and the majority of stopping power	Weight is very evenly distributed in all driving situations
Fuel Efficiency	Lesser Mileage	Better Mileage	Lesser Mileage



FRONT WHEEL DRIVE

Front-Wheel Drive systems (FWD) have two primary advantages over other drivetrain configurations. The first is economy. A vehicle equipped with a FWD system is less expensive to manufacture. Because there are fewer components in these systems and all of the work is near the front, installation and assembly are also improved as a car moves down the production line. A second economic advantage is related to the average fuel economy when compared with other drivetrains. Because the number of materials needed in the drivetrain is fewer (separate transmission and axle assemblies found in other systems are not required), platform weight is reduced.



The second primary advantage of a FWD is directly related to improved grip in reduced grip driving conditions when compared to a Rear Wheel Drive (RWD) vehicle. The front wheels pull the car instead of the rear wheels pushing it. Additionally, the weight of the engine/transaxle being located essentially above the (front) drive wheels helps the vehicle increase contact patch size. Vehicles equipped with FWD are typically very capable in poor weather conditions.

The advantage of weight over the drive tires is also one of the major concerns with FWD systems when optimal handling is essential. Because the vehicle is nose-heavy by design, the additional weight on the front moves the vehicle balance (shifts the center of gravity forward) and creates handling challenges at higher speeds.

In the section discussing contact patches and the amounts of grip available during different driving maneuvers, we learned that asking the same contact patch to perform multiple tasks began rapidly degrading the overall performance of the tire. A FWD vehicle is asking the front tires to perform two tasks at one time every time the steering wheel is turned - and under acceleration, three tasks are being accomplished by the same amount of available contact patch.



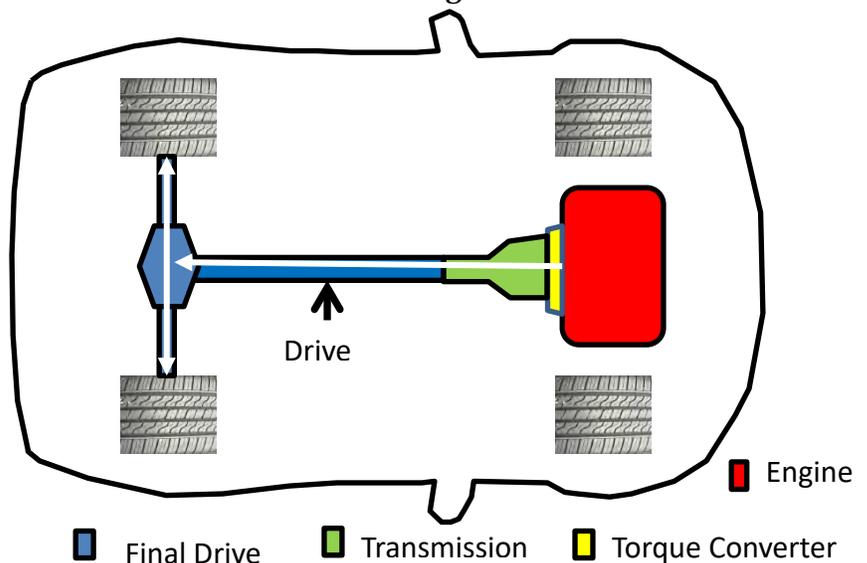
In a FWD car, it can sometimes be difficult or awkward to keep the car pointed straight ahead as the car accelerates. The front wheels may jerk to the left or right — a problem called “torque steer.” Modern FWD cars are less prone to this thanks to electronic traction control, but even technology will not overcome the physical tendency to torque steer. This is due to the different lengths of actual lengths of the final drive shafts and the drive shafts being on different angles to the wheels from the transaxle.

A vehicle equipped with FWD is historically fragile when compared with the more robust components in rear and all-wheel drive vehicles. The smaller final drive shafts and the constant velocity joints that link them are susceptible to wear and damage.

REAR WHEEL DRIVE

Rear-Wheel Drive vehicles are the original design of vehicles. RWD is the simplest way to package a car’s drivetrain since the components which comprise the system that transfers the engine’s power to the wheels can be spread out across the length of the car’s underside. RWD is also the best foundation for excellent handling. As with most options on vehicles, the same things that create virtue can also be significant drawbacks.

There are two main advantages to RWD vehicles. RWD is both simple and rugged and can take a lot of abuse without needing expensive repairs. Traditionally this is an advantage to public safety drivers. If the driver accidentally runs over a curb in a solid axle RWD car, the amount of damage is typically small or even non-existent.



Powering the rear wheels leaves the front wheels to deal with the steering and most of the braking. In the FWD vehicle, the tires are doing all three (steering, powering, braking), and finding the balance can be tricky, particularly as the power increases from the engine.



There is less typically less weight over the car’s rear axle, and as such, rear-wheel-drive cars inherently have less traction than others (thus the ability to spin the wheels). That means when roads get slippery, wheels in a rear-drive system can more easily spin, and the car can slide out of control. Modern safety systems like ESC and Traction Control help avoid this problem. Even with small amounts of water, snow, ice, gravel, or dirt in the driving path, a RWD vehicle is prone to loss of grip.

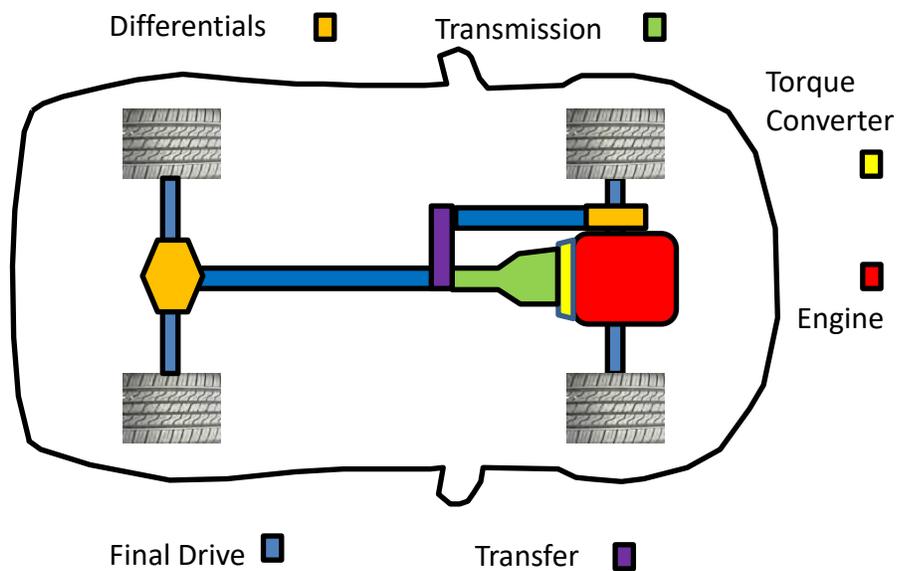
Rear-wheel drive also comes with some packaging issues. To give the driveshaft and rear differential (a gear mechanism that transfers power from the driveshaft to the wheels) enough clearance, a tall transmission tunnel running down the middle of the car is necessary, and it eats up some interior and trunk space. That’s where that hump in the middle of a rear-drive car’s interior comes from.

ALL WHEEL DRIVE

AWD gives some of the advantages of both RWD and FWD — while minimizing the weaker points of either of those layouts.

The number one advantage of AWD is excellent traction — both on dry pavement and in poor weather. This is why AWD appeals

to both the performance-minded enthusiast as well as the person who just doesn’t want to get stuck in the snow. Some AWD systems are based on RWD layouts (examples include the Dodge Charger Pursuit Vehicle), while others are built around FWD layouts (such as the new Ford Police Interceptor). The RWD-based versions are usually more performance-oriented, but most AWD vehicles do an impressive job of balancing handling/driving dynamics with “go anywhere, anytime” bad weather capability.





Weight and cost become two of the primary disadvantages of a vehicle equipped with AWD. AWD cars can weigh several hundred pounds more than an otherwise identical RWD or FWD car. This hurts the car's acceleration — at least when compared with an otherwise identical RWD or FWD version of the same car. And the added weight means the car will use more fuel — especially if the engine's power has been increased to compensate for the added weight.

Consider the options frequently chosen by fleet purchasers for public safety.

2016 Dodge Charger Pursuit (Sedan)	
RWD Version with 5.7L V8 Hemi	4382 pounds
AWD Version with 5.7L V8 Hemi	4485 pounds

Both engines have the same outputs. When you compare the absolute top speeds, there is a slightly higher top-end with the RWD package. When you compare the trade-in top speed for the grip in all conditions, the AWD version begins to make sense to purchasers.

PUBLIC SAFETY AND EMERGENCY VEHICLE OPERATION

ATTITUDE

The physical techniques of driving are relatively simple. The most difficult thing driving instructors have to modify is the attitude of the driver. Modifying behavior is a challenge with most drivers, and it is especially so with emergency vehicle drivers. A large number of police collisions are not caused by a technical problem or a lack of skill; rather, the root cause is very frequently a result of a series of poor decisions behind the wheel.

Attitude plays a significant role in how critically we make decisions. Thought must be given, in any training program, to improving the percentage of correct decisions made by our officers. Emphasis should also be placed on the ethical considerations of emergency vehicle operation. Officers must be encouraged to practice what they enforce. It is far too common for professional law enforcement personnel to issue citations to citizens for the same infractions the officer commits daily. Public Safety is under intense public scrutiny, and driving is the most highly visible activity we are involved in daily.



The attitude of a professional public safety driver will (to a very large degree) determine survivability. Survivability truly extends beyond life and death; many successful careers have been interrupted due to extensive physical injuries sustained in vehicle incidents. Career survivability requires continual attention to detail, focus on the task at hand, and an understanding that one of the most frequent activities public safety engages daily is also the highest statistical risk to the personnel. Careers can end prematurely due to poor decision making that results in lawsuits and additional risks to the driver.

Remain professional. Keep events in perspective and maintain a good attitude. Drivers and officers that use this approach will have a strong foundation for decision-making. There are too many cases where attitude leads to poor decision-making. Unfortunately, most of the crashes that occur to public safety drivers are results of poor driving decisions – not a lack of physical driving skills.

PROACTIVE DRIVING

Many people practice some form of defensive driving. The potential trap in a simple “defensive driving” strategy is the mindset this creates in a driver. The term “defensive” puts one in a reactive mindset. Drivers should become proactive drivers. Drivers should drive in a manner that influences and manages the driving environment. Driving in this manner encourages other drivers around you to respond with anticipated maneuvers.

Drivers must always be ready to react to an unanticipated action of another, but approaching the situation from a proactive mindset tends to reduce reaction times, allow for more efficient analysis of situations, and implement driving actions sooner.

The eyes of the driver have the largest impact on proactive driving.



DECISIONS AND JUDGMENT

In the introduction of this manual, the goal of safeguarding lives and property was listed as a primary program goal. The foundation for this goal is sound decision making. Good decision making begins with a professional attitude. Ethics and attitude must guide the decisions we make. The public expects an exemplary performance on your part.

It is very important for the drivers of emergency vehicles to be mentally prepared for the demands placed on them. Focus on the driving process improves everything from our visual acuity to our responses to unexpected changes in the driving environment. A driver that is preoccupied with outside factors can end up in a situation with disastrous results.

The lack of physical preparation can also lead to tragic results. Drivers that do not get enough sleep or are otherwise fatigued will find themselves in a situation where these deficiencies have a direct bearing on performance. Professional public safety drivers should not expose the public to more significant risks than those they are trying to protect against. As the seriousness of the situation increases, drivers find themselves willing to take more risks with their driving. We have to make sure the public is not more afraid of public safety and the manner in which we operate than they are with the incidents initially exposing them to risk.

There are many things a new officer might be thinking about that can distract them from fully concentrating on their driving. Learning a new community, a new department, rules, and regulations, moving to a new community, or purchasing a new home are all real concerns - yet each of these will, to some degree, erode the focus and concentration of driving. When operating an emergency vehicle, officers must learn to compartmentalize and focus on immediate tasks.

Law enforcement driving is a complex task requiring the ability to manage multiple tasks in rapid succession. The officer must operate the vehicle safely and lawfully while being subjected to distractions that other drivers seldom worry about.

Never forget that the public expects nothing less than exemplary driving from law enforcement officers.



DPSST EVO SCORING / EXPECTATIONS

The EVO programs at DPSST rely upon scoring by instructors riding with drivers in training.

A score of twelve (12) is necessary for a driver to achieve a passing evaluation in EVO. The score represents an average of “3’s” in each of the major areas of observation, including Steering, Braking, Acceleration, and Roadway Positioning. The sample below is a copy of the first page of the evaluation form used to observe and evaluate driving.

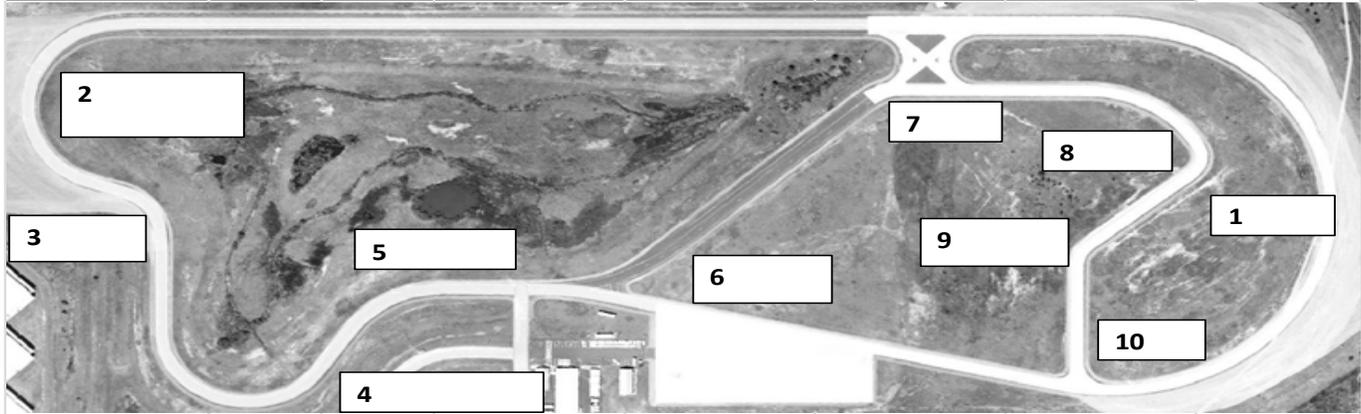
The evaluation course is a four-lap course involving both non-emergency and emergency operation, emergency lane changes, radio utilization, and precision vehicle placement in both forward and reverse operation.



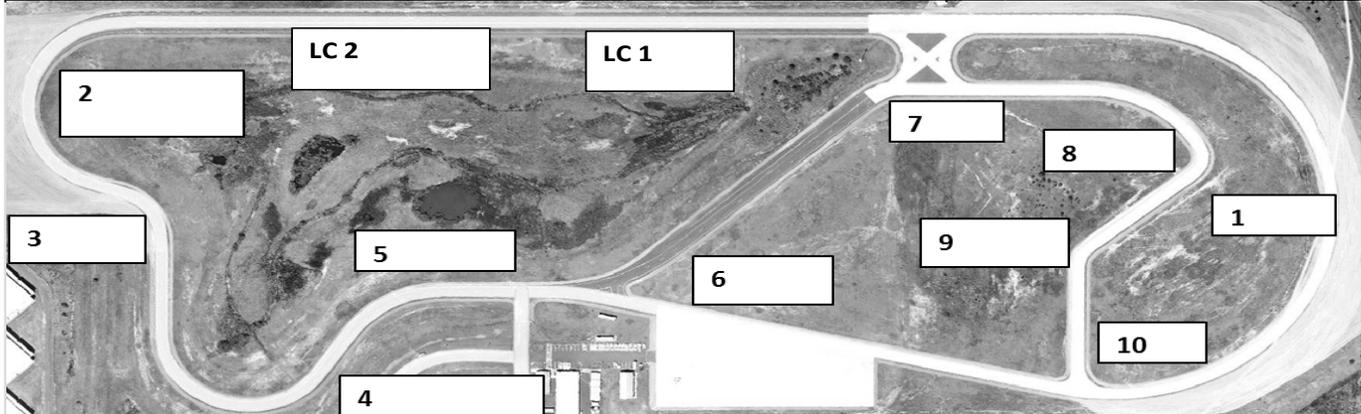
STATE OF OREGON
 DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
 Basic Police

	Student Driver				Class
	Instructor			Evaluation	Date

	LAP 1	Lap Notes Key			
Speed Limit	65	Steering		Braking	
Lane Changes	NO	+	<i>Demonstrated</i>	+	<i>Demonstrated</i>
Steering		HP	<i>Hand Position</i>	JAB	<i>Jabs / Stabs / Harsh</i>
Braking		JK	<i>Jerks / Rapid Input</i>	1PD	<i>Multiple Applications</i>
Acceleration		MM	<i>Micro-Manages</i>	POP	<i>Pops Off</i>
Road Position		LG	<i>Lets Go</i>		



	LAP 2	Lap Notes Key			
Speed Limit	85	Acceleration		Road Position	
Lane Changes	Yes	+	<i>Demonstrated</i>	+	<i>Demonstrated</i>
Steering		JAB	<i>Jabs / Stabs</i>	EE	<i>Early Entry</i>
Braking		POP	<i>Pops Off</i>	CC	<i>Crossed Center</i>
Acceleration		AE	<i>Applies too Soon</i>	ME	<i>Missed Exit</i>
Road Position				G	<i>Grip</i>





<h1 style="text-align: center;">Braking</h1>							
Core Task							
	<p style="text-align: center;">Release</p>	<p style="text-align: center;">Application</p>	<p>5 – Outstanding</p> <ul style="list-style-type: none"> Always squeezes pedal firmly and smoothly with pedal pressure commensurate to situation Brake is always applied with ball of foot and heel firmly anchored on floorboard Brakes are always applied early and with less overall pressure approaching braking areas Driver uses brakes to shift weights as needed for grip 	<p>4- Excellent</p> <ul style="list-style-type: none"> Nearly all applications are a result of a firm and smooth squeeze on the pedal Pedal pressure exerted on brake is correct in nearly every application Brake is applied with ball of foot on pedal and heel firmly anchored on floorboard in nearly every situation 	<p>3- Acceptable</p> <ul style="list-style-type: none"> Applies pedal pressure firmly and smoothly or recognizes errors without prompting Pedal pressure is maintained with ball of foot on pedal and heel anchored on floorboard and driver recognizes situations when this does not occur Brakes are applied early with less overall pressure approaching braking areas or driver recognizes when this does not occur 		<p>2- Learning</p> <ul style="list-style-type: none"> Occasionally applies pedal pressure firmly and smoothly Requires periodic input from instructor to correct pedal pressure or foot position Brake applications are occasionally early with less pressure Brake application areas are frequently discussed with driver
	<p>Release</p> <ul style="list-style-type: none"> Brakes are always released in synchronization with input of steering Driver releases pressure to shift weight as needed to maintain grip 		<p>3- Acceptable</p> <ul style="list-style-type: none"> Nearly all pedal releases are completed in a controlled manner The foot remains in contact with ball of foot on pedal and heel firmly anchored in nearly all situations Braking releases are nearly always in synchronization with steering inputs 	<p>2- Learning</p> <ul style="list-style-type: none"> Occasionally releases in controlled manner or driver recognizes when it is too quick Foot remains in contact with ball of foot on pedal and heel firmly anchored or driver recognizes when the foot “pops off” Braking releases are synchronous with steering inputs or driver recognizes timing error without prompting 	<p>1 – Not Demonstrating</p> <ul style="list-style-type: none"> Pedal pressure is applied in dramatic and hard fashion Foot position is often with arch area of foot on pedal and heel off of the floor Brake applications are late and cause heavier pedal pressures Brake applications are early and require continual adjustment Driver requires ongoing commentary from instructor 		<p>1 – Not Demonstrating</p> <ul style="list-style-type: none"> Pedal is immediately released and suspension rebound is not controlled Heel of foot is frequently off of the floor and arch is in contact with pedal Brake releases are not timed with steering inputs Driver requires continual instructor comment



Core Task		5 – Outstanding	4-Excellent	3-Acceptable	2-Learning	1 – Not Demonstrating
<h1>Acceleration</h1>						
<i>Application</i>		<ul style="list-style-type: none"> • Pedalis always firmly applied by squeezing ball of foot on pedal and keeping heel of foot on floorboard • Pedal pressure is always applied in synchronized manner with steering release • Acceleration never creates a loss of grip on front or rear tires due to timing of application • Driver uses accelerator to shift weight as needed 	<ul style="list-style-type: none"> • Pedalis nearly always firmly applied by squeezing ball of foot on pedal and keeping heel of foot on floorboard • Pedal pressure is nearly always synchronized with steering release • Acceleration rarely creates a loss of grip on front or rear tires 	<ul style="list-style-type: none"> • Pedalis firmly applied by squeezing ball of foot on pedal and keeping heel anchored on floorboard or driver corrects errors without prompting • Pedal pressure is applied with release of steering or driver recognizes timing error • Acceleration does not cause loss of grip on front or rear tires or driver recognizes the result of such an error without prompting 	<ul style="list-style-type: none"> • Pedalis occasionally applied with firm squeeze on pedal by ball of foot with heel anchored on floorboard • Pedalis occasionally applied in synchronization with steering release • Periodic loss of grip on front or rear tires is caused by excessive acceleration • Frequent input from the instructor 	<ul style="list-style-type: none"> • Pedalis never released smoothly (Driver “Pops Off” of pedal contact) • Pedal is released prior to any input of steering • Driver does not understand weight shift derived from pedal release • Driver requires constant instructor comment
<i>Release</i>		<ul style="list-style-type: none"> • Pedalis always released while foot is still in contact with pedal unless a dramatic shift in weight is required • Timing with steering input is always synchronized 	<ul style="list-style-type: none"> • Pedalis nearly always released with foot in contact of pedal • Driver recognizes when dramatic shift of weight is needed • Timing with steering is nearly always in synchronization 	<ul style="list-style-type: none"> • Pedalis released with continual contact on pedal or the driver recognizes when error occurs • Driver understands use of pedal to move weight • Timing with steering is synchronized or driver recognizes error 	<ul style="list-style-type: none"> • Pedalis frequently released all at one time (Driver “Pops Off”) • Pedalis not used to shift weight without coaching • Accelerator release is not synchronized with steering • Periodic input from the instructor is needed 	



Steering		Core Task
<p>Release</p> <ul style="list-style-type: none"> • Always smooth and continuous • Always synchronized with release of brake and application of accelerator • Never lets the steering wheel slide through hands during release 	<p>Input</p> <ul style="list-style-type: none"> • Always smooth and continuous • Always synchronized with release of accelerator and application of brake 	<p>5 – Outstanding</p> <ul style="list-style-type: none"> • All inputs are smooth and continuous • Always uses the minimum amount needed to change direction • Always synchronized with release of accelerator and application of brake
		<p>4- Excellent</p> <ul style="list-style-type: none"> • Nearly all inputs are smooth and continuous • Steering amounts are almost always the minimum amount needed to change direction • Rarely makes adjustments to steering inputs • Release of accelerator and input of brakes are nearly always synchronized
<p>3- Acceptable</p> <ul style="list-style-type: none"> • Releases smooth and continuous or recognized by driver without prompting • Release of brakes and application of accelerator is synchronized or recognized without prompt 	<p>3- Acceptable</p> <ul style="list-style-type: none"> • Inputs are smooth and continuous or driver recognizes error without prompt • Minimum amount of steering is needed to change direction or recognized by driver • Driver recognizes times when steering inputs are adjusted • Steering input is synchronized with brakes and accelerator and errors are recognized 	<p>3- Acceptable</p> <ul style="list-style-type: none"> • Inputs are smooth and continuous or driver recognizes error without prompt • Minimum amount of steering is needed to change direction or recognized by driver • Driver recognizes times when steering inputs are adjusted • Steering input is synchronized with brakes and accelerator and errors are recognized
<p>2- Learning</p> <ul style="list-style-type: none"> • Occasionally releases steering smoothly and continuously • Occasionally synchronizes release of brake or application of accelerator with release • Frequently lets the steering wheel slide 	<p>2- Learning</p> <ul style="list-style-type: none"> • Occasionally inputs smooth and continuous • Occasionally uses minimum amount needed to change direction • Steering not synchronized with release of accelerator and application of brake • Makes several adjustments to steering input 	<p>2- Learning</p> <ul style="list-style-type: none"> • Occasionally inputs smooth and continuous • Occasionally uses minimum amount needed to change direction • Steering not synchronized with release of accelerator and application of brake • Makes several adjustments to steering input
<p>1 – Not Demonstrating</p> <ul style="list-style-type: none"> • Steering release is harsh and abrupt • Steering is rapid and does not maintain release of suspension rebound • Always lets wheel slide through hands • Does not synchronize with brakes or accelerator 	<p>1 – Not Demonstrating</p> <ul style="list-style-type: none"> • Continually stops and starts steering input • Inputs harsh and aggressive • Continually uses more steering than necessary to change direction causing multiple steering adjustments • Adds steering before release of accelerator • Adds steering before application of brakes 	<p>1 – Not Demonstrating</p> <ul style="list-style-type: none"> • Continually stops and starts steering input • Inputs harsh and aggressive • Continually uses more steering than necessary to change direction causing multiple steering adjustments • Adds steering before release of accelerator • Adds steering before application of brakes



<h1>Road Position</h1>		Core Task
<p><i>Corner Exit</i></p>	<p><i>Corner Entry</i></p>	<p>5 – Outstanding</p> <ul style="list-style-type: none"> Always in the most advantageous position to begin a turn or corner Always adjusts road position to account for grip conditions Vehicle always adjusts position to account for gravel, water, or other road hazard that reduce grip Never remains in areas of reduced grip Never departs lane without reason or signal and departures are carefully considered and articulated
<p><i>Corner Exit</i></p>	<p><i>Corner Entry</i></p>	<p>4 – Excellent</p> <ul style="list-style-type: none"> Nearly always in the most advantageous approach position to begin a turn or corner Nearly always adjusts road position to account for grip conditions such as gravel, water, or other road hazard Vehicle nearly always avoids areas of reduced grip Rarely departs lane of travel without reason or signal and recognizes error
<p><i>Corner Exit</i></p>	<p><i>Corner Entry</i></p>	<p>3 – Acceptable</p> <ul style="list-style-type: none"> Usually approaches turn or corner on the outside Usually recognizes gravel, water, or other road hazards that reduce grip and adjusts the approach path Usually avoids reduced grip conditions when possible Driver able to articulate position, stability, and options when they are not demonstrated Occasionally departs lane of travel without reason or signal and recognizes error
<p><i>Corner Exit</i></p>	<p><i>Corner Entry</i></p>	<p>2 – Learning</p> <ul style="list-style-type: none"> Occasionally approaches a turn or corner on the outside Occasionally recognizes gravel, water, or other road hazard that reduce overall grip and requires adjustment to the approach path resulting in reduced platform stability Recognizes factors impacting grip and adjusts late Struggles to articulate position, stability, and options Consistently departs lane of travel without reason or signal but articulates recognition of error
<p><i>Corner Exit</i></p>	<p><i>Corner Entry</i></p>	<p>1 – Not Demonstrating</p> <ul style="list-style-type: none"> Does not recognize gravel, water, or other road hazards that reduce overall grip and require adjustment to the approach path Cannot articulate position, stability, and options when they are not demonstrated Does not account for rear tires tracking inside front tires in drive Does not account for front tires pivoting outside rear tires in reverse Consistently departs lane of travel without reason or signal w/ no recognition Does not enter turn or corner as wide as possible based on available grip Does not enter turn or corner with platform stability and is not stable prior to steering input Does not enter corner in areas of best available grip



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Emergency Vehicle Operations Pursuit and Emergency Response



Student Study Guide



**EMERGENCY VEHICLE OPERATIONS
PURSUIT AND EMERGENCY RESPONSE
STUDENT STUDY GUIDE**

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INTRODUCTION

Police pursuits and emergency responses as they are practiced in the United States are relatively dangerous and often inexact operations. Officers, suspects, and the public are frequently at considerable risk to serious physical injury or death even when pursuit management control measures are in place. The management of a pursuit is often a confusing, cumbersome, and difficult task and is most often hampered by a lack of communication between the involved personnel. This guide is designed to help establish some common terminology and concepts that will aid officers and supervisors in the effective and safe management of pursuits and emergency response.

Over the years many EVO Instructors conducting in-service training have heard officers say words to the effect of "I always shuffle steer when I get into a pursuit."

This information is a supplement to the basics of driving contained in the EVO Student Guide. There are no tactics or strategies for pursuit management that will supplant the need to operate vehicles in the most efficient manner possible and in order for an officer to truly say "I always shuffle steer when I get into a pursuit," the officer must be able to say, "I always use shuffle steering and good driving techniques, regardless of the situation."

The unit learning goals for the EVO program remain consistent in pursuits and emergency responses.

UNIT LEARNING GOALS

- *To teach officers the skills they need to perform their jobs safely and efficiently while operating emergency vehicles.*
- *To help enable officers to safeguard lives and property through the use of good judgement during emergency vehicle operation.*
- *To minimize the risk of life and injury through the use of innovative and realistic techniques for avoiding and minimizing collisions.*

The single-most important factor in the EVO program is based on a very simple philosophy and is a critical component of driving in an emergency response or a pursuit.

"It is not how fast you drive; it is how efficient and consistent you are in your driving."

The "Platform Stability" or "Stable Platform" model of driving is even more important as the speeds of operation increase. This driving model assumes the vehicles to be inherently stable by design and that these platforms are stable when they are the "flattest." Remember:

"100% control of the vehicle, 100% of the time"

DEFINITIONS / TERMINOLOGY

Historically a major problem faced by police officers, supervisors, and command staff is a lack of consistent standards and terminology. The Courts have provided guidelines for force and in many cases, applied these concepts and guidelines to pursuits, however clearly established procedures have not been provided. This initially can cause problems for personnel because we often seek “a consistent method” of doing things.

While we strive to maintain consistent conceptual and program materials, it is important to remember that each emergency response and vehicle pursuit will have components that are unlike any other – whether it be due to environmental conditions, equipment restrictions, officer skills and perceptions, or any one of a thousand other variables, we cannot provide one blueprint for success.

The following definitions are intended to establish a baseline for both training and operations of emergency vehicles; however the specific needs of agencies will cause modification of many of these definitions.

Pursuit	An active attempt by a law enforcement officer to apprehend one or more occupants of a moving motor vehicle, providing the driver of such vehicle is aware of the attempt and is resisting apprehension by maintaining or increasing his speed or by ignoring the law enforcement officer’s attempt to stop him. <i>(NCJRS)</i>
Emergency Response	A response to an incident where there is an imminent threat of serious injury or death to persons, a response to crimes in progress where the threat of violence exists, or there is a threat of a serious public safety hazard.
Pursuit Position	Actual positioning of a patrol vehicle in a path of travel that is off-set approximately one-half of a vehicle width to either side from the positioning of the fleeing vehicle and utilizing both audible and visual emergency equipment.
Slack Pursuit	Establishing a following distance of a minimum of four seconds and maintaining a safe interval between the fleeing vehicle and the police vehicle.
Channelization	The act of restricting the fleeing vehicle to certain paths of travel by the active positioning of police vehicles along the route of the pursuit.
Controlled Tire Deflation Device	Commonly referred to as “spike strips” or “stop sticks”, these devices are equipped with small gauge hollow spikes that stick into the tire as it crosses the device and allows a controlled and measured release of tire pressure.
Forcible Stop	The utilization of a controlled tire deflation device, the police vehicle, or other tools applied directly to the fleeing vehicle in an attempt to stop the vehicle. Forcible stops include such tactics as Blocking, Ramming, Boxing, Pinning, PIT, and Roadblocks.
Pursuit Intervention Tactic	This technique is typically referred to as “PIT” or “TVI” (Tactical Vehicle Intervention). The PIT maneuver is intentionally applied contact with the police vehicle to the rear quarter-panel of the fleeing vehicle in an attempt to force rotation of the fleeing vehicle. This forced rotation is typically sufficient to momentarily stop the fleeing vehicle and is often combined with other forcible vehicle contact such as pinning.

DEFINITIONS / TERMINOLOGY

Blocking	A technique similar to channelization, where police vehicles are tactically positioned in the path of the fleeing vehicle to slow the overall speed and to prevent the fleeing vehicle from certain paths of travel. Similar to channeling by both definition and application.
Boxing	A technique requiring two or more police vehicles to bracket (box) the fleeing vehicle and restrict further movement or directional change. This technique typically involves forcible contact between the police and fleeing vehicles. This tactic is sometimes referred to as a "Rolling Roadblock". Boxing tactics can be used on vehicles in motion as well as vehicles that are static.
Pinning	A technique used to prevent further movement of a stopped vehicle. This tactic involves forcible contact between the vehicles. This tactic is often used at the conclusion of a PIT maneuver to restrict any further vehicle movement.
Ramming	Intentional and forcible contact with the fleeing vehicle by a police vehicle with the intent to immediately stop the fleeing vehicle. Ramming often results in significant damage to all of the vehicles and increases the risk of serious physical injury to the occupants of the fleeing vehicle and to the officer.
Road Block	The placement of one or more vehicles (typically police vehicles) in the traveled portion of the roadway, in order to partially or completely block the road and to indicate a denial of passage to the violator's vehicle. A complete blockage of the roadway typically represents a higher level of risk and could be constitutionally unreasonable unless properly constructed and managed.
Pursuit Termination	The active actions of police officers to disengage from the act of pursuit. Often referred to as "discontinuation of pursuit", this tactic involves physically stopping the police vehicle, radioing the termination of action, and seeking another route to travel if possible.

PURSUIT MANAGEMENT

ANALYSIS OF PURSUIT

When the occupants of a vehicle determine that it is necessary to attempt and elude contact with police and a vehicle pursuit is initiated, the management of the pursuit by the officers involved, supporting personnel, supervisors, and command staff all become integral to the discussion. A pursuit must consider the risk of public harm in addition to the decisions of force needed to stop the pursuit and to seize the occupant(s).

The first fundamental question that will be asked was whether or not there was an appropriate (reasonable) balance between the degrees to which the public was exposed to harm in light of the actual governmental interest in apprehending the occupants of the fleeing vehicle.

The second fundamental question will look specifically to the reasonableness of the force used to conduct the seizure of the occupants. This question looks at the issues of whether the officers used force appropriately or excessively resulting in a constitutional deprivation to the occupants. In this part of the review, two basic questions are asked:

1. Was there a seizure through a mechanism of force?
(If the answer to question #1 is "Yes", proceed to question #2)
2. Was the force reasonable when considered against the totality of the circumstances? *(Graham v. Connor)*

When police officers utilize force to mitigate and control resistive behavior of persons, the legal system will analyze the activity and actions based on the "reasonableness" of the actions. This analysis is something officers understand when the force is used in an arrest situation, in a one-on-one force encounter, or similar activity, and officers are well-prepared and versed use of force decision-making skills.

Since the action of pursuing a fleeing vehicle is an attempt to exercise control of the occupant or occupants of the vehicle, police are in fact attempting a constitutional action of seizing the occupants and the legal authority to use force in attempt to seize someone is provided in Oregon Revised Statutes (ORS).

Police pursuits, or "High-Speed Chases" as many are prone to label this activity, are becoming increasingly loaded with risk. Consider a few of the factors contributing to the physical risks:

- *Both the police and fleeing vehicles are faster and loaded with technology designed to assist the driver in maintaining vehicle control.*
- *People under the physiological effects of adrenaline are not equipped to make the best decisions – this applies to both fleeing drivers and to pursuing officers.*
- *Population densities are increasing in all areas, including our rural environments.*

In addition to the physical risks of vehicle pursuit, the risks beyond those of serious physical injury or death continue to exist and to help shape our approach to police response in pursuit situations. These risks include financial risks through liability claims, increased insurance premiums for agencies, and public perceptions.

PURSUIT MANAGEMENT

Pursuits are analyzed both during the event and even more critically in after-action review to help to identify the exposures to risk and to shape future procedures and policies in an attempt to reduce the overall risk to all parties.

The United States Department of Justice (USDOJ) published “The Final Report of The President’s Task Force on 21st Century Policing” in 2015. A significant part of this report examined the interactions between law enforcement agencies and the public and while police pursuits were not the topic of the conversation, several of the findings are germane to the discussion when a pursuit analysis is conducted.

“Building trust and nurturing legitimacy on both sides of the police-citizen divide is not only the first pillar of this task force’s report but also the foundational principle underlying this inquiry into the nature of relations between law enforcement and the communities they serve. Since the 1990s, policing has become more effective, better equipped, and better organized to tackle crime. Despite this, Gallup polls show the public’s confidence in police work has remained flat, and among some populations of color, confidence has declined.”

“Decades of research and practice support the premise that people are more likely to obey the law when they believe that those who are enforcing it have the legitimate authority to tell them what to do. But the public confers legitimacy only on those they believe are acting in procedurally just ways. “

(Excerpts from the USDOJ Report)

With this thought process as the basis for analyzing the tactics and decisions that police personnel make during the course of a vehicle pursuit, it is important to understand that procedurally just behavior is really grounded on four simple and procedurally just behavior is based on four essential principles.

These principles include:

1. *Treating people with dignity and respect*
2. *Giving individuals “voice” during encounters*
3. *Being neutral and transparent in decision making*
4. *Conveying trustworthy motives*

Experience indicates that adhering to these principles lead to communities that trust their officers are honest, unbiased, benevolent, and lawful. The community therefore feels obligated to follow the law and the dictates of legal authorities and is more willing to cooperate with and engage those authorities because it believes that it shares a common set of interests and values with the police.

PURSUIT MANAGEMENT

PUBLIC HARM AND REASONABLENESS

The most critical element of a pursuit is the need to establish the level of control exerted to the degree of risk posed by the fleeing individual. What is the degree of risk posed to the public by the offense committed by the individual? What is the degree of risk posed to the public should the fleeing individual make good his or her escape?

This public harm risk is different than the degree of risk posed by the pursuit itself. Most pursuits are inherently dangerous by nature. While some are less dangerous than others, the very act of engaging in a pursuit involves vehicular operation approaching the limits of the capabilities of the vehicles (police and fleeing) and the drivers of both vehicles. When these limits are exceeded the risk increases exponentially.

If an officer's actions are reasonable in light of the public harm risk that exists, then the officer's actions are more likely to be defensible in a court of law.

PURSUIT MANAGEMENT TOOLS

Police agencies, supervisors, and officers have several tools at their disposal to effectively manage the public harm and physical risks posed during vehicle pursuits. These tools include policy, training, and supervision.

Policy Development and Support

Policies that shape the operations of emergency vehicles in pursuits are critical to the effective management of pursuits. These guidelines establish the template that all personnel utilize in their decision-making process. Policies help to create an acceptable balance between the *expeditious operation* of police vehicles in emergency situations, and the *responsible and safe operation* of police vehicles in order to protect the general public and the law enforcement personnel involved.

For example, it is fairly common for a department to restrict by policy the number of police vehicles that may engage in a pursuit. The theory is that the fewer vehicles there are involved, the lower the risk and therefore the lower the liability exposure, however most policies also provide an opportunity for personnel to consider the cause and nature of the pursuit and/or the number of suspects involved. Restricting a pursuit of three armed robbery suspects to two single officer patrol units may be safer for the motoring public, but it is not safer for the officers. Policies often create guidance for personnel in these situations.

Officers must become as comfortable with the knowledge and application of pursuit policy as they are with their understanding of Use of Force policy.

PURSUIT MANAGEMENT

Training

Officers should participate in on-going training with regard to their physical driving skills and to their knowledge and decision-making skills. Hands-on training in EVO is expensive and is logistically difficult to present for agencies, but the costs of failing to train are often greater. Officers should actively seek opportunities to improve their understanding of the science of driving and to understand the characteristics of the vehicle they are assigned. This does not require formal training, but it does require officers to read the owner's manuals, review incidents with other personnel, and to invest in their own personal safety.

A major component of many pursuit policies are after-action reviews. Personnel often look at these reviews as potential discipline or even as a waste of time. This thinking is detrimental to the training that can be derived from an honest and critical review of activity.

Supervision

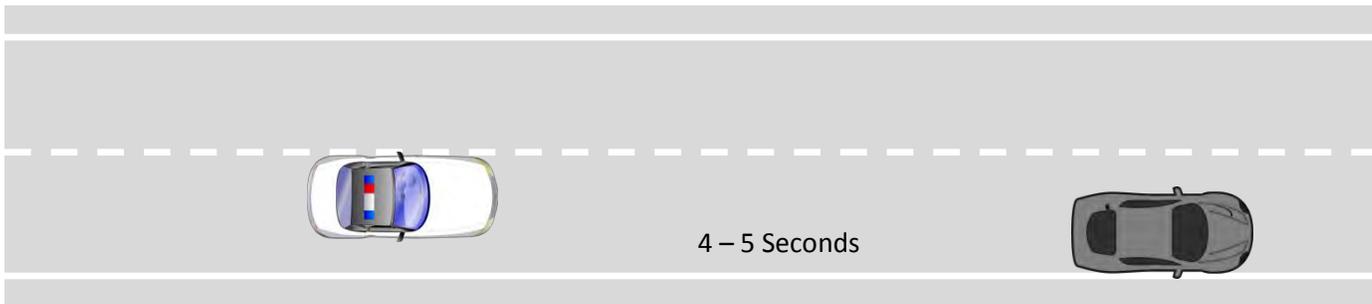
The vague descriptions of pursuit activity that are commonly used during radio transmissions often cause supervisors to make their decisions based on partial information. Supervisors are an integral component of effective pursuit management. Unless the supervisor is actually involved in the pursuit, the supervisor is in a position to apply policy and procedures without the added stresses of performance driving, observation of the fleeing vehicle, and describing the actions in a cohesive and cogent manner over a radio.

Supervisors should take an active role in eliciting information from personnel involved in pursuits.

A common misconception is that only the officer involved in a pursuit and the supervisor on duty can terminate or discontinue a pursuit. Certainly each of these individuals has both the authority and the responsibility to discontinue activity that does not rise to the standards of policy, but other officers can also effectively assist in this process and should be carefully listening to the progress of a pursuit in order to assure that the actions remain within the policy of the agency.

PURSUIT TACTICS

Pursuit Position / Off-Set Position / Slack Pursuit



In the diagram above, the police vehicle has established the preferred pursuit position.

- Police vehicle has established a four to five second following distance
 - Allows plenty of time for the police operator to react to sudden stops, changes of direction, or other driving maneuvers either intended to surprise the officer
 - Creates a reaction distance if the fleeing vehicle suddenly stops
 - Creates a reaction distance if the fleeing vehicle is involved in a crash
 - Allows the officer to maintain visual contact with the fleeing vehicle
 - Encourages the fleeing vehicle to reduce speed because the distance does not create additional pressure or worry about being struck by the police vehicle
- Police vehicle is off-set approximately one-half of a vehicle width from the fleeing vehicle (in this case, the off-set is to the left)
 - Allows maximum lighting and visibility to show past the fleeing vehicle so that on-coming drivers can see the activity sooner
 - Allows the police driver to see more of the fleeing vehicle
 - Provides the police driver an opportunity to see past the fleeing vehicle and helps to break the impact tunnel vision has on the officer
 - Encourages the fleeing vehicle to make right hand turns – left hand turns create a mental image in the fleeing driver’s mind that he is about to be struck by the on-coming police vehicle directly in the driver door
 - Right hand turns tend to shorten the overall distance a pursuit travels geographically
- When the police vehicle has established a good following distance and off-set, the police driver should ease off of the accelerator and allow the fleeing vehicle to feel like escape is a potential outcome – this often allows the fleeing driver to relax and the speed of the fleeing vehicle will subsequently slow as well. This tactic is known as “Slack Pursuit” and is one of the first options that police officers should employ.

PURSUIT TACTICS

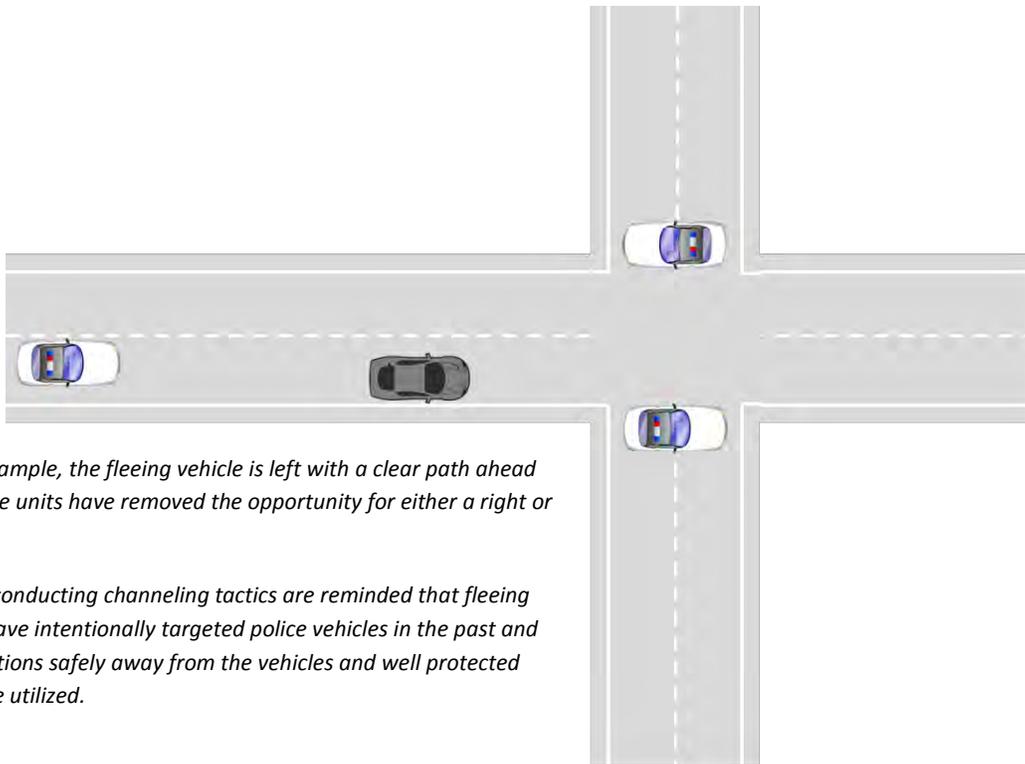
CHANNELIZATION

As pursuits evolve it becomes advantageous for law enforcement personnel to try and direct the fleeing vehicle into areas where overall risk can be effectively managed and reduced. It is a common thought process to try and prevent pursuits from entering busier jurisdictions from areas with less activity. Creating effective barricades to certain paths of travel and leaving other paths available to the fleeing vehicle are the goals of channelization.

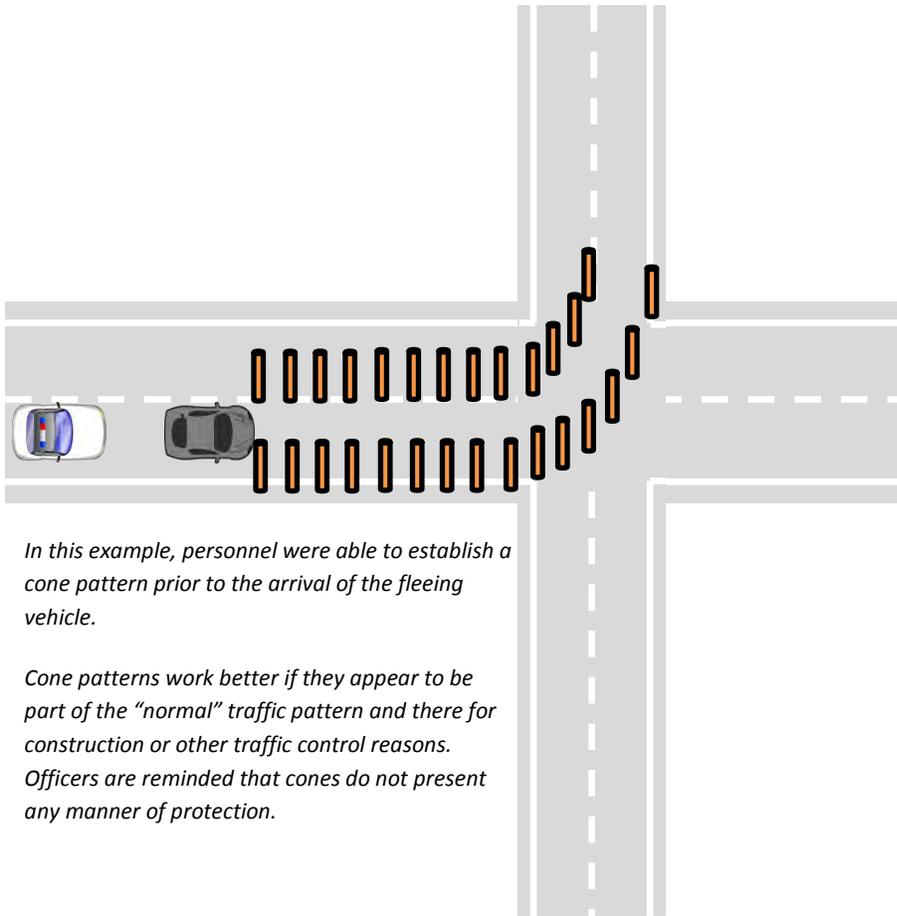
Agencies channel vehicles in pursuits for multiple reasons:

1. Direct uninvolved traffic away from an area of potential danger.
2. Stop uninvolved traffic in an area that can be protected.
3. Keep the pursuit on a divided highway or freeway rather than allowing the pursuit to enter a two-lane roadway.
4. Keeping the pursuit on a section of highway where additional tactics such as controlled tire deflation can occur.
5. Keeping the pursuit in an area where support personnel such as K-9 units, SWAT, or other special units are deployed.
6. Keeping the pursuit away from heavily populated areas.

Channelization can be accomplished in a myriad of ways. Probably the most common method is to use police vehicles strategically positioned in the on-coming route of travel to remove one or more options to the driver of the fleeing vehicle. When time permits, other methods include the use of flare patterns, cone patterns, or barricades.



PURSUIT TACTICS



In this example, personnel were able to establish a cone pattern prior to the arrival of the fleeing vehicle.

Cone patterns work better if they appear to be part of the "normal" traffic pattern and there for construction or other traffic control reasons. Officers are reminded that cones do not present any manner of protection.

PURSUIT TACTICS

CONTROLLED TIRE DEFLATION DEVICES

Law enforcement agencies that choose to equip personnel with controlled tire deflation devices have a few options on the market to choose from. These devices range in size and in configuration and are available for several different missions. Agencies that provide this option for officers attempting to slow and eventually stop a vehicle pursuit provide the policy support and training needed for personnel to utilize this equipment.

A few general guidelines and considerations for the use of these devices include:

Communications:

- Officers preparing to deploy a deflation device must communicate with all personnel involved prior to a deployment
- Officers should notify personnel of general location of deployment
- Officers should work with supervisory personnel when time allows and if required by policy

Deployment Locations:

- Officers should select a stretch of roadway where uninvolved traffic (pedestrian and vehicular) can be managed and kept out of the deployment area
- Officers should select a stretch of roadway where tire failure will not create additional risk of serious physical injury or death the occupant(s) of the fleeing vehicle
- Officers must select a location where there is sufficient cover / protection for the officer deploying the device in the event the driver of the fleeing vehicle decides to take extreme evasive action to avoid the devices

Other Considerations:

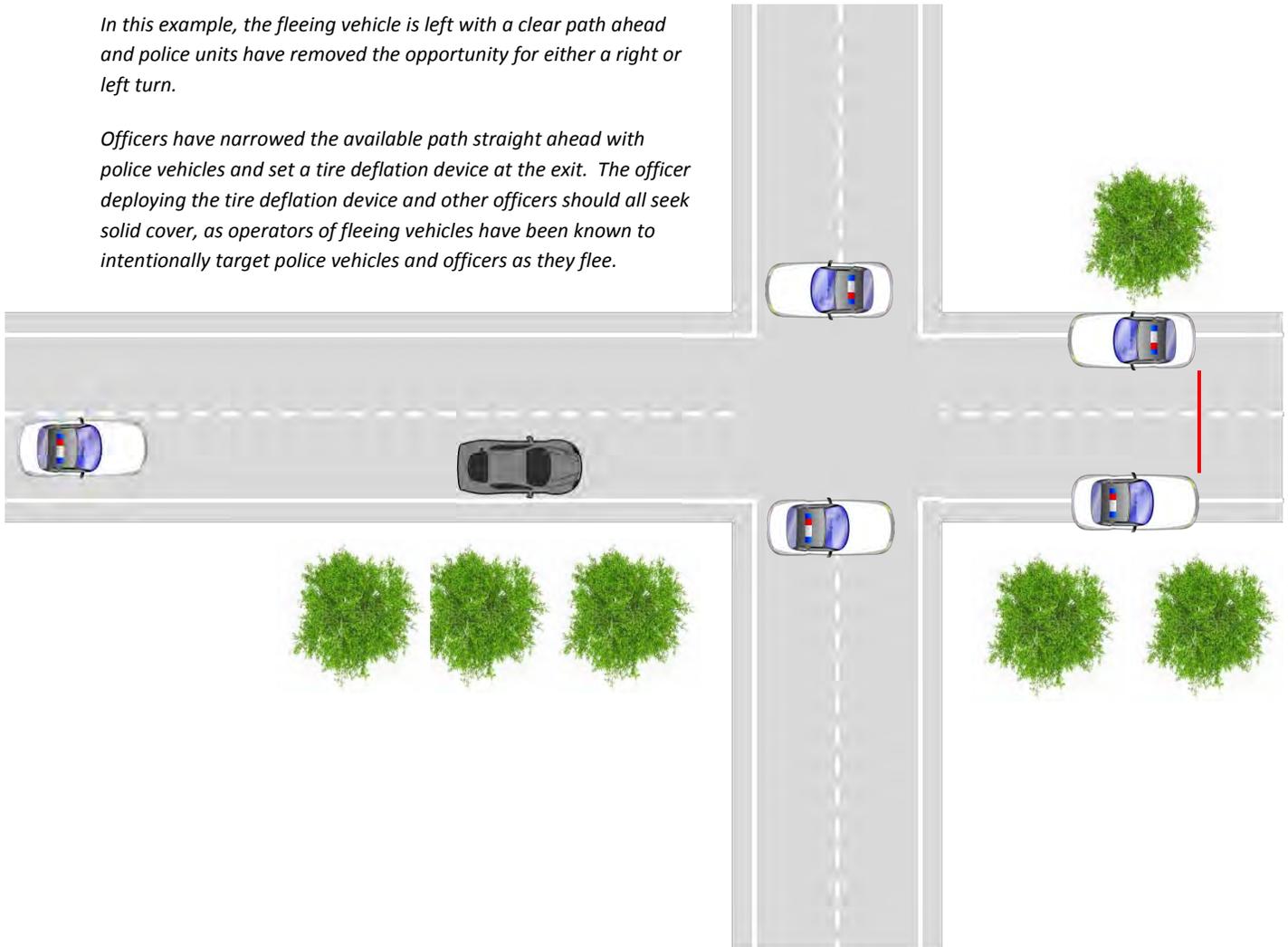
- Deflation devices should not typically be use on motorcycles
- Deflation devices can be used on high center of gravity vehicles, however officers should carefully measure the risks of increase loss of control against the benefits of the use of the device
- Busses, trucks, public transportation, and other vehicles capable of transporting larger numbers of people are generally not good recipients for tire deflation devices due to the increased risks to occupants

Tire deflation devices can be used in conjunction with other tactics including (most frequently) channelization. When these devices are used in this manner, the channelization process tends to leave an option available for travel with the deflation devices into the new path of travel far enough that they are not observed prior to the selection of the new path by the fleeing driver.

PURSUIT TACTICS

In this example, the fleeing vehicle is left with a clear path ahead and police units have removed the opportunity for either a right or left turn.

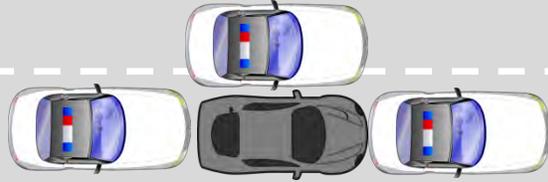
Officers have narrowed the available path straight ahead with police vehicles and set a tire deflation device at the exit. The officer deploying the tire deflation device and other officers should all seek solid cover, as operators of fleeing vehicles have been known to intentionally target police vehicles and officers as they flee.



PURSUIT TACTICS

BOXING

Three Vehicle Boxing



The blocking tactic is one that is used in circumstances where forcible contact between the fleeing vehicle and the police vehicles is accepted as a realistic outcome of the implementation of the tactic.

This tactic is most frequently done with at least three police vehicles, although it has been successfully implemented with two, the driver of the fleeing vehicle is left with more options to force out of a two vehicle box.



Two Vehicle Boxing

This tactic allows the police vehicles to slow the overall speed of the pursuit by coordinating their efforts and to direct the stop to a location that is more desirable for public, officer, and suspect safety.

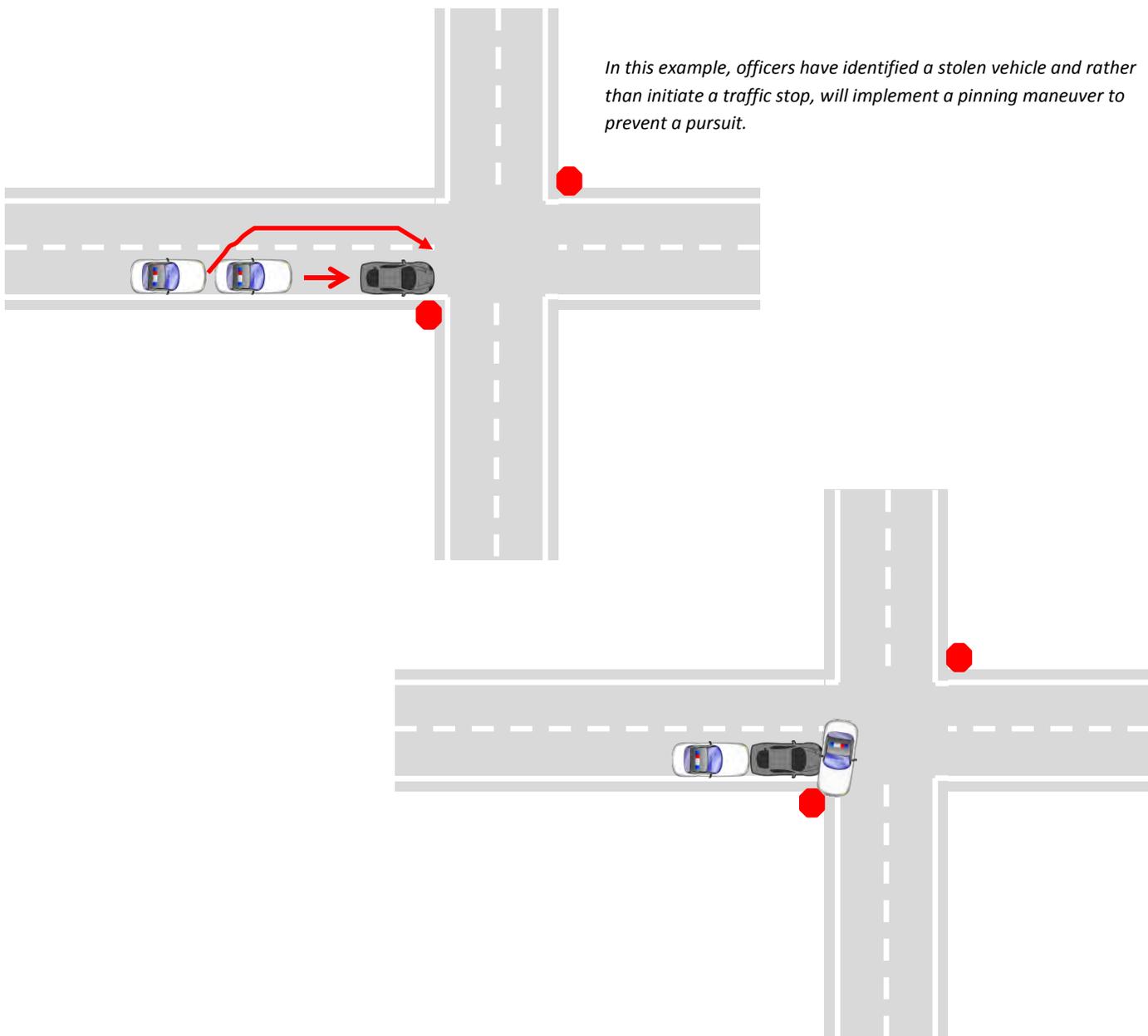
This tactic requires careful communication and coordination between the involved police drivers to assure the box remains tight and closed around the fleeing vehicle and that once a stop has been achieved, that officers will efficiently clear themselves from the threat alignments of other officers.

PURSUIT TACTICS

PINNING

This tactic is similar to boxing in that contact between the fleeing vehicle and the police vehicle is inevitable. This tactic is used when a fleeing vehicle is momentarily stopped, whether by circumstance or by other police tactics such as a PIT, it is rapidly applied to prevent any further movement by the fleeing vehicle.

Agencies in many jurisdictions are adopting a version of pinning as a Pursuit Prevention tactic, pinning vehicles from further movement prior to an opportunity to elude. In situations where pursuits often occur (such as stolen vehicles), officers attempt to pin the vehicle prior to actually stopping the vehicle, using the force of the tactic as the method of seizing the vehicle. This tactic may still allow the driver to exit the vehicle and flee on foot, however the risk to the public is greatly enhanced by prevention of a motor vehicle chase.



PURSUIT TACTICS

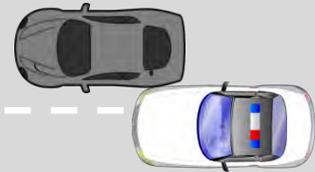
PURSUIT IMMOBILIZATION TECHNIQUE (PIT)

The PIT maneuver is a tactic that is widely accepted in the police profession as a viable method of using vehicular force to stop a fleeing vehicle. This technique is referred to as either PIT or TVI (Tactical Vehicle Intervention) by most policies in Oregon. There are many agencies that do not authorize officers to utilize the technique and agencies that do include PIT or TVI as a tactic provide on-going training to operational personnel.

When a PIT or TVI tactic is chosen and eventually applied to a fleeing vehicle, it is important for all police personnel to understand that the fleeing vehicle is not disabled as a result of the PIT maneuver and the tactic must be immediately followed with high-risk stop or pinning tactics to prevent further movement from the fleeing vehicle.

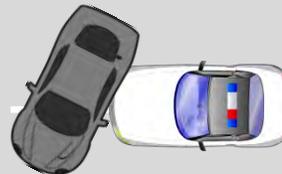
1

The officer has pulled alongside the fleeing vehicle and initiates contact.



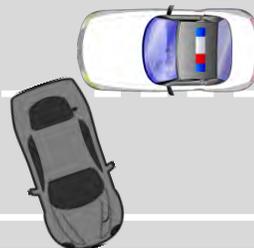
2

The officer "drives through" smoothly, allowing the fleeing vehicle to rotate across the path of the police vehicle.



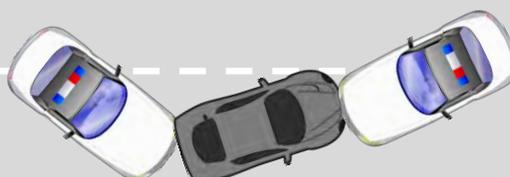
3

As the vehicles break physical contact, the officer (in this case) clears the rotating vehicle and then turns back to assist in pinning the fleeing vehicle from further movement.



4

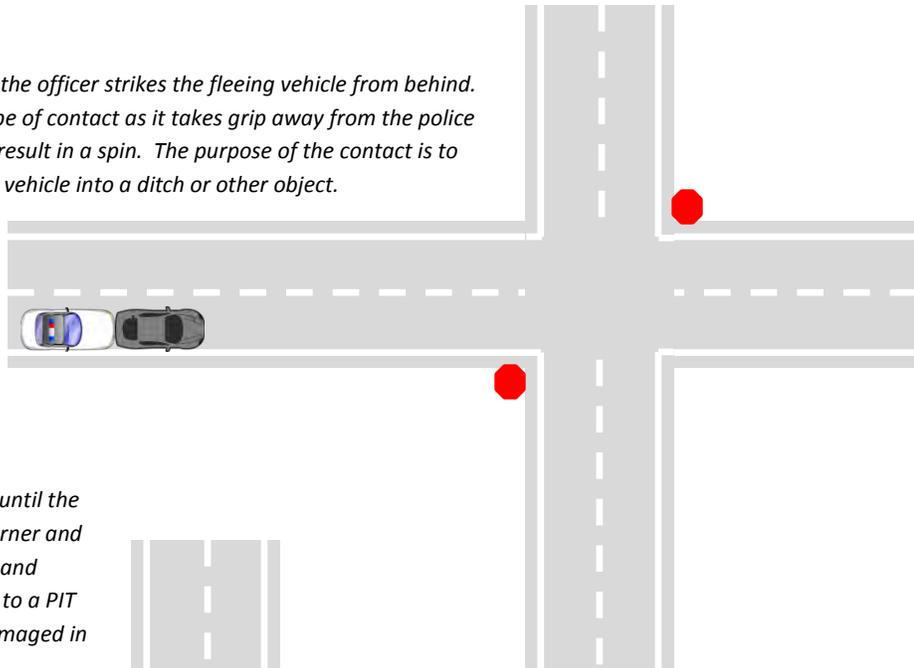
Two police vehicles (the one applying PIT and a support unit) are pinning the fleeing vehicle from moving any further.



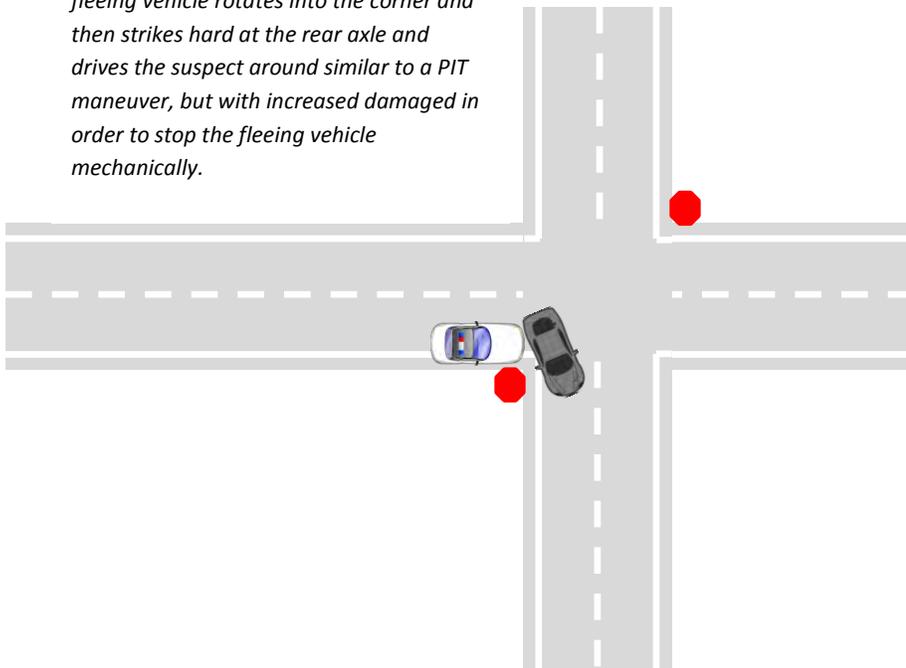
PURSUIT TACTICS

RAMMING

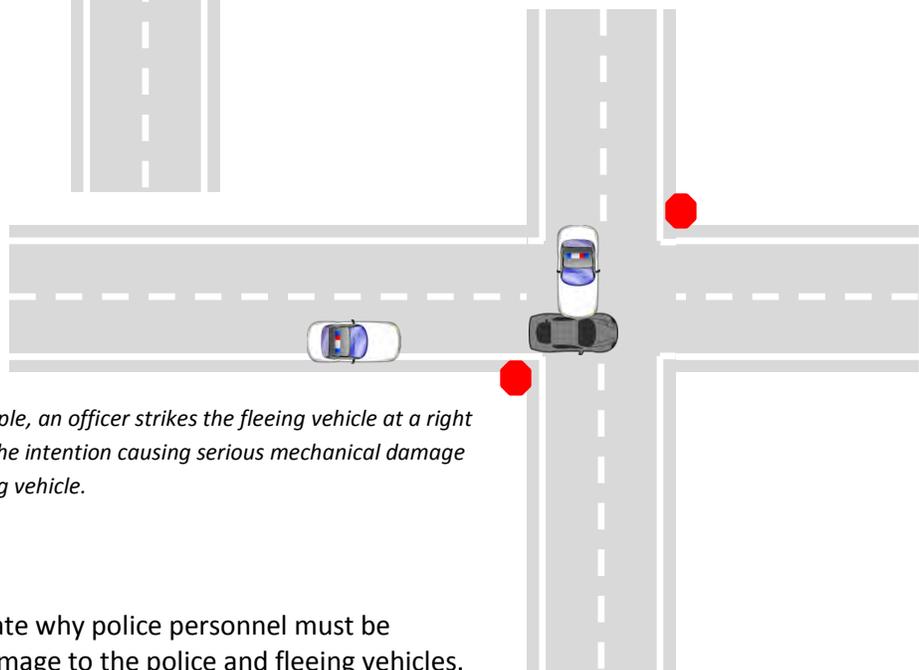
In this example, the officer strikes the fleeing vehicle from behind. This is a risky type of contact as it takes grip away from the police vehicle and can result in a spin. The purpose of the contact is to drive the fleeing vehicle into a ditch or other object.



In this example, the officer waits until the fleeing vehicle rotates into the corner and then strikes hard at the rear axle and drives the suspect around similar to a PIT maneuver, but with increased damaged in order to stop the fleeing vehicle mechanically.



In this example, an officer strikes the fleeing vehicle at a right angle with the intention causing serious mechanical damage to the fleeing vehicle.



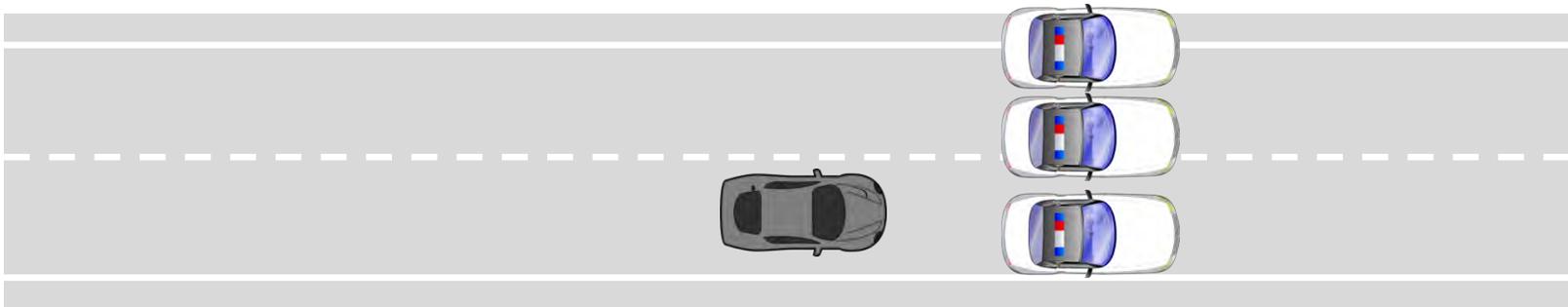
Each of these examples illustrate why police personnel must be willing to accept significant damage to the police and fleeing vehicles.

PURSUIT TACTICS

ROADBLOCKS

Blocking the roadway to seize the occupant(s) of a fleeing vehicle is a tactic that very few departments authorize in policy. These restrictions are mainly in part due to the increased risk of serious physical injury or death occupants may experience if they choose to run into the roadblock rather than stopping prior to impact. Used with careful consideration and positive supervision, roadblocks can be very effective tools to bring a vehicle pursuit to a stop.

One type of roadblock is the “moving” or “rolling” roadblock. This technique involves one or more patrol units getting in the path of the fleeing vehicle and traveling the same direction. These police vehicles establish a controlled speed and keep the fleeing vehicle behind them. This technique exposes the police officers to a significant amount of risk from being struck from behind by the fleeing vehicle. is where one or patrol units get in front of the suspect car and slow down and stay in front of the suspect to force them to a stop.

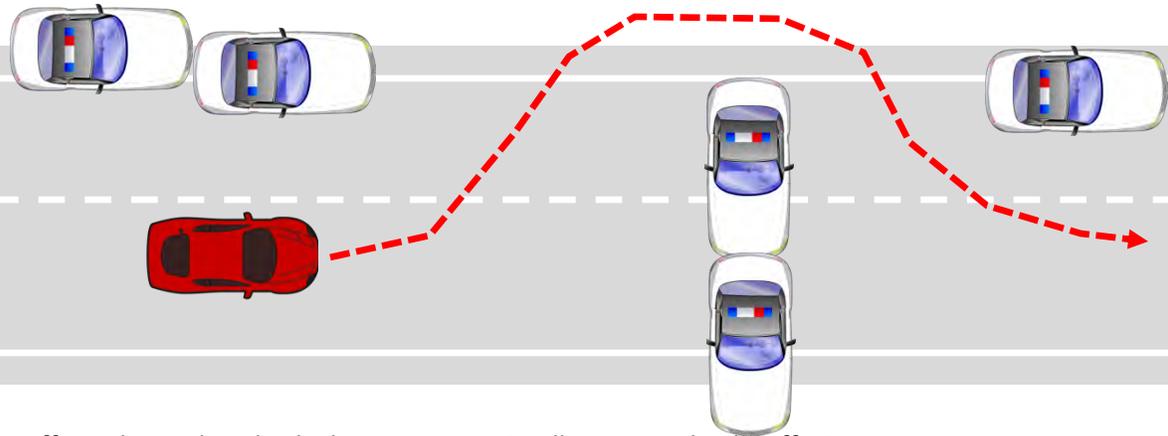


The second roadblock that is available in certain situations is blocking the complete roadway with fixed objects (typically vehicles). This type of roadblock increases the risk of an impact between the blocking vehicles and the fleeing vehicle. Care must be taken to avoid the “Deadman’s roadblock” that is the basis for the ***Brower v. Inyo*** Supreme Court Case.

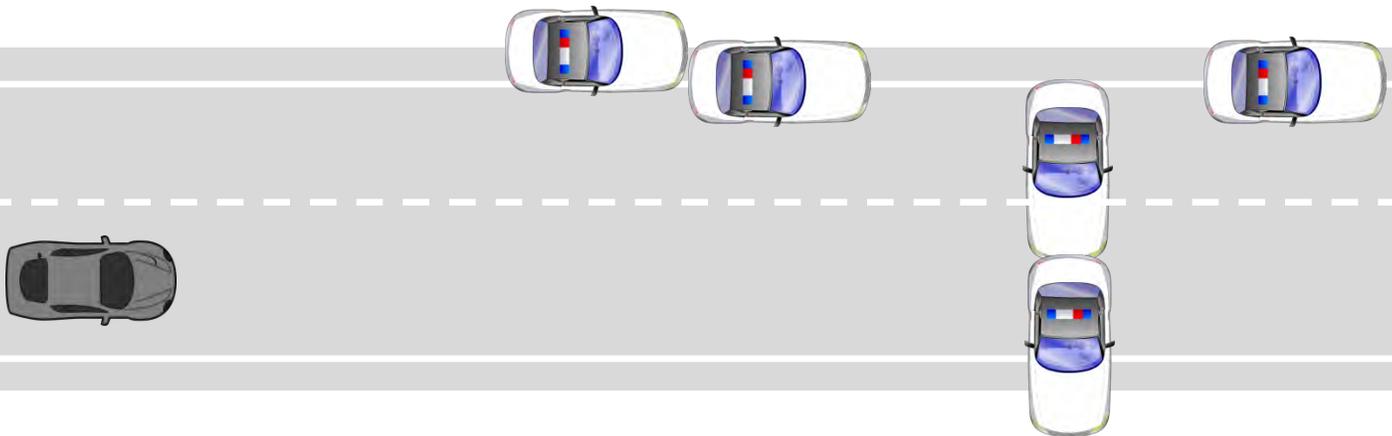
PURSUIT TACTICS

In the case *Seekamp v. Michaud* officers set up a roadblock that allowed several hundred cars through before the suspect arrived. The suspect did not take the “escape” route but instead chose to crash into the trucks blocking the freeway. The court held that the roadblock was reasonable and took notice that numerous other drivers had negotiated the blockage before the suspect arrived. The court reaffirmed that a seizure occurs when a person is stopped; “By the very instrumentality set in motion or put in place to achieve that result.”

Refer to these cases in the EVO Student Manual for further information regarding the findings of the Courts.



In the example above, officers have placed vehicle in a manner to allow uninvolved traffic to pass through the roadblock prior to the arrival of the fleeing vehicle (red car), and then as the fleeing vehicle arrives, the gap is closed down, leaving a smaller route of travel.



PURSUIT TACTICS

PURSUIT DISCONTINUATION / TERMINATION

Choosing when to initiate a police pursuit is certainly an important task for patrol personnel. Choosing when to disengage or discontinue pursuit activity is an even more critical task for police officers, support personnel, and supervisors.

Pursuits should be discontinued when the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect(s) escape.

Many of the following factors are considered by agencies in policy to assist in the decision to discontinue a vehicle pursuit. This list is not intended to be used as policy and agencies must carefully weigh the mission of their respective agencies and jurisdictions as policy is reviewed and amended.

- The distance between the pursuing officers and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.
- In the officer's opinion a serious hazard is present that outweighs the need to arrest / identify the fleeing suspect.
- The location of the pursued vehicle is no longer known.
- The police vehicle sustains damage that renders it unsafe for further operation.
- Excessive hazards to pedestrians, bystanders, and uninvolved third parties exist.
- The identity of the suspect becomes known and it does not appear the need for immediate capture is worth the risks associated with further pursuit.
- The officer is unfamiliar with the area and is unable to update a location to other units or dispatchers.
- When directed by a supervisor.

EMERGENCY RESPONSE DRIVING GENERAL CONSIDERATIONS

An emergency run is simply a pursuit of time, and like a pursuit of an actual vehicle, decisions and tactics should be carefully considered as an emergency run evolves.

Emergency runs are equally as dangerous as pursuits. Historically an emergency run does not receive the publicity (complimentary or adverse) that the pursuits of a vehicle will generate. The physiological effects on the police driver are the same as a vehicle pursuit, and in at least the instance of an emergency response to an "Officer needs Help!" request, often generate even more of the tachycardia symptoms because the nature of the emergency is more personal.

Personnel who drive emergency response vehicles must be trained to continually evaluate the situation when on an emergency run. Officers should consider if the totality of the circumstances warrants initiating or continuing an emergency run or if a response at reduced speeds would be a better choice.

Supervisors and dispatchers must receive training in the appropriate assignment of coded responses for these runs. The responding officer is of no value at the scene if he or she is delayed by a collision while responding to an incident.

When multiple emergency vehicles are responding to an incident, the risks increase dramatically for the second vehicle. Frequently when one emergency vehicle follows another through an intersection, non-involved motorists assume that the way is clear once the first emergency vehicle has passed. These motorists often return to the roadway, directly into the path of the unanticipated second vehicle. Unless the circumstances require emergency vehicles to travel in tandem or otherwise in a convoy, emergency vehicle operators are safer if they use different routes or space themselves out a significant distance from one another.

Inspection procedures should be conducted immediately following involvement in any pursuit, emergency response, or other driving situation involving curb strikes or obvious mechanical failure.

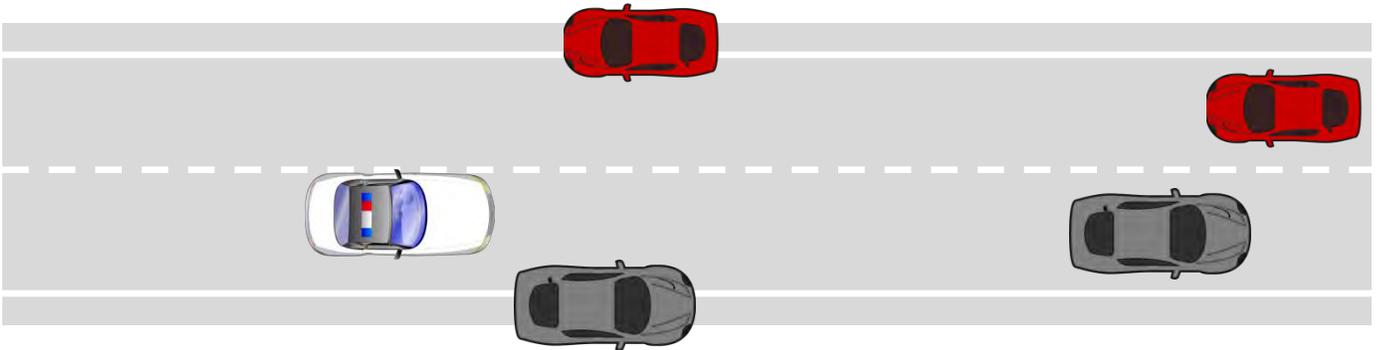
Following are several examples of guidelines that exist in operational policies governing emergency response driving.

- *When responding to emergency calls, red/blue flashing lights and siren are to be used. Refer to ORS 820.300 for legal exemptions.*
- *The exemptions listed under 820.300 do not relieve the officer from operating an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor do they protect such officer from the consequences if they recklessly disregard the safety of others.*
- *Officers shall consider the following factors when determining the viability of emergency response:*
 - *Time of day*
 - *Volume of vehicular traffic*
 - *Density of population*
 - *Weather conditions*
 - *Roadway conditions*
 - *Severity of the reported crime*
 - *Volume of pedestrian traffic*

EMERGENCY RESPONSE DRIVING DRIVING DECISIONS AND TACTICS

The greatest percentage of law enforcement driving occurs under non-emergency conditions, but there are those situations demanding an emergency response from public safety personnel. The driving skills required for the operation of emergency vehicles in non-emergency situations are no different than those required during emergency driving. The levels of knowledge and behaviors emergency vehicle operators exercise in these non-emergency events form the foundation for the driver in emergency responses.

OFF-SET LEFT LANE POSITION



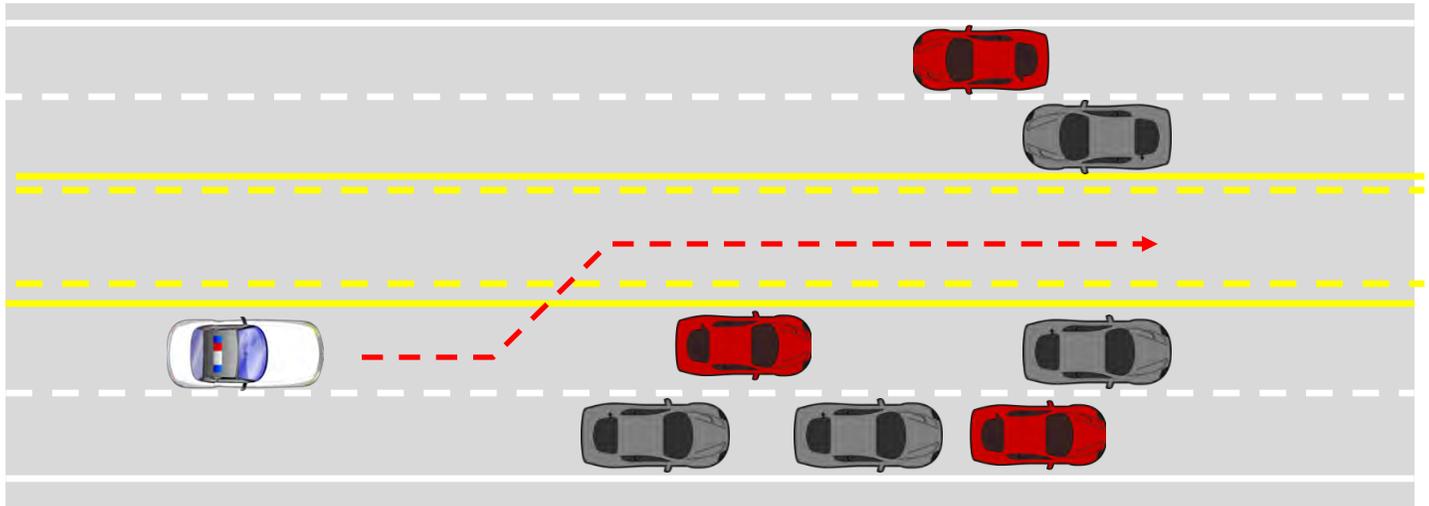
Police vehicles will be overtaking traffic at a significant speed difference. The off-set lane positioning creates the following advantages for police:

- Opportunity for police driver to see past traffic
- Opportunity for oncoming traffic to see approaching officer
- Opportunity for emergency equipment (particularly sound) to penetrate beyond the barrier of traffic immediately in front of the police vehicle
- Tends to cause other vehicles to move to the right
 - Creates more space for officer
 - Encourages officer to pass on the left
 - On-Coming traffic moves right and opens up a larger path for the officer

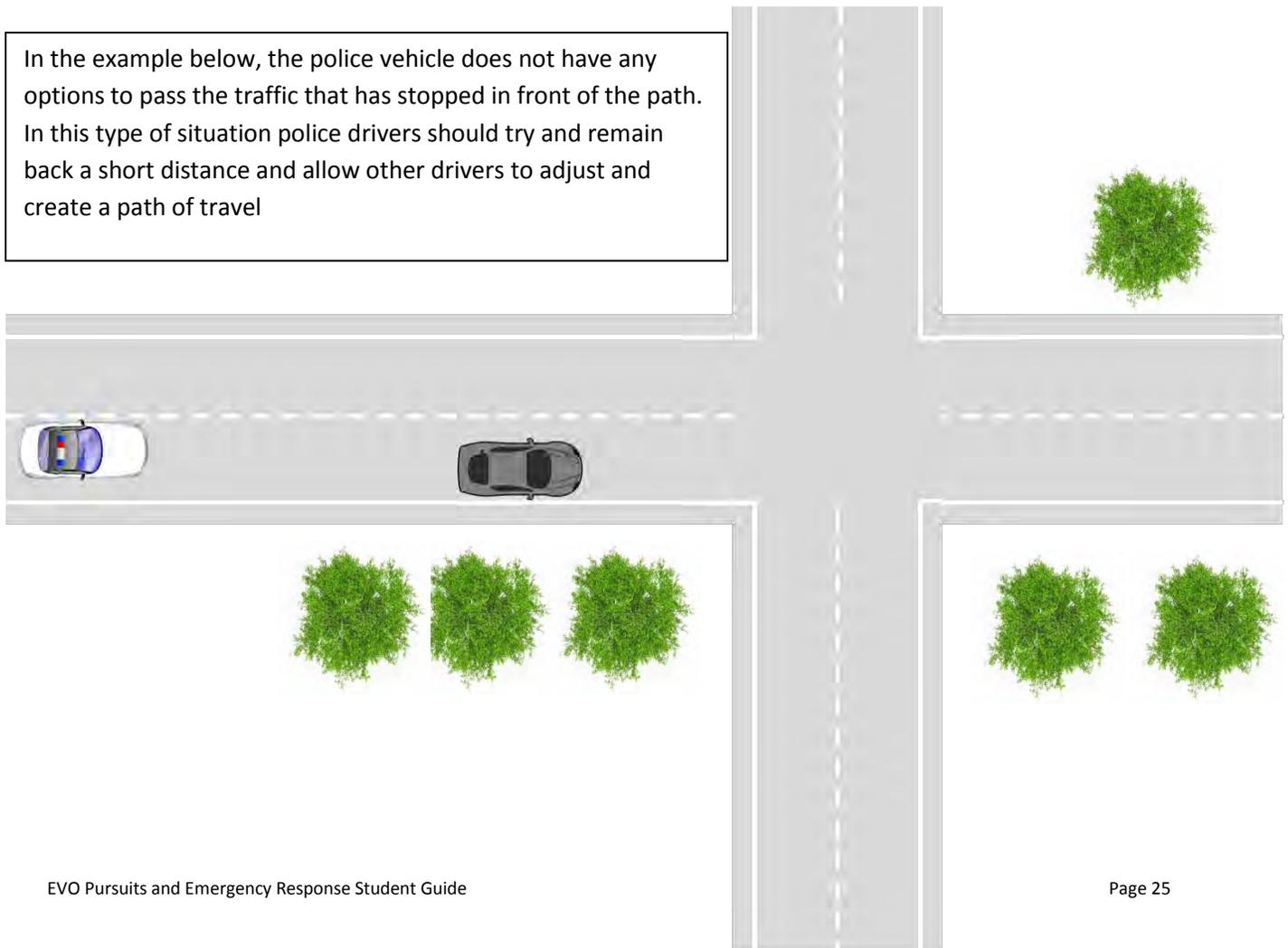
EMERGENCY RESPONSE DRIVING DRIVING DECISIONS AND TACTICS

MULTIPLE LANE SITUATIONS

In the diagram below, a police vehicle in an emergency condition is approaching several vehicles traveling in the same direction. The police driver should carefully consider the risks of using the center turn lane prior to exercising that option, including does the situation continue to require an emergency response and would using the left turn lane create more risk to the public than discontinuing the emergency response and continuing to the incident with the pace and flow of traffic.



In the example below, the police vehicle does not have any options to pass the traffic that has stopped in front of the path. In this type of situation police drivers should try and remain back a short distance and allow other drivers to adjust and create a path of travel



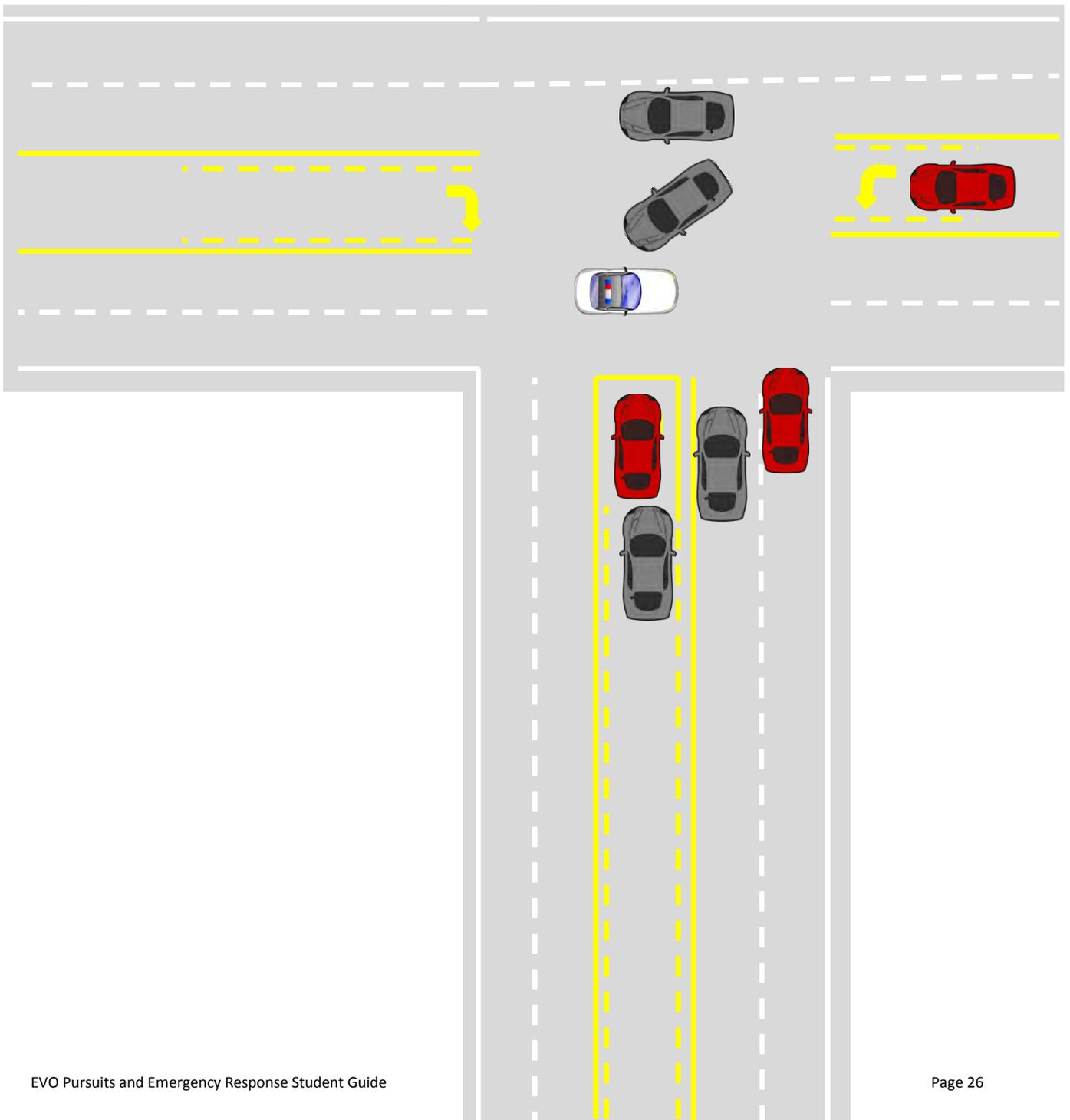
EMERGENCY RESPONSE DRIVING DRIVING DECISIONS AND TACTICS

CLEARING INTERSECTIONS

Intersection clearance continues to be a major area of extreme risk for police officers in both emergency response driving and even in non-emergency driving. A simple rule for approaching and entering intersections will increase the successful negotiation of busy intersections.

“Never enter the intersection at a speed greater than you can stop.”
(SKIDCAR System Inc.)

Whether the intersection is a simple one with only one lane in each direction, or the intersection has multiple lanes in all directions with turn lanes, the rule applies.



SUMMARY

Pursuits and Emergency responses will be at the same time one of the most dangerous activities a police officer engages in and at the same time, one of the most technical activities. Law enforcement agencies and personnel must understand the emphasis placed on emergency driving by the Courts, the media, and most importantly, the citizens served.

Consider the implications of the diagram below:

Reasonable Decision Unfortunate Outcome	Reasonable Decision Positive Outcome
Poor Decision Unfortunate Outcome	Poor Decision Positive Outcome

There are tragedies that occur when good personnel make reasonable decisions and circumstances continue into an unfortunate outcome. These are difficult for personnel and for agencies to manage, however when policies, procedures, and legitimate tactics are employed by those involved, the public will understand this outcome.

In the lower left quadrant, it comes as no surprise that poor decision-making will more often than not lead to unfortunate outcomes. These situations must be managed with care.

The lower right quadrant is where the largest risk for police agencies, supervisors, and officers lies in wait. When poor decision-making does not create circumstances where a negative outcome is realized, proactive responses by those involved are required in order to avoid future risk. This is often difficult to accomplish because “nothing bad” happened and still the personnel may be held in violation of policies. This is very difficult for agencies to manage, but critical to the overall health of the agency and personnel.

Moving the activity of police in pursuits and emergency responses into the green quadrant is the goal of this manual, training, policy, and continued scrutiny to all of these actions. When operations can consistently reside in the green, the actions of the officers and the agency will be viewed as just in the eyes of the public.

REFERENCE INFORMATION

Item	Source
1	Oregon Revised Statutes, 2015
2	SKIDCAR System Inc. ©; 2016
3	“Final Report of the President’s Task Force on 21st Century Policing”; Washington, DC; Office of Community Oriented Policing Services. 2015

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Emotional Intelligence

BASIC POLICE ACADEMY





Emotional Intelligence Parts 1-4

Instructional Goals:

This course is designed to:

1. Enhance a new officer's awareness of emotional intelligence
2. Develop a new officer's understanding of the application of emotional intelligence in policing

Learning Outcomes:

Upon completion of instruction, students will be able to:

1. Identify what contributes to emotional intelligence
2. Self-assess ones own emotional intelligence and identify areas for growth
3. Recognize when emotional intelligence is lacking
4. Analyze an interaction and reflect on the level of emotional intelligence demonstrated
5. Articulate what emotional intelligence means in their role as a police officer

Content Outline:

- What is Emotional Intelligence?
- Competencies
 - Self-Awareness (Recognition)
 - Self-Management (Regulation)
 - Social Awareness (Recognition)
 - Relationship Management (Regulation)
- The Role of the Brain
- Stress
- Improving Emotional Intelligence



In-Class Activity: EI Self-Assessment

Adapted from Paul Mohapel (paul.mohapel@shaw.ca)

Emotional intelligence (referred to as **EQ**) is your ability to **be aware of, understand, and manage your emotions**. Why is EQ important? While intelligence (referred to as IQ) is important, success in life depends more on EQ. Take the assessment below to learn your EQ strengths!

Rank each statement as follows: **0** (Never) **1** (Rarely) **2** (Sometimes) **3** (Often) **4** (Always)

Emotional Awareness - Total: _____

0	1	2	3	4	My feelings are clear to me at any given moment
0	1	2	3	4	Emotions play an important part in my life
0	1	2	3	4	My moods impact the people around me
0	1	2	3	4	I find it easy to put words to my feelings
0	1	2	3	4	My moods are easily affected by external events
0	1	2	3	4	I can easily sense when I'm going to be angry
0	1	2	3	4	I readily tell others my true feelings
0	1	2	3	4	I find it easy to describe my feelings
0	1	2	3	4	Even when I'm upset, I'm aware of what's happening to me
0	1	2	3	4	I am able to stand apart from my thoughts and feelings and examine them

Emotional Management - Total: _____

0	1	2	3	4	I accept responsibility for my reactions
0	1	2	3	4	I find it easy to make goals and stick with them
0	1	2	3	4	I am an emotionally balanced person
0	1	2	3	4	I am a very patient person
0	1	2	3	4	I can accept critical comments from others without becoming angry
0	1	2	3	4	I maintain my composure, even during stressful times
0	1	2	3	4	If an issue does not affect me directly, I don't let it bother me
0	1	2	3	4	I can restrain myself when I feel anger towards someone
0	1	2	3	4	I control urges to overindulge in things that could damage my well-being
0	1	2	3	4	I direct my energy into creative work or hobbies



Social Emotional Awareness - Total: _____

0	1	2	3	4	I consider the impact of my decisions on other people
0	1	2	3	4	I can easily tell if people around me are becoming annoyed
0	1	2	3	4	I sense it when a person's mood changes
0	1	2	3	4	I am able to be supportive when giving bad news to others
0	1	2	3	4	I am generally able to understand the way other people feel
0	1	2	3	4	My friends can tell me intimate things about themselves
0	1	2	3	4	It genuinely bothers me to see other people suffer
0	1	2	3	4	I usually know when to speak and when to be silent
0	1	2	3	4	I care what happens to other people
0	1	2	3	4	I understand when people's plans change

Relationship Management - Total: _____

0	1	2	3	4	I am able to show affection
0	1	2	3	4	My relationships are safe places for me
0	1	2	3	4	I find it easy to share my deep feelings with others
0	1	2	3	4	I am good at motivating others
0	1	2	3	4	I am a fairly cheerful person
0	1	2	3	4	It is easy for me to make friends
0	1	2	3	4	People tell me I am sociable and fun
0	1	2	3	4	I like helping people
0	1	2	3	4	Others can depend on me
0	1	2	3	4	I am able to talk someone down if they are very upset





My EQ Strengths! Mark your EQ total scores to assess your strengths and areas for improvement.

Domain	Score																				
Emotional Awareness	0	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40
Emotional Management	0	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40
Social Emotional Awareness	0	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40
Relationship Management	0	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40
Measure your effectiveness in each domain by using the following key: 0-24 Area for Enrichment: Requires attention and development 25-34 Effective Functioning: Consider strengthening 35-40 Enhanced Skills: Use as leverage to develop weaker areas																					

Using your EQ strength – for your strongest EQ domain, give an example of how you demonstrate your strength in your daily life or work: _____

Effects of your EQ strength – for your weakest EQ domain, give an example of how this affects you AND others in your daily life or work: _____

Improving your EQ strength – for your weakest EQ domain, what steps can you take to strengthen yourself in this area? How will this benefit you in your daily life or work: _____



Part 1

What is Emotional Intelligence?

Emotional intelligence (sometimes called EQ or EI) is a term that was created by two researchers, Peter Salavoy and John Mayer but made popular in a book by Daniel Goleman. Emotional intelligence seems to be the "missing link," answering the question- why do people with average IQs outperform those with the highest IQs 70% of the time? Studies indicate that IQ is not the sole source of success.

Decades of research now point to emotional intelligence as the critical factor that sets star performers apart from the rest of the pack.

Emotional intelligence is distinct from our intellect. There is no known connection between IQ and EI; emotional intelligence cannot be predicted based on how smart a person is or is not. Intelligence is our ability to learn, and it's the same at age 15 as it is at age 50. Emotional intelligence, on the other hand, is a flexible set of skills that can be acquired and

Law enforcement emotional intelligence is defined as the ability of the officer to manage and use his/her emotions in a positive and constructive way, and to manage healthy relationships within the department, community and within other supporting agencies in the criminal justice system.

improved with practice. Although some people are naturally more emotionally intelligent than others, we can develop high emotional intelligence even if we aren't born with it.

Emotional intelligence is the "something" in each of us that is a bit intangible. It affects how we manage behavior, navigate social complexities, and make personal decisions that achieve positive results.

Source: Talent Smart <http://www.talentsmart.com/about/emotional-intelligence.php>



Emotional intelligence is made up of four core domains that pair up under two primary competencies: personal competence and social competence.

Personal Competence

Is made up of your self-awareness and self-management skills, which focus more on you individually than on your interactions with other people. Personal competence is your ability to stay aware of your emotions and manage your behavior and tendencies.

Social Competence

Is made up of your social awareness and relationship management skills; social competence is your ability to understand other people’s moods, behavior, and motives in order to improve the quality of your relationships.

The Four Domains

	Recognition (What I See)	Regulation (What I Do)
Personal Competence	Self-Awareness	Self-Management
Social Competence	Social Awareness	Relationship Management

Each of the four domains is made up of skills that can be easily broken down.



Personal Competence		Social Competence	
Self Awareness (Recognition)	Self Management (Regulation)	Social Awareness (Recognition)	Relationship Management (Regulation)
Self-Awareness concerns knowing one's internal states, preferences, resources, and intuitions.	Self-Management refers to managing ones' internal states, impulses, and resources.	Social awareness refers to how people handle relationships and awareness of others' feelings, needs, and concerns.	Relationship Management concerns the skill or adeptness at inducing desirable responses in others.
<p>Emotional Awareness: Recognizing one's emotions and their effects.</p> <p>Accurate Self-Assessment: Knowing one's strengths and limits.</p> <p>Self-Confidence: A strong sense of one's self-worth and capabilities.</p>	<p>Self-Control: Keeping disruptive emotions and impulses in check.</p> <p>Transparency/Trustworthiness: Maintaining integrity, acting congruently with one's values.</p> <p>Conscientiousness: Careful, vigilant. A desire to do a task well and take obligations to others seriously.</p> <p>Adaptability: Flexibility in handling change.</p> <p>Achievement Orientation: Striving to improve or meeting a standard of excellence.</p> <p>Initiative: Readiness to act on opportunities.</p> <p>Optimism: Persistence in pursuing goals despite obstacles and setbacks</p>	<p>Empathy: Sensing others' feelings and perspectives and taking an active interest in their concerns.</p> <p>Organizational Awareness: Reading a group's emotional currents and power relationships.</p> <p>Service Orientation: Anticipating, recognizing, and meeting customers' needs.</p>	<p>Developing Others: Sensing others' development needs and bolstering their abilities.</p> <p>Inspirational Leadership: Inspiring and guiding individuals and groups.</p> <p>Change Catalyst: Initiating or managing change.</p> <p>Influence: Wielding effective tactics for persuasion.</p> <p>Conflict Management: Negotiating and resolving disagreements.</p> <p>Teamwork & Collaboration: Working with others toward shared goals. Creating group synergy in pursuing collective goals.</p>



In-Class Activity Notes- EI and Policing

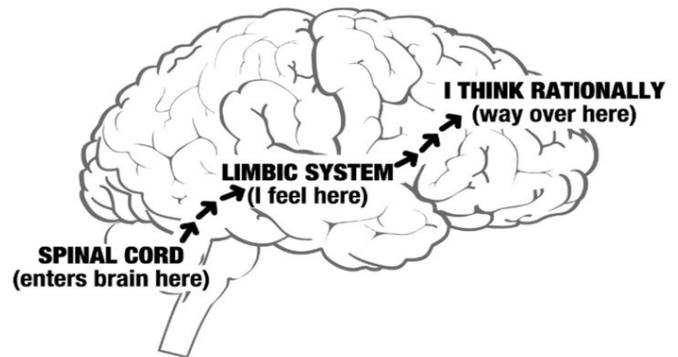
Self-Awareness	Self-Management	Social Awareness	Relationship Management



Part 2

The Role of the Brain

Emotional intelligence requires effective communication between the rational and emotional centers of the brain. Your primary senses (everything you see, hear, smell, touch) enter at the spinal cord and must travel to the front of your brain (the rational center of the brain) before you can think rationally about your experience. However, first, they must travel through the limbic system, the place where emotions are generated (hence the emotional center of the brain). This is why we have an emotional reaction to events before our rational mind can engage.



"Plasticity" is the term neurologists use to describe the brain's ability to change. Your brain grows new connections as you learn new skills. The change is gradual, as your brain cells develop new connections to speed the efficiency of new skills acquired.

Using strategies to increase your emotional intelligence allows the billions of microscopic neurons lining the road between the rational and emotional centers of your brain to branch off small "arms" to reach out to the other cells. A single cell can grow 15,000 connections with its neighbors. This chain reaction of growth ensures it's easier to kick this new behavior into action in the future. Once you train your brain by repeatedly using new EI skills, emotionally intelligent behaviors become habits.

Source: Talent Smart

<http://www.talentsmart.com/about/emotional-intelligence.php>



In Summary

- A person must have control over his/her emotions to utilize the thinking/rational part of the brain.
- Our brains are more emotional than logical.
- Only you can impact the processes in your brain. We "unlearn" old habits of thought, feeling, and action that are deeply ingrained and integrate new ones.
- Such a process takes motivation, effort, time, support, and sustained practice. Awareness alone cannot make a difference

Improving Your Emotional Intelligence

Your emotional intelligence is the foundation for critical skills—it impacts most everything you say and do each day. Emotional intelligence is the single most significant predictor of performance in the workplace and the strongest driver of leadership and personal excellence.

Officers cannot always control the stressful situations they find themselves in; however, officers can decide how they will react to a stressful event.

There is a difference between learning about emotional intelligence and applying that knowledge to your life. Just because you know you should do something doesn't mean you will (*see Ethics*)—especially when you become overwhelmed by stress, which can override your best intentions. To permanently change behavior in ways that stand up under pressure, you need to learn how to overcome stress in the moment.



In addition to learning to handle stressful situations, the following are some additional means of improving one's EI skills.

Personal Competence		Social Competence	
Self Awareness	Self Management	Social Awareness	Relationship Management
Understand negative thought processes and emotional triggers Recognize the relationship between thoughts, feelings, and actions Learn to interrupt negative thinking Practice the power of Proactivity	Identify limiting beliefs Use goal setting and follow up to demonstrate the power to change destiny Begin with the end in mind / consider possibilities Change leader Self-regulation	Understanding others/empathy Pay attention to body language cues Practice effective communication skills Recognize communication blockers Practice active listening	Learn to be a leader Learn to be a follower Value the contributions of all participants Follow through on commitments Understand conflict Seek consensus Practice the art of listening effectively

Self-Awareness

Self-awareness is a skill that helps us monitor our behavior and better understand our motives and ourselves. Like any other skill, we can develop self-awareness with the right methods combined with consistent practice.





What goes on in our head impacts how we make decisions. Thinking controls actions; therefore, the earlier in the process, we are self-aware, the better. By recognizing our thoughts and emotions, we can adjust our behaviors and decision for better results.

Self-Awareness Improvement Exercises

Self-Reflection	<ul style="list-style-type: none">• Practice regular moments of pause and reflection.• Take time each evening to reflect on your behavior for the day.
Psychometric Tests	<p>Personality Tests- Provide insights into the dominant patterns of behavior</p> <p>Examples:</p> <ul style="list-style-type: none">• Values in Action (VIA) Strengths Test- 2 options<ul style="list-style-type: none">○ University of Pennsylvania https://www.authentic happiness.sas.upenn.edu/user/register○ Values in Action Institute on Character https://www.viacharacter.org/survey/account/register
Personal Values	<p>Answer the question: What is most important to me?</p> <ul style="list-style-type: none">• When you become aware of your values, you can evaluate if you're living by them.• Values are a part of us. They highlight what we stand for.• Values guide our behavior, providing us with a personal code of conduct.
Journaling	<ul style="list-style-type: none">• Writing increases your insight into a situation by putting it into perspective and processing the emotions that took place.• Writing provides an opportunity to think about why you felt a certain way, and what may have triggered your reaction.• Regular journaling allows the ability to look back, look at patterns, and identify progress.• Journaling helps you stay focused on your priorities.



Own your flaws & weaknesses	<p>True self-honesty means being willing to see unpleasant attributes in one's behavior and personality.</p> <ul style="list-style-type: none">• Pay attention to your emotional reactions toward other people.• Listen! What are people telling you? Demonstrating to you?• At the end of the day, take five or ten minutes to reflect on your interactions with others and your related reactions.• Just like you would be willing to work on physical weaknesses, be willing to work on these.
Draw connections between thoughts-feelings-behaviors	<ul style="list-style-type: none">• Think about a behavior you displayed and examine every link.<ul style="list-style-type: none">○ What was the prompting event?○ How did you react to the prompting event?○ How did you feel about it?○ What emotions were present?○ How did your values play a part in your thoughts and emotions?○ How did your body react?• Situations do not cause feelings and behaviors. People can choose what to think about various situations.• Inner dialogue or self-talk is what we tell ourselves about situations. This provides a lens for how we see the world- consider the difference between a negative internal dialogue and a positive inner dialogue.
Observe Others	<ul style="list-style-type: none">• We are all more alike than we are different. In observing other people, we can often learn a great deal about our behavior.



Gaining Self-Awareness through Others

<p>Effective Feedback</p>	<p>Ask trusted friends</p> <ul style="list-style-type: none">• What behaviors do you believe are limiting my potential?• What do you think I'm good at? What are some of my weaknesses?• If you had to describe me to someone, what would you say?• Is there anything you avoid saying to me because you're afraid of how I'll react? If so, what? <p>You can only ask these questions to a trusted confidante and from a place of openness.</p> <p>Ask friends to call you out when you are doing a behavior you already know you want to change.</p> <p>Utilize a formal 360-Feedback Process</p>
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In-Class Activity- Personal Values

Accountability	Correctness	Exploration
Accuracy	Courtesy	Expressiveness
Achievement	Creativity	Fairness
Adventurousness	Curiosity	Faith
Altruism	Decisiveness	Family-Orientedness
Ambition	Democraticness	Fidelity
Assertiveness	Dependability	Fitness
Balance	Determination	Fluency
Being the Best	Devoutness	Focus
Belonging	Diligence	Freedom
Boldness	Discipline	Fun
Calmness	Discretion	Generosity
Carefulness	Diversity	Goodness
Challenge	Dynamism	Grace
Cheerfulness	Economy	Growth
Clear-Mindedness	Effectiveness	Happiness
Commitment	Efficiency	Hard Work
Community	Elegance	Health
Compassion	Empathy	Helping Society
Competitiveness	Enjoyment	Holiness
Consistency	Enthusiasm	Honesty
Contentment	Equality	Honor
Continuous Improvement	Excellence	Humility
Contribution	Ethics	Independence
Control	Excitement	
Cooperation	Expertise	



STATE OF OREGON
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
Basic Police

Ingenuity	Piety	Spontaneity
Inner Harmony	Positivity	Stability
Inquisitiveness	Practicality	Strategic
Insightfulness	Preparedness	Strength
Integrity	Professionalism	Structure
Intelligence	Prudence	Success
Intellectual Status	Quality-Orientation	Support
Intuition	Reliability	Teamwork
Joy	Resourcefulness	Temperance
Justice	Restraint	Thankfulness
Leadership	Results-Oriented	Thoroughness
Legacy	Rigor	Thoughtfulness
Love	Security	Timeliness
Loyalty	Self-Actualization	Tolerance
Making a Difference	Self-Control	Traditionalism
Mastery	Selflessness	Trustworthiness
Merit	Self-Reliance	Truth-Seeking
Morality	Sensitivity	Understanding
Obedience	Serenity	Uniqueness
Openness	Service	Unity
Order	Shrewdness	Usefulness
Originality	Simplicity	Vision
Patriotism	Soundness	Vitality
Perfection	Speed	



My Top Personal Values

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.
- 15.



In-Class Activity- The Honest Mirror

People

1.

2.

3.

Questions

1.

2.

3.



Part 3

Self-Management

The competency of self-management has six different skill attributes: Self-control, trustworthiness, conscientiousness, adaptability, achievement orientation, and initiative.

Self-Control (see *Ethics: System 2*)

Self-control is the ability to refrain from knee-jerk reactions in response to emotions. It is the ability to stop and think before acting and to pause and consider the best course of action in the present situation. It involves knowing what is important to you, what isn't, and how that will translate into your actions and behavior.

Studies show that low self-control is significantly related to past police misconduct and the likelihood of future police misconduct.

Anger and frustration are key negative emotions linking stress to misconduct.

Trustworthiness

A trust relationship depends on two things: the trustor's tendency to trust and the trustworthiness of the trustee.





What makes someone trustworthy? The research identifies ten conditions of trustworthiness: availability, competence, consistency, discreetness, fairness, integrity, loyalty, openness, promise fulfillment, and receptivity.

Honesty- the quality or fact of being honest;
uprightness and fairness.

Truthfulness, sincerity, or frankness

Integrity- Adherence to moral and ethical
principles; soundness of moral character;

honesty.

Public trust is linked to citizen's perception that the police treat people equally and respectfully. This topic will be covered more during the Police Legitimacy Procedural Justice class. Still, here it is essential to recognize the role trust plays in policing and its connection to building strong emotional intelligence skills.

Conscientiousness

Conscientiousness is taking responsibility for your performance, and making sure that it matches up to your ability and your values. It implies a desire to do a task well and to take obligations to others seriously.

Conscientiousness has two distinct parts:

If you're a conscientious person, you resist behaviors that could harm your ability or reputation.

- Desire for achievement- Common motivators are chances to produce quality work, to demonstrate expertise, and to increase knowledge. When you're "industriously conscientious," you excel in making plans and setting goals. You tenaciously pursue them through setbacks, and you show self-discipline, control, and determination.
- A sense of duty to your team and organization- As an "orderly conscientious" person, you're good at following rules and norms, and at being diligent, reliable, and responsible. You're organized, diplomatic, and punctual. You think before you act, and you care about doing a good job.



Adaptability

If there is one thing that is consistent in life, it is change. Adaptability describes someone who doesn't allow feelings about change to become a source of emotional and performance roadblocks. It is flexible in responding to change.

Adaptability- the quality of being able to adjust to new conditions.

To develop this skill, you will need to be able to identify WHY a change might be causing a negative emotional response for you. Once you understand why you might be resisting the changes that you face, you can choose to handle it properly by addressing the fears or other feelings you have. You will become more adaptable the more that you practice.

Achievement Orientation

Achievement-oriented individuals strive to meet or exceed goals, a standard of excellence. They value feedback and seek ways to do things better. Individual achievement orientation must be balanced, especially with teamwork.

Achievement Orientation- A drive to accomplish one's goals, and to meet or exceed a high standard of success.

Achievement motivation versus failure avoidance motivation exists on a continuum, with most of us falling somewhere in the middle.



Initiative

People who have a high level of initiative are those that look for ways to continually develop themselves: make lifestyle changes, pursue more education, learn new skills, create new habits, etc. They don't blame others or the universe for their problems, they look at their role in their current situation, and they accept responsibility for making any necessary changes.

They also take the initiative in problem-solving and conflict resolution, thus making initiative a highly relevant skill in policing.

Initiative-

The ability to assess and initiate things independently.

The power or opportunity to act or take charge before others do.



Part 4

Social Awareness

Although there are four specific skills under social awareness, we are going to focus on one big one—empathy. What is empathy? And how is it different from sympathy? Both empathy and sympathy are forms of having concern for another person's well-being.

Sympathy	Empathy
Merriam-Webster Dictionary Definition: Feelings of pity and sorrow for someone else's misfortune.	Merriam-Webster Dictionary Definition: The action of understanding, being aware of, being sensitive to, and vicariously experiencing the feelings, thoughts, and experience of another.
In general, 'sympathy' is when you share the feelings of another; 'empathy' is when you understand the feelings of another but do not necessarily share them.	

The concept of empathy has been defined and redefined again and again. It is often described as the ability to step into the shoes of another person. When we aim to understand their feelings and perspectives of another, we can use that understanding to guide our actions. Empathizing with someone does not mean that you have to agree with their point of view. We need to empathize with people whose beliefs we do not share. Empathizing with others is a route to social tolerance, which will be covered more in the Community Competency series.

Why empathy? Through empathy, we come to understand another's concerns and their reasons for behaving as they do. When people feel understood, they are more likely to share their experiences with us, which makes us more able to determine where they need information and support.



Why is empathy important in policing? Empathy is related to the concept of legitimacy, whether citizens view the police as a legitimate authority. When you respond to the needs and feelings of other people,

you gain their trust. Empathy is related to perceptions of police effectiveness.

Empathy and perceptions of empathy help to shape the interactions of police and members of the communities they are assigned to protect. Research on citizen interactions with the police has consistently indicated that the way officers behave determines how they are evaluated by people with whom they interact. Studies specifically show that the police are more likely to be trusted and considered effective at their jobs when they display empathy with the community's concerns.

The Role of Empathy in Crime, Policing, and Justice
Chad Posick, Georgia Southern University

In traffic stop studies regarding citizen expectations, the majority (68%) of respondents stated that it was important that the officer empathizes with their excuse, even if they still end up getting a ticket.

So, what does empathy look/sound like? It is NOT about sharing a relatable experience. It does NOT mean "I've been there," "I know what you are feeling," or even worse, trying to make them feel better by one-upping their troubles "Your brother is an addict, well so is my brother AND my sister." It does not mean that you need to offer a solution to fix their problem, and it does not mean telling them that "things will be better tomorrow."

It DOES mean you demonstrate that you are listening. This can be done by paraphrasing, summarizing, or otherwise conveying understanding. You can do this without even using "I." You might say:

- That must have been hard on you
- It sounds like you are having a difficult time

Try thinking of empathy as a professional interaction, not an emotion.

It IS recognizing and acknowledging the presence of a strong feeling such as fear, for example, "that scared you." Be careful not to overuse "I understand" because you really might not understand, and it is essential to be authentic.



How can we improve our empathy?

- Slow down your encounters when possible
- Set aside your viewpoint and try to see things from the other person's point of view
- Validate the other person's perspective
- Listen more and talk less
- Examine your attitude
- Challenge your preconceptions and prejudices
- Search for commonalities rather than differences



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Ethics

BASIC POLICE ACADEMY



Self-Reflection Surveys

As part of the Ethics course we ask students to complete a number of surveys. The primary purpose of these surveys is to provide you, the student, with feedback on where you could potentially be vulnerable to factors that have been shown to increase the risk of unethical behavior.

At the end of the ethics class, we will ask if you are willing to share your responses with DPSST researchers. DPSST uses these surveys to develop information on risk factors that may be related to unethical behavior by public safety professionals. In addition, the information is useful to help DPSST focus training on those areas where the students may be most vulnerable.

Please do not put your name on these surveys; WE ASK THIS SO THE RESPONSES TO THESE SURVEYS ARE ANONYMOUS, meaning that we cannot identify any particular student from their responses. No personal identifying information, other than gender, age, and discipline, are gathered as part of these surveys. DPSST compiles the data from the responses only at a class level or for all the students from a particular discipline. The risks to you as a student or public safety employee are minimal if any.

PARTICIPATION IN THESE SURVEYS IS STRICTLY VOLUNTARY, but the surveys do provide you, the student, with valuable information. For this reason, we encourage you to participate. Your honest answers will provide you with the best feedback.

We ask that you NOT SCORE THE QUESTIONNAIRES BEFORE CLASS. As you go through the Ethics course, you will be provided directions on how to score the questionnaires and how to interpret your score in relation to the risk of unethical behavior.

If you are willing to participate and want to increase your awareness to help you better avoid the potential risks for unethical behavior, please complete the questionnaires.

Thank you for your interest and participation.

Gender: M F X Age _____

Discipline: Police Corrections Telecommunications P & P Fire

Other:

1. _____

2. _____

3. _____

4. _____

5. _____

FBAE Survey

For each of the below statements, circle the number on the scale that reflects the level at which you disagree/agree with the statement. **Do NOT score it until instructed to do so.**

Statement	Strongly Disagree	Neutral					Strongly Agree		
1. If you have good ethical standards you will not engage in unethical behavior during your career.	1	2	3	4	5	6	7	8	9
2. Cops know what is right and wrong, and some simply choose to do wrong.	1	2	3	4	5	6	7	8	9
3. Ethics cannot be taught.	1	2	3	4	5	6	7	8	9
4. The time and money that is currently used on ethics training would be better spent on educating agencies on how to identify unethical people.	1	2	3	4	5	6	7	8	9
5. People with good principles and values will behave ethically.	1	2	3	4	5	6	7	8	9
6. At my age, there is not really much I can learn about ethical behavior – you either have it by now or you don't.	1	2	3	4	5	6	7	8	9
Total									

S² Survey

Below is a set of statements regarding attitudes and behavior. Read each statement carefully. **Do NOT score it until instructed to do so.**

Please circle the response to indicate how often ***in the past six months*** you have felt this way:

1 = *almost never*

2 = *seldom*

3 = *occasionally*

4 = *frequently*

5 = *almost always*

Please do not leave any answer blank.

		Almost Never				Almost always	
1	I like to find myself in situations that make my heart beat faster.	1	2	3	4	5	
2	I like to test my body's limits.	1	2	3	4	5	
3	I know the feeling of wanting to be pepped up and stimulated somehow.	1	2	3	4	5	
4	I like feeling totally charged	1	2	3	4	5	
5	I prefer exciting and stimulating experiences.	1	2	3	4	5	
6	I sometimes need a certain "kick" in order to feel good.	1	2	3	4	5	
7	I like to be aware of the excitement in my body	1	2	3	4	5	
8	I feel that I need to seek more stimulation or excitement in order to feel good	1	2	3	4	5	
10	I like to be exposed to strong stimulation.	1	2	3	4	5	
11	I seek situations where I can take on complex and challenging situations	1	2	3	4	5	
12	I like the feeling that I get when I take on a complex or challenging situation and am successful.	1	2	3	4	5	
						Total	

PFC Survey

After each item below, please circle the number reflecting your response:

- 1 – if you strongly disagree
- 2 – if you disagree
- 3 – if you somewhat disagree
- 4 – if you slightly disagree
- 5 – if you neither agree nor disagree
- 6 – if you slightly agree
- 7 – if you somewhat agree
- 8 – if you agree
- 9 – if you strongly agree

Please answer each question as honestly and accurately as you can, but don't spend too much time thinking about each answer. **Do NOT score it until instructed to do so.**

	Strongly Disagree								Strongly Agree	
It is important to me that those who know me can predict what I will do	1	2	3	4	5	6	7	8	9	
I want to be described by others as a stable, predictable person	1	2	3	4	5	6	7	8	9	
The appearance of consistency is an important part of the image I present to the world	1	2	3	4	5	6	7	8	9	
An important requirement for any friend of mine is personal consistency	1	2	3	4	5	6	7	8	9	
I typically prefer to do things the same way	1	2	3	4	5	6	7	8	9	
I want my close friends to be predictable	1	2	3	4	5	6	7	8	9	
It is important to me that others view me as a stable person	1	2	3	4	5	6	7	8	9	
I make an effort to appear consistent to others	1	2	3	4	5	6	7	8	9	
It doesn't bother me much if my actions are inconsistent	1	2	3	4	5	6	7	8	9	(10-___) =
Total										

*For the last line, when scoring, subtract the number you circled from 10; that is your score for that line only. *Ex. Circled 3. 10-3=7, so my score would be 7 for that line.*

S-I Inventory

In the chart below, identify your top 10 traits/characteristics and rank them in order of priority (most important being #1). *This is similar to the values activity you did in Emotional Intelligence but will be used specifically in your Ethics course.*

Prioritization	Core Value	Description
	Able	Capable, competent, proficient, adept, skilled
	Accountable	Responsible, liable, held responsible
	Approachable	Friendly, sociable, open, welcoming, easy to talk to
	Attentive	Observant, alert, focused, intent, paying attention
	Caring	Kind, thoughtful, concerned, be interested in, take an interest
	Charismatic	Magnetic, compelling, fascinating, captivating, charming
	Compassionate	Sympathetic, concerned, kind, considerate, kindhearted
	Competent	Capable, experienced, skilled, proficient, adept
	Courageous	Brave, bold, gutsy, spirited, dauntless, fearless
	Courteous	Polite, well-mannered, considerate, civil
	Decisive	Strong-minded, resolute, determined, certain, purposeful
	Dependable	Faithful, steady, staunch, fixed purpose
	Determined	Resolute, gritty, single-minded, unwavering, firm
	Disciplined	Controlled, orderly, methodical, meticulous, restrained
	Eager to learn	Enthusiastic, excited, wanting to acquire new knowledge
	Empathy	Understanding, sympathy, responsiveness, fellow feelings
	Ethical	Moral, principled, follows the rules, adheres to standards
	Fair	Reasonable, just, impartial, rational, unbiased, objective
	Genuine	Frank, open, sincere, candid, unpretentious
	Hard worker	Go-getter, doer, self-starter, high-flier
	Helpful	Cooperative, accommodating, supportive, ready to lend a hand
	Honest	Authentic, true, frank, straightforward, direct, open, sincere
	Honorable	Decent, worthy, proper, upright, noble, good, right
	Humble	Modest, unassuming, meek, self-effacing, unpretentious
	Integrity	Moral and intellectual honesty, veracity, uprightness
	Intelligent	Bright, smart, quick, able, sharp, scholarly
	Kind	Nice, sympathetic, generous, gentle, thoughtful, considerate
	Knowledgeable	Well-informed, familiar, educated, expert, experienced
	Loyal	Faithful, devoted, dedicated, constant
	Moral	Ethical, good, right, decent, principled, virtuous
	Motivated	Interested, driven, inspired, enthused, striving, ambitious
	Professional	Expert, qualified, skilled, practiced, certified, proficient
	Reliable	Consistent, steadfast, unswerving, unflinching
	Respectful	Referent, humble, dutiful, deferential
	Responsible	Accountable, answerable, in charge, in authority
	Selfless	Self-sacrificing, altruistic, generous, noble
	Strong	Sturdy, stout, durable, solid, tough, robust
	Team player	Cooperative, collaborative, work to achieve a common goal
	Trustworthy	Truthful, constant, faithful, upright, deserving of confidence
	Work ethic	Dedication to work, belief in the value of hard work

ToH Questionnaire

Using the scale provided, please indicate how much each of the following statements reflects how you TYPICALLY are (please circle your response after each statement). **Do NOT score it until instructed to do so.**

		Not at all					Very Much					SCORE
1	I am good at resisting temptation.	1	2	3	4	5						
2*	I often act without thinking through all the alternatives.	1	2	3	4	5						6 ⁻
3*	I have a hard time breaking bad habits.	1	2	3	4	5						6 ⁻
4*	I am lazy.	1	2	3	4	5						6 ⁻
5*	I wish I had more self-discipline.	1	2	3	4	5						6 ⁻
6*	I say inappropriate things.	1	2	3	4	5						6 ⁻
7*	I do certain things that are bad for me if they are fun.	1	2	3	4	5						6 ⁻
8	People would say that I have iron self-discipline.	1	2	3	4	5						
9*	Pleasure and fun sometimes keep me from getting work done.	1	2	3	4	5						6 ⁻
10	I refuse to do things that are bad for me.	1	2	3	4	5						
11*	I have trouble concentrating.	1	2	3	4	5						6 ⁻
12	I am able to work effectively toward long-term goals.	1	2	3	4	5						
13*	Sometimes I cannot stop myself from doing something, even if I know it is wrong.	1	2	3	4	5						6 ⁻
Total												

*Items marked with an asterisk (containing the superscript 6⁻ in the score box) are scored differently. The number circled should be subtracted from 6 to give you the score for that line. *Example: If I circle 2, then my actual score would be 4 (6-2=4).*

P/D Questionnaire

Please circle a response to indicate your level of agreement with the following statements. **Do NOT score it until instructed to do so.**

Use the following scale for your responses:

Strongly Disagree	Disagree	Neither agree nor disagree	Agree	Strongly Agree
1	2	3	4	5

Statement	Strongly Disagree					Strongly Agree				
1. It is alright to use more force than is really necessary to protect a fellow officer.	1	2	3	4	5					
3. It's not a big deal if an officer runs a personal errand while on duty, considering that there are other officers who won't make an arrest late in their shifts to avoid having to work overtime.	1	2	3	4	5					
5. If officers are not documenting EVERY use of force, it is unfair to hold a single officer accountable when they fail to document a use of force.	1	2	3	4	5					
7. People don't mind being made fun of because it shows interest in them.	1	2	3	4	5					
8. Some people deserve to be treated like animals based on what they have done.	1	2	3	4	5					
11. You can't blame an officer who doesn't give 100% effort at work when their supervisor clearly shows they favor others on their team.	1	2	3	4	5					
12. Sometimes an officer has to verbally "put someone in their place" when they question or challenge what an officer is doing.	1	2	3	4	5					
13. Most crime victims put themselves in situations that make them more likely to become victims.	1	2	3	4	5					
14. Dumping all the "grunt work" on "rookies" (new officers) is part of their initiation into the profession.	1	2	3	4	5					
15. It is perfectly all right for an officer to charge someone who has an "attitude problem" with every violation they can find.	1	2	3	4	5					
Overall Total										
P/D (1, 8, 12, 13, 15) Total										



Ethics Parts 1-4

Instructional Goals:

This course is designed to:

1. Develop a new officer's understanding of human behavior and risk factors that can lead to unethical behavior
2. Enhance a new officer's ability to recognize and report unethical behavior

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Summarize the ethical standards and expectations of a police officer
2. Describe how conscious and non-conscious processes in the human brain impact behavior
3. Identify risk factors that can lead to unethical behavior
4. Articulate strategies for reporting unethical behavior

Content Outline:

- Ethical Standards/Expectations of the Profession
- Understanding the Brain and Human Behavior
- Brain Processing and Ethical Behavior
- Risk Factors for Unethical Behavior
- Risks and Benefits Related to Moral Character
- Recognizing Ethical Situations
- Reporting Unethical Behavior



Part 1

Pre-Class Assignment:

1. Complete the packet of Self-Reflection Surveys in your student workbook.
2. Answer the following question before coming to class:

What are the ethical standards or expectations of your profession?

What is Ethics?

Ethics is about behavior, doing the “right” thing. Often, the terms “ethical” and “moral” are used interchangeably to describe actions that meet the principles or standards of virtuous human behavior. However, virtuous behavior can be defined differently among people, organizations, and cultures. For example, do police officers and business owners always share the same ethical standards?

For this reason, we focus on Behavioral Ethics – an emerging field in understanding ethics and ethical behavior concerning established expectations (e.g., professional standards) that help define what we “should” do. In Oregon, the expectations for public safety professionals are memorialized in the Criminal Justice Code of Ethics (pg. 3), and acts of misconduct are evaluated based on the following elements of moral fitness: dishonesty, disregard for the rights of others, misuse of authority, and gross misconduct (OAR 259-008-070).

Unfortunately, over and over, we still see police officers violate these standards by behaving in ways that seem to defy common sense, or sometimes seem counter to their own best interests, and we ask ourselves “why?” Researchers trying to understand these situations have come to realize that these behaviors are the result of processes in our brains, and sometimes may have very little to do with conscious choices at all.



Criminal Justice Code of Ethics

AS A CRIMINAL JUSTICE OFFICER, my fundamental duty is to serve humankind; to safeguard lives and property; to protect all persons against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all people to liberty, equality and justice.

I WILL keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity, will be kept ever secret unless revelation is necessary in the performance of my duty.

I WILL never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. Without compromise and with relentlessness, I will uphold the laws affecting the duties of my profession courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence, and never accepting gratuities.

I RECOGNIZE my position as a symbol of public faith, and I accept it, as a public trust to be held so long as I am true to the ethics of The Criminal Justice System. I will constantly strive to achieve these objectives and ideals, dedicating myself to my chosen profession.

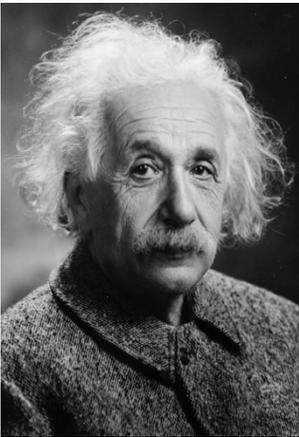


Understanding the Brain and Human Behavior

All behaviors are the result of some type of process in the brain. To understand why people don't always do what they should, we need to understand these processes and how they influence behavior.

System 1 and System 2

Nobel Prize-winning psychologist Daniel Kahneman explains that there are two processes at work in your brain; they work together (but sometimes not so smoothly) to control your behavior.



System 2, the conscious system, operates thoughtfully and slowly with more attention and effort than System 1, based on the application of rules and reason to the current experience.

Think Analytical / Albert Einstein

Examples: working out a budget, planning a trip to a new place, evaluating what car to buy

System 2 is where reflective decision-making occurs. When you face a new or unique situation, System 2 takes time to evaluate the information presented by your senses, methodically compares it to rules or structures used to make a decision, and determines an appropriate course of action. Some consider this exercise of judgment. After you pursue the course of action, System 2 also does an after-action analysis to examine what you did, along with the result, to determine whether it was the right decision.

System 2 requires much more focus and energy, so the brain reserves it for new situations or those requiring critical thought. Additionally, System 2 is located near the front of the brain, so sensory input must travel much further to reach it. For these reasons, the brain relies heavily on System 1 as a “shortcut” to quickly process routine, day-to-day functions without conscious thought.



System 1, the non-conscious system, operates automatically and quickly with little or no effort, based on patterns established by past experiences.

Think Automatic / Mindless Zombie

Examples: getting ready for work in the morning, speaking a language you're fluent in, recalling your name and DOB when asked



System 1 is where reactive decision-making occurs. Whenever System 1 is provided input by your senses, it automatically attempts to match it with a similar pattern of information that already exists in your brain (a result of System 2's previous analyses), and generates a response without requiring any conscious thought.



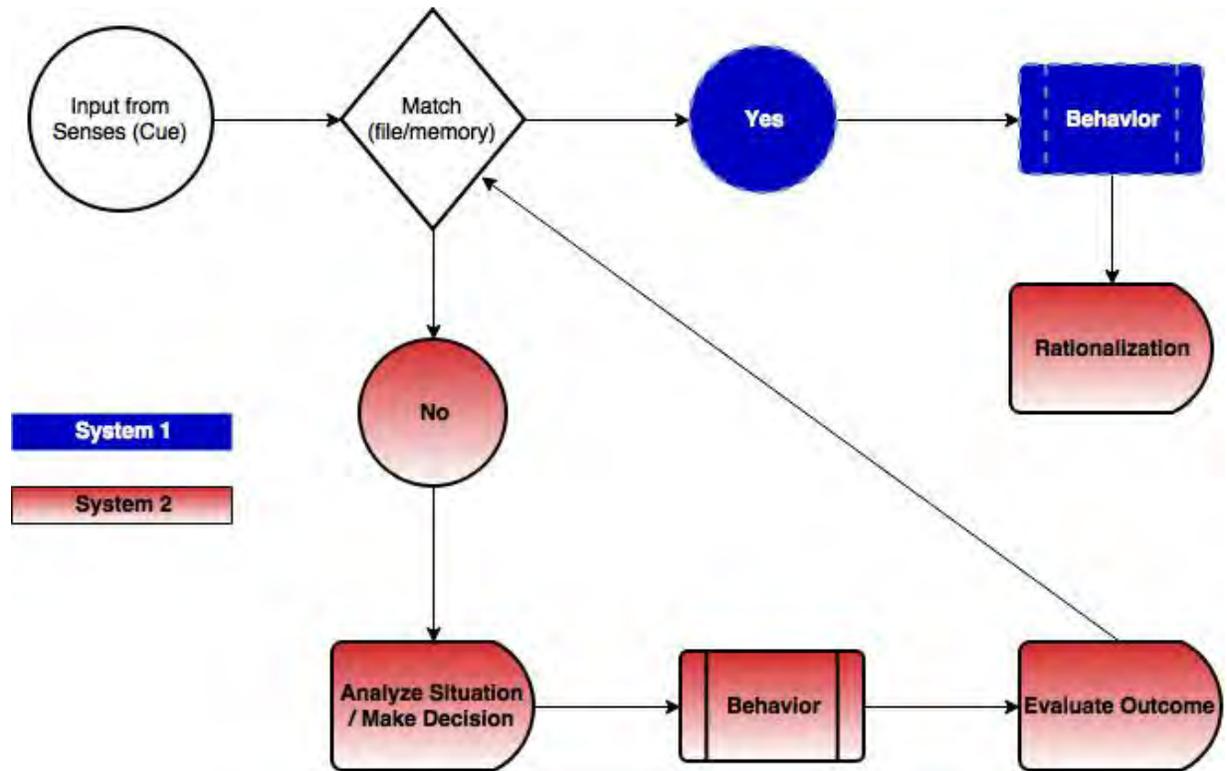
System 1 is located near the center of the brain, so the pathway for sensory input is physically shorter and thereby faster. To conserve energy, the brain always utilizes System 1 as the first process to try and determine the appropriate response in a given situation. Only when System 1 cannot find an exact or “close enough” match for the input, will System 2 engage for an analysis.

Brain Processing and Ethical Behavior

It has been estimated that 75-90% of our behavior may be the result of System 1's non-conscious process. We conduct our daily lives with minimal thought toward routine, habitual, or familiar situations unless we encounter information that is new or inconsistent with our past experiences. Nevertheless, the conscious and rational part of your brain tends to believe it is in control of what you do. But once the non-conscious, reactive part of your brain sets a course of action, it is difficult to change or alter the response.



In the diagram below you can see how the two systems interact. Remember: System 1 is always the first process to try and determine the appropriate response in a given situation. Only when System 1 cannot find an exact or “close enough” match for the input, will System 2 engage for an analysis.



When engaged, System 2 will apply reasoning, compare alternatives and their consequences, and consider rules already established to govern behavior. But research has repeatedly shown that it is when our brain is operating in System 1 that we can be induced to do things we would never consciously choose to do.

People tend to behave more ethically when they have time to think about a situation and apply standards/expectations (System 2). However, ethical dilemmas are often clouded by familiar social or environmental factors that can lead to “close enough” pattern matching by System 1. To behave ethically, your brain must recognize that there is something about the circumstances that cannot be handled as routine. Your ability to recognize these differences is further complicated by factors such as low self-control (EI), fatigue, stress, or focusing on other things (cognitively busy), which can all reduce how involved System 2 becomes in your behavior.



In-Class Activity Notes- Dual Processes

	System 1	System 2
Description	<ul style="list-style-type: none">• Fast• Non-conscious• Reactive• Emotional• Associative• Automatic• Effortless• Intuitive	<ul style="list-style-type: none">• Slow• Conscious• Reflective• Rational• Logical• Thoughtful• Effortful• Intentional
Application		



Part 2

Risk Factors for Unethical Behavior

Risk factors are attributes or activities that influence the likelihood of certain behaviors. For example, teenage male drivers are at an increased risk of being involved in traffic crashes. Similarly, research has shown several risk factors can lead a person to behave unethically. These risk factors can cause System 1 to broaden what is “close enough” when pattern matching, thereby separating what we “will” do from what we “should” do.

Despite being easier on the brain, “close enough” pattern matching by System 1 can lead to uninformed or inappropriate behavior.

It is essential to recognize that risk factors do NOT predict whether a person will behave unethically. They simply help identify influences that a person should pay attention to, and use to evaluate the reasons behind their behaviors.

Social Proof

Humans tend to be social animals and want to be part of a group. This may have been critical to survival early on, and it is still a strong influence on behavior today. To fit in, individuals frequently look to others to determine appropriate behavior in a situation and then copy that behavior. These social norms, and conformity to them, become “close enough” patterns for System 1 that can lead people to follow along with a group, rather than think for themselves.

How might the following situation have been influenced by social proofing?

Officer A was discharged for cause after an internal investigation revealed that Officer A violated agency policies and procedures related to untruthfulness, falsification of reports, and performance of duties. Officer A neglected to intervene in a situation involving the inappropriate use of force by other officers. Officer A was untruthful regarding their observations of the incident.



Overconfidence

People tend to be confident in their ability to behave ethically; remember System 2 typically *thinks* it is in control. However, overly confident people become unwilling to examine their own beliefs and instead generate risky beliefs such as “This doesn’t apply to me” or “You either have ethics, or you don’t.” This “Not Me” attitude or syndrome can narrow the number of patterns in the brain and cause System 1 to fail to recognize or ignore cues that indicate that a situation requires ethical considerations.

Sensation Seeking

How might the following situation have been influenced by overconfidence?

Officer B resigned during an investigation, in which it was determined that Officer B failed to get permission from a supervisor to work from home, and claimed hours when they were not actually working.

In contemporary research, sensation seeking is described as a “need” for the sensations associated with varied, novel, and intense experiences. Sensation seeking individuals tend to engage in behaviors that increase the amount of stimulation they experience, which can be satisfied by a variety of activities, including occupational, recreational, lifestyle, and social choices. Over time, the pursuit of “excitement” can escalate and result in unethical behavior. Based on their experiences, people seeking high levels of sensation may not establish the same patterns in the brain that trigger System 2 as low sensation seekers who tend to appraise certain situations as leading to negative consequences.

How might the following situation have been influenced by sensation seeking?

Officer C was charged and convicted of two counts of Prostitution, two counts of Official Misconduct, and one count of Coercion. Officer C’s misconduct involved having sex on-duty, efforts to conceal their actions, and improper use of agency equipment.



Preference for Consistency

People like consistency; it helps their brains reduce the need to engage System 2 (which uses more attention and effort) to analyze situations and adapt behavior. However, higher preferences for consistency in people can lead System 1 to look for a pattern that is “close enough” to a desired consistency with past behavior, rather than a match that might trigger an analysis of appropriate behavior for the situation. Further, this process can lead a person to continue acting consistently with how they behaved previously, even if it was incorrect or inappropriate. Incrementally, these mechanisms can cause minor violations to escalate into significant misconduct.

How might the following situation have been influenced by preference for consistency?

Officer D was discharged for cause after an internal investigation revealed they had been untruthful during the application and background process with several agencies by omitting employment with a prior agency, and then stating to prospective employers the reason for resigning previously was for an extramarital affair. In fact, their resignation involved a criminal investigation into sexual misconduct on duty with a drunk subject. Additionally, Officer D was untruthful in stating they were unaware of the criminal investigation.

Risks and Benefits Related to Moral Character

One of the significant influences on ethical behavior is self-image, i.e., how a person sees themselves, including their perception of how “moral” they are. This image of morality is referred to as Moral Character, and can regulate patterns in the brain to help System 1 make determinations that are aligned, or “close enough,” to a person’s self-image.

Researchers have identified three overlapping elements of Moral Character: Self-Identity, Self-Regulation, and Consideration of Others. Depending on the strength of each within a person, the elements of Moral Character can either be risk factors for unethical behavior or protective factors to supports ethical behavior.



Moral Character		
Self-Identity <i>The Identity Element</i>	Self-Regulation <i>The Ability Element</i>	Consideration of Others <i>The Motivational Element</i>
<p>A disposition toward valuing morality and wanting to view oneself as a moral person</p> <p>Emphasizes the importance of ethical behavior in System 1 pattern-matching</p> <p>When strong, it can override other patterns that challenge one’s sense of self</p> <p>If weak, it may allow other patterns to drive behavior</p>	<p>A disposition toward regulating one’s behavior effectively, specifically regarding recognizing long-term consequences of behavior</p> <p>Interrupts undesired System 1 pattern-matching or refrains from acting upon it</p> <p>When strong, it can change responses or trigger System 2</p> <p>If weak, it may not intervene with patterns that lead to unethical behavior</p>	<p>A disposition toward considering the interests and needs of others, and how one’s actions affect others</p> <p>Balances the influence of self-interest in System 1 pattern-matching</p> <p>When strong, it can reduce patterns that generate harmful behaviors to others</p> <p>If weak, it may permit patterns that generate solely self-serving behaviors</p>

It is essential to note the elements of Moral Character do not operate independently, but instead combine to make up a person’s self-image, which can have a powerful effect on System 1. Moral Character helps System 1 make “close enough” matches that maintain one’s sense of self by narrowing the range of acceptable patterns. Therefore, the pivot that transforms a “shouldn’t” into a “mustn’t” (or a “should” into a “must”), may come down to what you truly think of yourself.



Part 3

Recognizing Ethical Situations

One of the most difficult challenges to behaving ethically is recognizing when you are faced with a situation with an ethical dimension. Because of the screening processes used today, most people hired into public safety agencies can identify when significant ethical issues may be present. Unfortunately, three factors tend to work against a person's ability to do so:

1. Some ethical situations are very subtle. Some issues can go unnoticed in the short term, or appear to be minor or insignificant, only to pose problems long term as a result of incremental escalation.
2. When we are tired, stressed, or focusing our attention on other things (cognitively busy), we tend to rely too heavily on System 1. In these states, if we come across a new situation, System 1 will use "close enough" pattern matching to guide our behavior, rather than bother System 2. "Close enough" patterns are usually simpler and less likely to recognize ethical issues.
3. Many of the ethical situations in public safety are very complicated. To develop the complex patterns needed to aid System 1, significant time and effort must be made thinking through the issues. Unfortunately, many people instead apply their best critical thinking skills to other situations perceived more urgent or important.

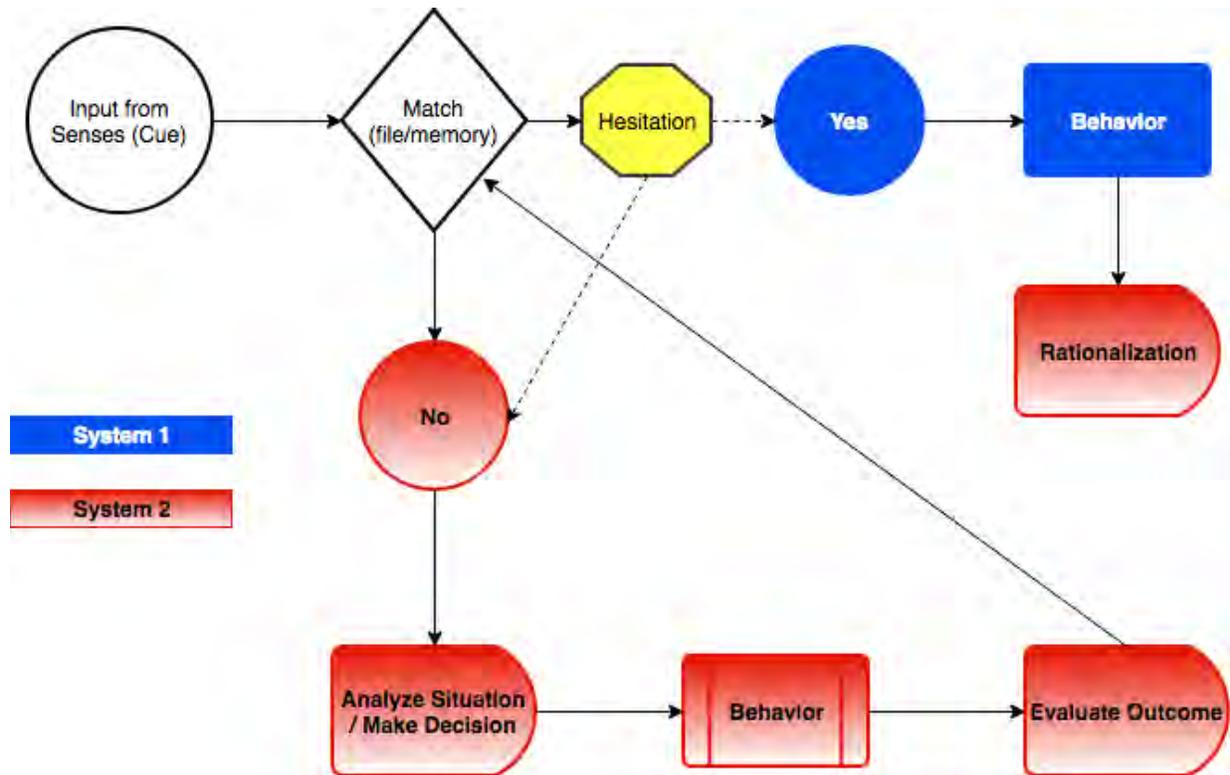
To combat these factors, consider the following strategies to strengthen your automatic responses and Moral Character:

- Analyze case studies; identify the complexities and consider alternative responses
- Learn your "patterned" responses and challenge them (social norms or ethical principles?)
- Pay attention to internal hesitations or conflicts between System 1 and 2 (see below)
- Regularly ask yourself: Why am I doing ____? or Why do I think ____?
- Self-reflect on your values/principles: What is acceptable to you, and what is not?



Recognizing Conflict in System 1

When System 1 doesn't find an exact match or runs into conflicting patterns, there can be a brief hesitation before "close enough" pattern-matching resumes.



You must recognize this hesitation for what it is – a warning! This hesitation is an opportunity to engage System 2 and analyze the situation further. Concerning ethics, this could be the first step in recognizing a dilemma and preventing System 1 from responding inappropriately.

Scenarios

The following scenarios (pp. 15-23) will be used in class to explore the concepts of this course further.

Additionally, you are encouraged to use them on your own to consider the following:

- What are the ethical issues presented, if any?
- What was your initial reaction, and why?
- What would you do in the situation, and why?
- What did you consider in selecting your course of action?
- How did you prioritize the options/considerations when coming up with your decision?
- How did your self-image impact your decision-making?



Situation #1

You are working night shift, and are on patrol. It is about 0330 in the morning and traffic is very light. Your training officer is driving, and he enters I-5 while on patrol. Upon entering the highway, he immediately accelerates to over 100 mph and continues at that speed until he slows to take the next exit ramp. You are not responding to a call for service and are not making a traffic stop.

Situation #2

You are working day shift and stop by the local Starbucks for a cup of coffee. It is really quiet, and there is no one else in Starbucks. You purchase your coffee and sit at a table as you have a report to complete. Your training officer (who is single) spends about fifteen minutes talking with the barista, and when he joins you at the table, he tells you that he has made a date with the barista.

Situation #3

You and your training officer are working a quiet Sunday evening on patrol and have not gotten a single call for service all shift. Your training officer, who is driving, meets with another officer behind a warehouse out of view of the public. Your training officer and the other officer meet and talk for over two hours (you work on your field training manual during part of the meeting, so do not get involved in the conversation). The topics of the conversation between the other two officers include how incompetent your agency's administrators are, how your supervisors are always favoring some officers, and discussing how screwed up specific co-workers are. Finally, the other officer says that it is near the end of his shift, and he has to get to the gas pumps and fuel his car. He leaves, and your training officer drives off.

Situation #4

You and your training officer have just cleared a call of a domestic disturbance. There was no crime committed, but there was a heated argument between a man and a woman. You separated the two and got one of them to go to a friend's house to cool down. As you drive off your training officer comments, "I don't understand this mandatory arrest stuff for domestic violence; after all, the research has shown it does not work. And besides, some people just need to be smacked around a little, like the woman at that last call. I wouldn't blame the guy if he came back and slapped her around. She deserves it."

Situation #5

You and your training officer are walking to your patrol car at the beginning of your shift. Another officer is talking with your training officer, and the other officer asks, "How's the pussy doing?" referring to you. Your training officer explains that you are doing OK, for a rookie. The other officer tells your training officer to keep an eye on you, as you are "a pussy" because you wouldn't take the "ride" on the Taser during defensive tactics training last week, and he wonders if you have what it takes to do the job.



Situation #6

You and your training officer have responded to a disturbance involving some drunks at a swimming pool in an apartment complex. In sorting out the situation, it is clear that no crime has been committed, and all the drunks are either residents or their guests. One of the drunks is obnoxious, asking you if you don't have anything better to do, why aren't you arresting murderers, etc. Your training officer tells the obnoxious drunk, "Look asshole, I don't have to listen to some drunk butt-head telling me how I should be doing my job. You are just damn lucky that you are not going to jail." You and your training officer have disbursed the drunks, and as you are leaving the scene, the obnoxious drunk says, "have a nice day, piggy" to you. Your training officer turns around and says, "Fuck you!" to the drunk as you walk away.

Situation #7

You have completed your training and are on patrol on your own. It is near the end of your shift, so you go to fuel your patrol car at the county shops. When you pull into the fuel island, you note one of the captains from your agency fueling his personal vehicle at the fuel island. As you pull in, he quickly finishes and leaves before you can get out to fuel your car.

Situation #8

You are working with your training officer, working speed enforcement, and practicing traffic stops. You are working with a LIDAR speed measuring device, and are checking the speeds of vehicles on a four-lane (2 lanes traveling in each direction) roadway in a commercial area that has a posted speed of 45. Since it is 0300, there is little traffic in the area. You see a car approaching that appears to be traveling faster than 45 mph, and it just passed another car. You measure the speed of the faster car at 67 mph. You stop the speeding car, and as you and your coach are getting out of your car, the driver gets out of his car and addresses your training officer by name. Your training officer talks with the driver, who turns out is an off-duty officer from another agency. Based on the conversation between the two, your training officer knows the driver of the speeding car well. Your training officer tells you that he will handle the stop, and tells the off-duty officer to watch his speed. You never are part of the conversation and never see the other officer's identification.

Situation #9

You are working the night shift with your training officer; you are driving. It has been a quiet night, and your training officer is teaching you techniques for patrolling parking lots at night. He tells you to turn off the headlights and to take off your seat belt (he has taken his seat belt off also). He tells you that by cruising without your headlights on, you are less likely to be noticed by the "bad guys," and always take your seatbelt off because that will allow you to get out of the car more quickly. He instructs you to drive slowly through the parking lots of several apartment complexes and tells you that it is OK to drive onto the residential streets between the parking lots without turning on his headlights or putting your seatbelt on.



Situation #10

You work for an agency that has its own maintenance/repair shop for your patrol vehicles that includes gas pumps. Your training officer makes it clear to you that you are to make sure the car has at least $\frac{3}{4}$ of a tank of gas at the end of each work shift. You regularly have to go to your agency's shops and fuel your vehicle.

You show up for briefing at the beginning of your work hours, and while your sergeant is passing on information, he mentions that all officers must complete the "Safe Vehicle Fueling Test" today. He passes out the test, then tosses a second piece of paper on the table and says, "Here are the answers. Copy them on your test. We've got better things to do than jump through some legal hoops so we can gas our cars. Pass it on when you are done."

One officer copies the answers onto his test, and hands the answers to your training officer who also copies the answers on his test. He then hands the answer sheet to you.

Situation #11

You and your training officer decide to get a cup of coffee at the local coffee shop in a shopping center. You pull into the parking lot of the shopping center where the local coffee shop is, and your training officer signs you out of the car using the code for "Community Policing/Citizen Contact." (on the mobile computer terminal in your car). You say you were signing out using the code. Your training officer tells you if you use the code for "Break – lunch/coffee," supervisors watch those breaks closely. He tells you that if you are out for more than 15 minutes for coffee or 30 minutes for lunch, the sergeant will be on your case. However, if you use the "Community Policing/Citizen Contact" to sign out, the sergeants never monitor how long you are out of the car using that code. You take a 45-minute break.

Situation #12

While you are checking your patrol car out at the beginning of your shift, your training officer is talking with the officer who is checking out the patrol car next to yours. The other officer tells your training officer that the captain just gave him a day off without pay for his recent traffic crash on duty. Your training officer asked the other officer if they found out what really happened, and the other officer says no. The two officers finish their conversation, and your training officer gets into the patrol car with you. As you and your training officer are driving off, your training officer says, "A day off for crashing a car. It's his first crash in more than two years, what's the big deal. It's probably a good thing that the captain doesn't really know what really happened." Your training officer explains that he and the other officer were headed for coffee, and they were racing to see who could get to the coffee shop first. The other officer got caught behind another car, and by the time he got around the other car, your training officer says he was several blocks ahead. The other officer sped up, "stretched a yellow light," and hit a car going through the intersection.



Situation #13

You are working with your training officer in the last phase of your field training. You are completing a report, so your training officer is driving.

You notice that your training officer is regularly running license plates to determine the registered owner, then checking the registered owner for driving status and wants. Soon you notice that he is only checking particular vehicles – those that are driven by attractive young women.

You complete your report and casually ask your training officer why he is checking the registered owners of particular vehicles. He responds that this is a “target-rich environment,” and he’s just scoping out “potential targets” as he refers to them.

Situation #14

You are on patrol working the night shift with your training officer. It is a quiet night, and your training officer suggests that you stop by the local police substation (which is located in your patrol district).

At the substation, your training officer gets out of the patrol car and goes to the door of the substation. You follow. Your training officer keys the intercom at the door, and talks to an officer inside on the intercom. You can only make out that your training officer identified himself and asked to come in.

One of the officers at the substation lets you in, and it is obvious that the officer knows your training officer. The two exchange greetings and your training officer introduces you to the officer at the substation. All three of you walk back to the training room at the substation, and there is a movie (recently released, very popular) playing on the screen in the training room. There are more than a dozen officers from several agencies in the training room watching the movie.

Your training officer gets himself a cup of coffee and pours you one also. He takes a seat in the training room, and you follow suit. Fortunately, the movie has just started, and the two of you spend the next hour and a half watching the movie.

When the movie is over, you and your training officer return to duty.



Situation #15

While with your FTO during your second week back from the Academy, you respond to assist another officer on a domestic disturbance call. At the call, it is clear that the female half of the domestic was the instigator and physically assaulted the male half of the domestic (her husband). The other officer arrested the female half of the disturbance for domestic assault.

About two months later, while off duty, you see the other officer from the domestic disturbance call at the local shopping mall. He is with the woman from the domestic disturbance call, and it is obvious that they are more than “just friends” as they are holding hands and occasionally kissing.

The next day at work, you run into the field training officer you were with on the earlier domestic disturbance call. You speak to the field training officer in private and tell him about seeing the other officer with the female he had arrested at the domestic disturbance. The field training officer tells you that he had heard that the officer and the woman had gotten together after all the domestic assault charges were dismissed. He said that he heard the woman is getting a divorce from her husband, who was the victim of the assault.

About a week later, you receive a subpoena as a witness in the domestic assault case against the woman, so you check and find out that the domestic assault charge against the woman was not dismissed and is scheduled for trial in two weeks.

Situation #16

You are in your final phase of field training, and you and your training officer are patrolling residential areas in your city on a Saturday afternoon. You pull into a cul-de-sac in an upscale section of your city and find the street is blocked off for a neighborhood party. There are probably 50-75 people, obviously families from the neighborhood at the party.

As you pull into the cul-de-sac, one of the people from the block party comes up to your car, so you stop and talk to them. They are very appreciative to see you in their neighborhood, and express appreciation for what you, the other officers, and the police department do for the people in the city. The resident invites you and your training officer to the party to meet the neighborhood residents. The gathering is obviously a family affair, and you do not see any alcoholic beverages being served or even any evidence of alcohol being present.

You and your training officer wade into the crowd, introducing yourself to many of the people there. This is obviously a very pro-police gathering.

As you are talking with a couple of the residents, two people from the party come up to you with plates of cake. They hand you the cake, saying, “We’ve got so much food here; we are never going to eat it all. Start with some desert, and there are burgers, chips, drinks, and the like over there (pointing to a table). We would like you to be our guests. We really appreciate all you do for us and everyone here in the city.” Your training officer addresses one of the people as Councilor Barnes, and you think you recognize him as a member of the City Council.



Situation #17

Shortly after midnight, you and your field training officer (FTO) are dispatched to a call of a disturbance at a local park. Parks in your community close at dusk, so there should not be anyone in the park. You have been authorized by city ordinance to arrest people in city parks past the park closure times (the city ordinance authorizes arrest, exclusion, or both).

When you arrive, you do not immediately see anyone, and then you spot two people near a picnic shelter. You and your FTO contact the two people and separate them. After some conversation, your FTO obtains identification from the person he has contacted, and your FTO runs a check through dispatch for warrants and driving status. You obtain identification from the person you have contacted and also request dispatch check for warrants and driving status.

As you are waiting for the information from dispatch, you notice that your FTO is handcuffing the person he has been talking with. After handcuffing the person, you note that your FTO appears to be taking that person toward your patrol car.

Dispatch tells you that there is a valid misdemeanor warrant for failure to appear on a trespass charge, for the person you have contacted. You advise the person that they are under arrest and request that they turn around and place their hands behind their back. The person is cooperative and complies. You grasp the person's fingers and place the handcuffs on one wrist when you are suddenly struck on the back of your neck. You are in extreme pain and start to fall to the ground when you are struck a second time in the back of your head. You fall to the ground, still holding onto the hands of the person you have arrested.

Once on the ground, you are hit at least a half dozen more times. You are now in extreme pain and dazed.

Just as quickly, you hear your field training officer yell something like, "don't you ever hit a cop," and you are no longer being struck.

You finish handcuffing the person you were taking into custody, and as you stand that person up, you notice your FTO and another officer (who arrived as cover) a short distance away. They have a third person on the ground, and your FTO and the other officer are repeatedly kicking the person. They are both yelling at the third person to get their hands behind their back, but every time the person tries to move his hands behind his back, your FTO and the other officer kick the person in the shoulder, upper arms or ribs.

You place the person you have in custody in the rear seat of a patrol car and return to where the third person is. Your FTO and the other officer continue to kick the individual on the ground, who is now groaning in pain and appears only semi-conscious as they are not moving. Your FTO says to the other officer, "that will teach the son-of-a-bitch not to jump my rookie!"



Situation #18

You have just completed your field training and are assigned to the evening shift. About 2300 hours, you get a call of a noise disturbance at a local bar. You arrive, and as you are walking into the establishment, you are met by two people you recognize as off duty officers coming out of the establishment. One of the officers tells you that he was talking with a woman at the bar when another patron walked up to him and pushed him down, knocking him into a bench. The officer said he alerted the bouncer, and the bouncer escorted the patron out.

You tell the two officers to “hang tight” at your car and go inside. You talk to the bouncer, who confirms that he threw a patron out after the patron got into an argument with an off-duty officer.

After getting some information from the bouncer at some witnesses, you go back outside where the two officers are. One of the officers has scrapes on his hand and blood on his shirt; the other’s clothing is in disarray, and he is breathing hard. You ask them if they saw the guy who pushed the one officer down, and they tell you that they didn’t find him.

At this time, several witnesses come up to you and tell you that two men “jumped” another guy, knocked him down, and “beat the shit out of him.” One of the witnesses tells you that the two people you have (the two off duty officers) are the ones who beat the guy, and one of the people (an off-duty officer) had “badged” him when he tried to intervene and stop the fight. You have the two off duty officers sit in your car.

Another officer located the victim, and he tells you that despite the victim’s injuries (significant enough that he was treated and released from the hospital), he did not want to report the assault. The victim said he did not know who assaulted him and just wanted to go home.

By this time, your sergeant is on the scene, and after being briefed about the situation, he contacted your lieutenant. Your lieutenant instructs your sergeant to have you and another officer take the two officers to the police department in separate cars.

At the police department, your lieutenant calls you into his office, and with your sergeant there also, asks you what you would do if the assault did not involve two off duty officers. You explain that you would likely record the information in your notebook in case anything should arise in the future.

Your lieutenant then tells you, “Well, that’s what we will do.” Your lieutenant then instructed all officers involved to document their actions in their notebook. He also suggests that you interview the two officers to get details of their side of the story.

You go to the room where the officers are and find them seated together beside two union representatives. Neither one is willing to tell you what happened.



Situation #19

You have been completing some reports, and while you were working on your reports, your training officer was sitting and talking with one of the records clerks in your office.

You complete your reports and walk up to your training officer just in time to hear him talking with the records clerk about Joe (one of your fellow officers). Your training officer tells the records clerk that Joe has been having sex with Robin. The records clerk says to your training officer, "Isn't Robin only 16?" Your training officer responds that she is. The records clerk then asks your training officer, "Who knows about it?" Your training officer responds, "Everybody knows about it. It's been going on for some time." The records clerk asks your training officer if anybody has reported it, and your training officer responds, "Probably, but nothing is going to happen."

Your training officer and the records clerk then exchange a few jokes about the fact that Joe is married, and his wife must be really naïve! The records clerk says, "I can't believe Joe has been able to get away with it as long as he has, and his wife hasn't figured it out." "She must be pretty stupid!" the other officer responds. They both laugh about it, then your training officer says to you, "Let's get back to work."

Situation #20

You overhear a conversation between your training officer and another officer while you are all taking a break in the break room at the Police Department. There are no other people around to hear this conversation.

The other officer says, "Well, it finally happened!" He explains that he has been chatting with a woman who placed an ad on Craigslist wanting to meet "a man in blue." They have been chatting for several days, and he explains that they finally met up earlier in the evening behind the vacant manufacturing plant at the dead-end road off Industrial Way. The other officer says, "And now I know why she wanted to meet "a man in blue – she's always had a fantasy about having sex on the hood of a police car." Your training officer asks, "Did you fulfill her fantasy?" The other officer says, "What do you think – I'm going to pass up something like that?"

The other officer says, "I just got this text from her," and he shows the message to your FTO. Your FTO reads the text and says, "You left her so hot – wanting more? What happened?" The other officer responds, "I got that stupid suspicious vehicle call, so I had to stop. But we are going to meet again later tonight." They both laugh, and the other officer leaves the break room.



Situation #21

Your agency has been hiring new officers to fill vacant positions. You are one of ten new officers who have been hired in the past year. You have just completed the Academy and are in your second phase of training with your second FTO.

After shift, you and one of your co-workers, who also attended the Academy with you, are sitting in the break room talking about training and your progress. Your co-worker, who is female, asks you about the extra defensive tactics training from Sgt. Johnson (one of your sergeants who is also in charge of defensive tactics training for your agency); you respond that you have not received any extra defensive tactics training.

You can tell that your co-worker is concerned, so you ask her about the training. She tells you that about every other week since you have been back from the Academy, Sgt. Johnson has her ride with him for part of her shift. Your co-worker tells you that during the time they are together, they always spend some time in the training room practicing defensive tactics – just the two of them usually for about an hour to an hour or so. During the time they are practicing defensive tactics, Sgt. Johnson always removes his uniform shirt, vest, and duty belt as it makes it easier to do the various moves. Sgt. Johnson always has her remove her uniform shirt, vest, and duty belt also. She said that Sgt. Johnson has offered additional training after shift, but she has never taken him up on it.

She tells you that although she is not comfortable with the training (she describes it as “creepy”), she always participates as Sgt. Johnson is not only in charge of defensive tactics instruction but also is in charge of field training.

You are curious about what your co-worker has told you, so you ask two other officers who also went to the Academy with you. One of the other officers (a female) tells you that she also has been working with Sgt. Johnson on defensive tactics, and he has even come to her home to provide additional instruction. The other officer (male) tells you that Sgt. Johnson has never offered him any additional defensive tactics training.



Part 4

Reporting Unethical Behavior

The unethical actions of an individual police officer impact *every* police officer. Yet too often, others will go about their duties quietly (sometimes for years) while another officer commits career suicide, and only after it is over will the others comment: “We saw it coming!”

To make a difference in the ethics of the public safety profession, this cannot continue. What is required is a “Speak-Up Culture” in it is expected that:

1. Officers will not watch other officers self-destruct; instead, they will confront people about their behavior. SEE SOMETHING, DO SOMETHING.

Strategies for reporting
<ul style="list-style-type: none"> • Consult a trusted mentor to help evaluate your observations • Confront the behavior informally as a peer • Contact your FTO, sergeant or command staff • Go outside your agency; city/county Human Resources, another agency

2. Organizations will maintain value-oriented environments where reporting is supported and encouraged.

Factors that <u>support or encourage</u> reporting	Factors that <u>inhibit or reduce</u> reporting
<ul style="list-style-type: none"> • Organizational support or encouragement • A culture that values constructive dissent • Clear safety measures to protect reporting parties • Cultivated non-conformity (i.e., individuals who feel responsible for their own actions) <p style="text-align: center; color: red; font-weight: bold;">Value-Oriented</p>	<ul style="list-style-type: none"> • Focus on interdependence within groups • Emphasize loyalty and group cohesiveness • Blind acceptance of group norms • Unethical behavior slowly over time • Favor obedience to authority & maintaining group loyalty <p style="text-align: center; color: red; font-weight: bold;">Rule-Oriented</p>



Duty to Intervene Law

As a result of the special legislative session in 2020, [HB 4205](#) came into effect upon signature on June 30, 2020. This law specifies a requirement to intervene (when applicable) and report misconduct.

Intervene	Report
Requires an officer to intervene to prevent or stop another officer engaged in any act the intervening officers knows or reasonably should know is misconduct <ul style="list-style-type: none"> • unless the intervening officer cannot intervene safely 	Requires an officer who witnesses another officer engaging in misconduct to report it <ul style="list-style-type: none"> • Report as soon as practicable • No later than 72 hours after witnessing the misconduct

Misconduct is defined as:

- Unjustified or excessive use of force
- Sexual harassment or sexual misconduct
- Discrimination against a person based on race, color, religion, sex, sexual orientation, national origin, disability or age
- A crime
- A violation of the minimum standards for physical, emotional, intellectual and/or moral fitness for public safety personnel established under ORS 181A.410

NOTE: The law also prohibits an employer from retaliating against an officer for intervening or reporting.

Consequences to Not – Failure to intervene or report as outlined by HB 4205 is:

- Grounds for disciplinary action by the employer
- Action by DPSST to suspend or revoke the officer’s certification

[Examples of the last misconduct bullet on next page]



Examples of moral fitness violations:

Intentional conduct performed under the color of office to:

- Obtain false confessions
- Make false arrests
- Create or use falsified evidence, incl. false testimony
- Destroy evidence to create a false impression
- Compel a person to abstain from doing any act the person has a legal right to do
- Deprive, or attempt to deprive, another person of their legal rights

Gain advantage for a public or private safety agency, or for personal gain

Intentional conduct that includes:

- Untruthfulness
- Dishonesty by admission or omission
- Deception
- Misrepresentation
- Falsification or reckless disregard for the truth

Intentional conduct that includes the use or attempted use of one's position or authority to:

- Obtain a benefit
- Avoid a detriment
- Harm another

Conduct that threatens or harms persons, property or the efficient operations of any agency

Ethically	Legally
If you SEE something, DO something.	



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Firearms

BASIC POLICE ACADEMY





Firearms

Instructional Goals:

1. Introduce a new police officer to the use, limitations, and techniques of the service handgun, patrol rifle, and shotgun.
2. **Develop a new police officer's** ability to effectively use firearms to defend themselves, a partner, or a third party against a deadly force encounter.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Articulate critical firearms safety rules.
2. Achieve a passing score on the qualification.
3. Demonstrate safe and proficient firearms handling skills.
4. Articulate the difference between cover and concealment, and how to correctly use cover.



“The purpose of firearms training is to prepare an officer to use firearms in a fight against an adversary, in what usually begins as a spontaneous attack initiated by the adversary. Our firearms program is not about shooting; it is about fighting. When the concept of fighting is taken out of firearms training, we have forgotten the purpose of our training.”

Lou Chiodo

Our firearms program will prepare you to save lives, yours and others.

You are training to protect human life.



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SAFETY

During all firearms training, safety is our primary concern. There is never a justification for disregarding safety at any time. Breach of safety protocols may result in your removal from the firearms training program.

The Four Rules of Firearm Safety:

Treat all guns as if they are loaded.

Always point the muzzle in a safe direction.

Keep your finger outside of the trigger guard until you are on target and have made a decision to shoot.

Be sure of your target and your backstop.

You are expected to know, understand, and adhere to these rules. They are expanded upon below and will be reviewed during every range session. If you have any questions, do not hesitate to ask.

Ignorance is not a defense. Safety is non-negotiable.



1. Treat all guns as if they are loaded.

It is, of course, entirely possible that a gun may be unloaded. That being the case, all guns should ALWAYS be treated as if they were loaded. If carefully followed, this would be the only firearm safety rule needed!

Any time that you handle a firearm you should verify its condition. (*Condition refers to whether a firearm is loaded or unloaded.*) Even if you have been told by someone else, check for yourself.

2. Point the muzzle in a safe direction.

Loaded, or believed to be unloaded, we never point a firearm at anything we are not willing to shoot - **including ourselves! If you think it's ok because the gun is unloaded, please see rule 1. At no time during live fire training at the DPSST will a firearm be pointed at any living thing.**

At the range, a safe direction is purposefully designed to be shot toward repeatedly; **it is called 'The Berm'. Targets will always be** positioned in front of this area; it will be clearly identified to you on the range.

When you are working in the public domain, a **'safe direction' can be trickier to identify.** A safe direction is situationally dependent but can be classified as a direction where, if the weapon were to be fired, the bullet leaving the muzzle would cause no injury and the least amount of damage to property possible.

The terms **'muzzling', 'sweeping', and 'lasering'** all refer to pointing a firearm at something. If you are told that **you are 'muzzling' / 'sweeping' / 'lasering' something, it means you are pointing your gun at it.**



3. Keep your finger out of the trigger guard until you are on target and have made a decision to shoot.

Outside the trigger guard means ‘indexed’, high against the frame of the pistol. Not resting on the trigger guard. Not hovering in mid-air. The trigger finger is to remain firmly pressed against the frame of the pistol from the time it is picked up, until it is put down. The trigger finger must remain high enough so that from the opposite side of the pistol, it is not at all visible through the trigger guard. (See *fig.1 & fig.2*)

Until you are certain that you **are** ‘on target’ and you have made the decision to fire, your finger must not touch the trigger.

Fig. 1 Trigger finger ‘indexed’. Pressed high onto the frame.



Fig. 2 Finger not visible through the trigger guard.





4. Be sure of your target and your backstop.

During basic firearms training both target and backstop will be consistent and clearly defined. The berm will always be the backstop. Your target will always be predetermined before you are instructed to complete any drill. You must still be mindful of your surroundings. Be absolutely sure that no one has ventured downrange unexpectedly. If you have any concern about your target or your backstop during any training, do not shoot.

Safety Equipment

Ballistic body armor, eye protection, and a brimmed hat are all necessary pieces of safety equipment you must bring to firearms training each day. Hearing protection will be issued for daily use at the range.

When loading, unloading, or shooting, ear and eye protection is always required. Your hearing can be irreparably damaged by exposure to gun fire. Your eyes are irreplaceable. Hot gasses and projectiles do **not mix well with eyeballs. Be sure that your eye protection sits 'snug' to your head to stop anything** from getting in behind your glasses. A hat with a brim will be worn to decrease the risk of anything getting behind protective glasses.

Hearing and eyesight protection is often referred to simply as 'Eyes & Ears.' When you hear an instructor on a range say 'Eyes & Ears' that is a direction to wear them – things may be about to get very loud!



AMMUNITION

All ammunition used at the DPSST is lead free and will be provided for you.
Never bring ammunition into the range building.

Ammunition has come a long way since the early days of firing rocks propelled by gunpowder. Today, **modern ammunition is called a 'cartridge' or 'a round'**. You will often hear people refer to ammunition as simply 'bullets'; this is not the correct terminology. As you are about to discover, the bullet is just one component of the cartridge. There are four components to the cartridge:

Primer

The primer is a pressure sensitive compound which when struck creates a spark; that spark ignites the powder.

Powder

The powder is contained in the center of the cartridge above the primer and below the bullet. In modern cartridges, it is smokeless fast burning nitrocellulose or a combination of nitrocellulose and nitroglycerin. The burning rate of the powder is very consistent; this allows for specific adjustments to be made during the manufacturing process which control the power generated.

Bullet

This is the projectile that is ultimately launched from the muzzle of the gun. There are various designs specific to the purpose of the cartridge. Their **weight is measured in 'grains' and this will be part of the cartridge description** designated on the packaging. There are 7000 grains in 1 pound.

Case

The case, or casing, is an open topped cylinder that contains all the components of a cartridge. It is most often made of brass, but other metals can be used for casings.

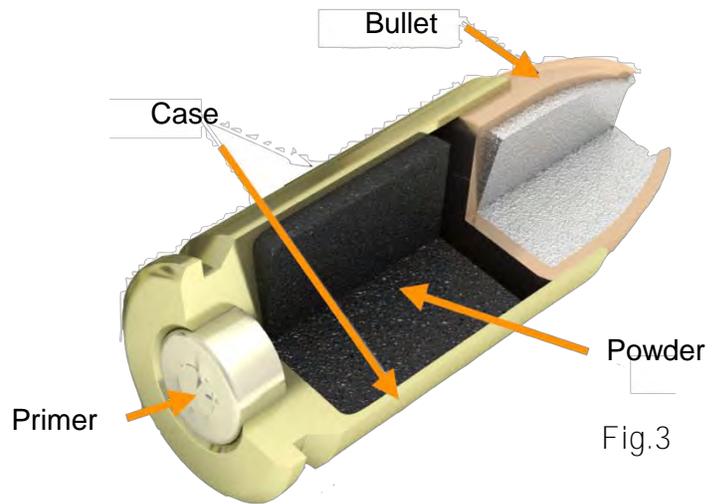


Fig.3



PISTOL NOMENCLATURE

The striker fired semi-automatic pistol is by far the most common duty gun used; as such, one is depicted here. If your duty pistol differs from this design, our firearms instructors have a significant knowledge base and can assist you with identifying all of its features. **Your owner's manual will also** have this information included.

Fig. 4





Fig. 5

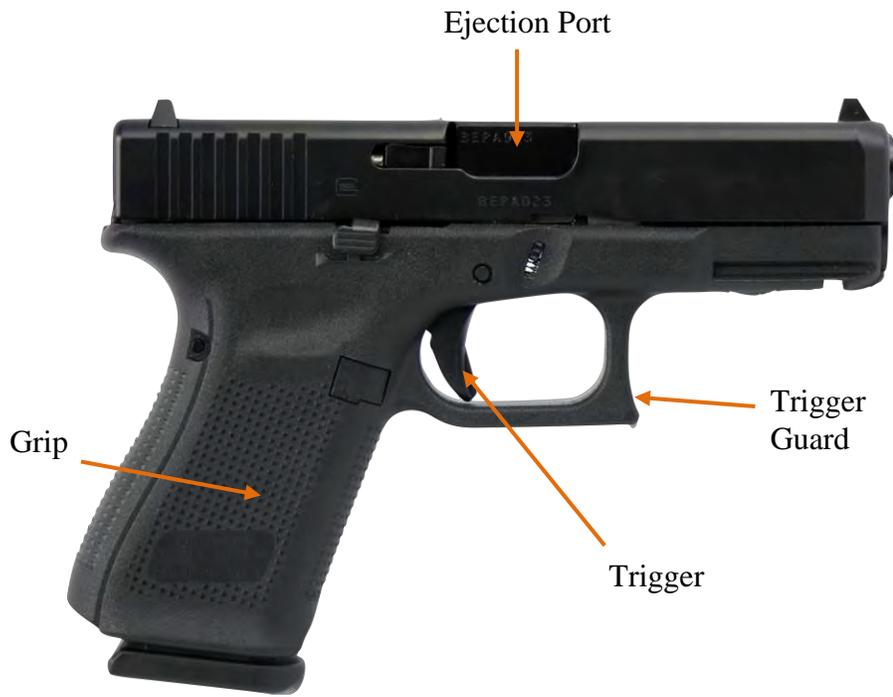
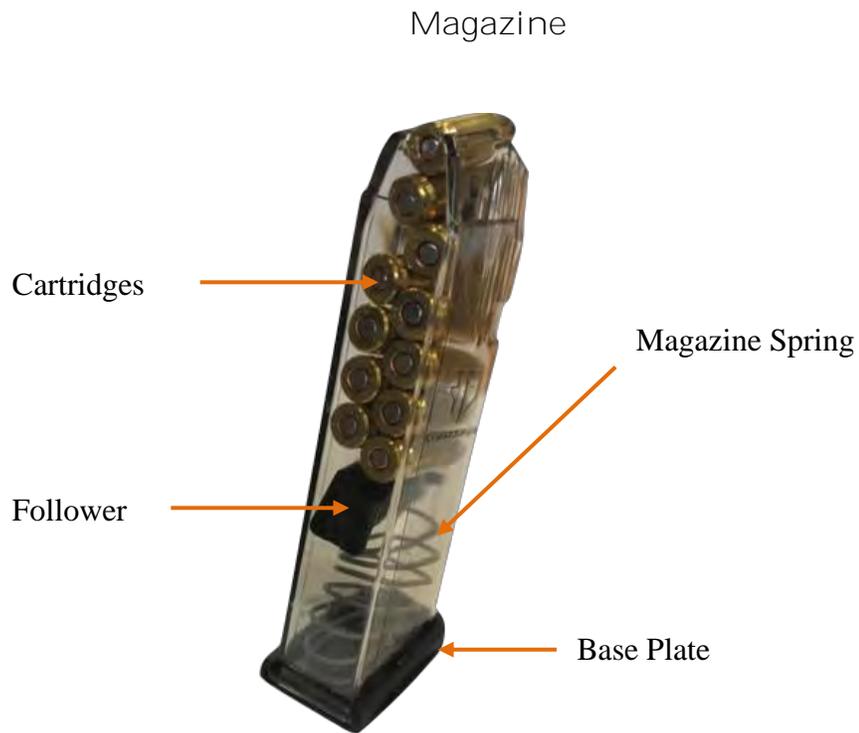


Fig. 6





CARE & CLEANING

BEFORE ANY MAINTAINENCE OR CLEANING PROCEDURE BEGINS BE ABSOLUTLEY, UNEQUIVOCALLY CERTAIN THAT THE PISTOL IS UNLOADED.

THEN CHECK AGAIN BEFORE YOU START CLEANING.

WEAR GLOVES FOR ALL CLEANING TASKS

WEAR EYE PROTECTION FOR ALL CLEANING TASKS

The primary reason for proper firearms cleaning and maintenance is reliability. Any care, cleaning or maintenance beyond the field strip and cleaning method discussed in this section must be completed by a certified armorer.

A semi-automatic pistol should be cleaned:

- When new
- After shooting
- Monthly
- As necessary

Each pistol manufacturer will specify cleaning guidelines in the owner's manual for their pistol. You must read and comply with these specific instructions to maintain reliable operation of the pistol and comply with warranty requirements. We will provide general guidelines for basic cleaning technique as well as a practical lesson on the topic. This does not supersede the **manufacturer's** directions.

When the pistol is taken apart for routine maintenance or cleaning, the level to which it should be disassembled **is called a 'field strip'**. See fig.7.

A duty handgun normally requires no tools to disassemble to this level. More specific care and maintenance will require disassembly beyond this stage. That work is to be completed only by certified armorers.



Fig. 7



Slide



Barrel



Recoil Spring



Frame



Magazine



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During the course of the cleaning process take the time to visibly inspect the condition of the pistol and its component parts. Pay particular attention to the:

- Safety devices
- Magazine
- Frame
- Slide
- Barrel
- Sights

Clean all visible areas of the pistol using patches. When the cleaning patches used remain clean and are no longer removing dirt and residue, the pistol is clean!

Lubrication is to be used sparingly and only in areas specified by the manufacturer. Any area showing metal on metal wear should be lubricated. *(If you are unsure consult an armorer)*. Do not lubricate firing pins, magazines, or magazine wells.

Upon reassembling the pistol, it must be ‘function checked’ prior to being put back into use.

‘Function checks’ are completed with an UNLOADED pistol pointed in a SAFE DIRECTION.

- Recoil Spring – Rack the slide and release it several times and observe that it functions as expected.
- Trigger Reset Spring – Press the trigger to the rear and hold it there. Rack the slide once and then slowly release the trigger until you feel and hear the reset. Then press and release the trigger again. Rack the slide once more.
- Safety – If the pistol has an external safety lever **move it to ‘safe’ and press** the trigger; the trigger should not operate. Disengage the safety lever and press the trigger. This time it should operate normally.
- Striker safety – If the pistol has a safety built into the trigger, apply pressure to the trigger without applying pressure to the safety. The trigger should not move.

‘Racking’ the slide means to pull it to the rear completely and then release it.

Processes for disassembly and reassembly of the pistol will be covered in the practical lesson on cleaning. Due to the variety of pistols carried it is more appropriate to teach this directly.



ESSENTIALS

The operation of a firearm has some consistent foundational principles. They are sometimes referred to as **'the fundamentals'**. We will refer to them as essentials, because they are exactly that! Shooting a handgun is simple; **it's just not easy**. Competence in these four areas will translate directly to the combative speed and accuracy you will be striving to achieve.

GRIP

The shooter's ability to control the gun depends heavily on grip. The grip is the sole contact point between the shooter and the gun; therefore, it is the primary control mechanism. Proper application of the grip will allow the shooter to mitigate recoil as much as possible. The shooting hand needs to be as high on the backstrap of the grip as possible. *(The 'backstrap' refers to the rear part of the pistol grip).* The shooting hand fingers are wrapped around the front of the pistol grip, the middle finger indexed against the bottom of the trigger guard. The heel of the non-dominant hand is placed in the open area of the grip as high as possible on the frame. The non-dominant hand fingers overlay the shooting hand fingers with the forefinger indexed on the bottom of the trigger guard. Both thumbs are stacked one above (not inside) the other. The gun is gripped as tightly as possible without making the gun shake. The elbows do not need to be locked, each shooter needs to establish what is comfortable for them. Shoulders can be rolled forward to help absorb recoil. Whether your elbow joints point out to your sides or directly down toward the floor will change where pressure is applied on the pistol.

Fig. 8



Fig. 9





TRIGGER

The trigger must be moved from its starting position straight to the rear until the gun fires. This movement to the rear must be done without the trigger finger causing the gun to be directed off target. The trigger needs to move straight back. The more efficient the grip is, the less likely you will be to steer the gun while managing the trigger. Finger placement should ideally be the pad of the finger centered on the trigger. *(See image below)* The ability to achieve this suggested contact point will vary depending on hand and gun sizes.





AIMING

We categorize aiming of the pistol under two headings:

1) Target Focused

2) Sight Focused

The limitations and advantages of each will be explored during live fire training. Distance & context will be determining factors in which method of aiming is appropriate.

Target Focused

This is achieved by looking at a spot on the target with both eyes open, bringing the gun up so it is parallel to the line of sight. This requires focusing on the target or threat vs. having a hard focus on the front sight. This method of shooting allows a balance of speed and accuracy. It should be employed primarily when the target is close, large, and / or unobstructed. This allows a better opportunity to take in the subject's movement, recognize patterns of behavior, and measure either escalation or de-escalation cues.

Sight Focused

The pistol is fitted with sights for good reason. Sights are used primarily to assist with aligning the muzzle of the pistol accurately with the intended target. When the opportunity to use sights presents itself, we should definitely do so! When using the handgun for this type of shot, the front sight should be the clearest object you have in your line of vision. The target and rear sight should be blurry and out of focus. Closing your non-dominant eye partially or completely can assist with focusing on the front sight for this type of sight use. Closing one eye trades off the advantage of depth perception and peripheral vision for easier front sight focus.

There are two steps to using pistol sights: **'sight alignment'** and **'sight picture'**. **Sight alignment** refers to the process of aligning the front and rear sight with your dominant eye. **Sight picture** is applying those appropriately aligned sights to the target area that needs to be shot.

Ultimately, we should strive to shoot with both eyes open, even when using sights. This will require significant, purposeful practice.



Sight Alignment

Front Sight Centered

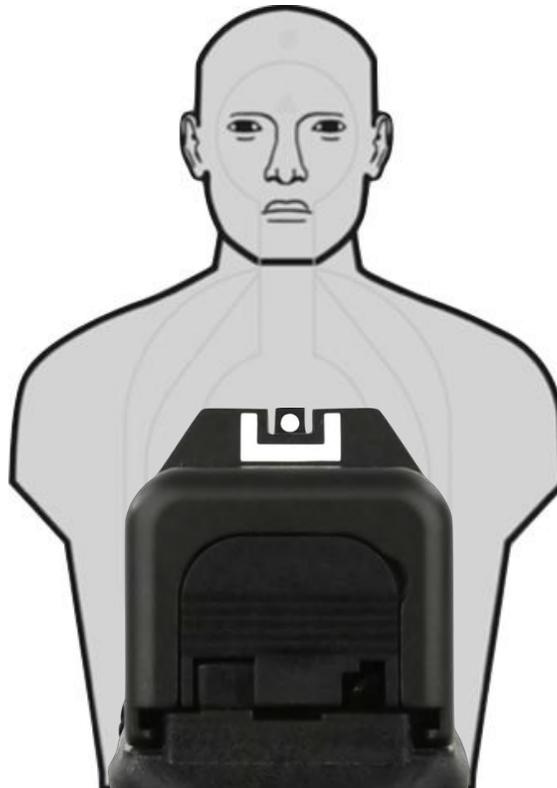


Front & Rear Sights Level



These still images show an ideal of what sights should look like. In reality the sights will never be completely still. We must accept that movement will always be occurring. Acceptably aligned sights are **all we can achieve**. There is no ‘perfect sight picture’. Accept the wobble in the sights, and move the trigger straight back without disrupting the guns position.

Sight Picture





STANCE

Stance is a balanced base from which to shoot. A solid stance is a convenience, it is not an integral part of shooting effectively. Dynamic real world application of these skills may not allow for a stable static stance. **We will explore a large number of ‘unconventional’ shooting positions during our training.**

When we do have the opportunity to use a great stance, we absolutely should! An ideal stance can be described as the shooter directing their toes, hips, torso, and head toward the target; feet wider than shoulder width apart and staggered. It should closely resemble the fighting stance used in defensive tactics. **The kind of flex in the hips and knees is just like the first stage of the ‘hip hinge’ taught in PT class.** The goal of the stance is to allow you to be both balanced and mobile, if need be. It should feel generally athletic as opposed to rigid.





ADMINISTRATIVE PROCESSES

In order for the pistol to operate and continue to do so there are a number of simple administrative processes we must understand. Loading, unloading, reloading, malfunction identification, and malfunction clearance are all necessary to 'running the gun'. Of course, we cannot complete any of those until the pistol is in our hands, so let's start with the process of drawing from a holster.

DRY FIRE

All of the following skills can and should be practiced regularly using inert training rounds. Inert training rounds allow the pistol to be manipulated mechanically without firing any projectiles. This type of training is referred to as 'dry fire'. It requires very little time and equipment but if done intentionally, with deliberate focused goals it has tremendous value for building effective skills.

Dry fire training must always be conducted in adherence with the four rules of firearm safety. There must be absolutely no live ammunition in the area that you are training in. Conduct thorough inspections of the firearm and any magazines in your possession prior to dry fire practice



DRAW

The draw will be broken down into four numbered stages to assist with learning the process. It won't be done in this fragmented fashion for too long. This is the building block approach to what will be one continuous, fluid motion. The draw from a holster will always be done with purpose. That purpose is to get the gun on target as efficiently as possible. There are numerous good reasons to get the gun out of the holster quickly, so that is how we train.

When it comes to re-holstering there are far fewer reasons to do so in a hurry. There will never be reason to rush the re-holstering process during the DPSST basic firearms training program. The re-holster will be carried out at a much slower pace than the draw. It was always be a deliberate controlled action. Re-holstering is where many accidents happen, both in training environments and operational use. Inattention to trigger finger discipline at this point has resulted in people injuring themselves or others.

The importance of trigger finger discipline cannot be overstated when manipulating a firearm in and out of the holster.

If you ever feel resistance when re-holstering, stop immediately! Check that the holster has not become obstructed with clothing or some other item. Do not force the gun past an obstruction.



Grip & Break

Your grip will be established the first time you put your hand on the pistol, while it is holstered. The web between the thumb and forefinger will be pushed as high as possible onto the back strap of the pistol grip. **Don't progress the draw until you have successfully acquired your grip.** Retention devices should be released at the same time, or prior to grip establishment depending on their design. The trigger finger will be indexed on the outside of the holster and remain in that orientation throughout the draw process. The non-dominant hand will move to the centerline of the torso.



Hand as high as possible on grip.

Lift & Level

With a correctly established grip, the pistol is to be pulled upward and clear of the holster. As soon as the muzzle is clear of the holster, the pistol should be rotated and levelled toward the target.



Your non-dominant hand remains against your torso. Your trigger finger remains indexed against the frame of the pistol.

**If specific circumstances present themselves, it is possible to shoot the pistol from this position. However, this not the default option.*



Join

Non-dominant hand now comes off the torso and completes the grip. Be sure that your non-dominant hand does not get ahead of the muzzle as the grip is formed.



**If specific circumstances present themselves, it is possible to shoot the pistol from this position. However, this not the default option.*

Press Out

The pistol is extended toward the target with a two-handed grip. The trigger finger remains indexed against the frame until the pistol is on target and you have made the decision to shoot.



Not every draw will result in shots being fired. Drawing and shooting are two separate processes. Each requires a different level of justification.



LOAD

Loading the pistol is described below with the assumed starting set up being an unloaded, holstered pistol, and full magazines located in all carriers / magazine pouches.

We can use the initial load of the pistol as an opportunity to practice some of the same movement required for a reload. Use a magazine from your primary carrier / pouch for the initial load. If you have more pistol magazines than pouches to begin with, the additional magazine should be stored in a pocket or pouch for the initial stages of the load. It can be moved to the magazine carrier once the load is complete. Use a magazine from your primary carrier / pouch for the initial load.



The pistol will be removed from the holster in order to complete the loading process. Whenever we draw, we do so with purpose; each time we draw we have a training opportunity. Good repetitions of all our mechanical skills will increase our level of proficiency. So, draw it like you mean it!

Aim at an appropriate target. Then, bring the pistol back in toward the center line of your torso. Keeping arms slightly bent while bringing the pistol closer to the center of the body increases stability and efficiency of this process. For some people placing the elbow against the torso will create a tactile reference to make this process consistently repeatable.



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The non-dominant hand breaks from the grip and is used to access a magazine from the carrier / pouch. Use your finger to 'index' the magazine. *(This assists with aligning it to the magazine well of the pistol).*



The magazine is inserted into the pistol. *(To check the magazine has seated securely, tug on the base plate. If the magazine comes out of the pistol, reinsert it firmly and repeat this check).*



The non-dominant hand is now used to manipulate the slide, pulling it to the rear as far as possible and then releasing it forward. This action will take the top round from the magazine and push it into the chamber loading the pistol.

The additional magazine should now be placed in the magazine carrier or pouch.

Be certain to release your grip on the slide when it is pulled fully rearward. Do not try to guide it forward, to do so can disrupt the process and cause a failure to load.



UNLOAD

Unloading the pistol will be described below with the assumed starting set up being a loaded holstered pistol and magazines located in all carriers / magazine pouches.

The pistol will be removed from the holster in order to complete the unloading process. Whenever we draw, we do so with purpose; each time we draw we have a training opportunity. Good repetitions of our mechanical skills will increase our level of proficiency. So, draw it like you mean it! Aim at an appropriate target. Then, bring the pistol back in toward the center line of your torso. Keeping arms slightly bent while bringing the pistol closer to the center of the body increases stability and efficiency of this process.



The non-dominant hand should be released from the grip and positioned beneath the loaded magazine, taking hold of the base plate. Press the magazine release; the loaded magazine will now drop free from the pistol. That magazine should be stored in a pocket or pouch.

The slide of the pistol will be racked once, being pulled completely to the rear and then released. As this is completed, a live round should be expelled from the chamber; do not try to retain that round. Let it fall. It can be recovered later. Once the pistol slide has been racked and released, it should be locked to the rear. If another round is expelled from the pistol as you lock the slide to the rear, you have forgotten step one and there is still a magazine inserted! You must begin again.



Once the slide is locked to the rear, visually and physically inspect:

The chamber



The magazine well



When you have completed these steps and you are absolutely certain that there is no ammunition present in the pistol, the slide should be released. The unloaded pistol may be holstered.



RELOADING

Pistol reloads can be categorized in two ways:

1) Mandatory

2) Optional

Mandatory - The gun is empty, and you **MUST** reload it.

The dynamic and overwhelming nature of lethal force encounters often leads to a continuing need to fire the pistol without any respite. This skill is one that should be practiced often.

Optional - The gun has a partially depleted magazine and you **WANT** to reload it.

If the situation provides the opportunity to safely reload when you want to, then do so. A fully charged magazine in the pistol is better than a partially depleted one. However, the circumstances where this is applicable are uncommon. This technique is far more likely to be used as a range training aid than as an operational tactic. Deadly force encounters rarely come with time out opportunities.

Both the mandatory and the optional techniques have a use. We must understand the processes for when and how to complete both.



MANDATORY

If a mandatory reload is required, this means every round from the gun has been fired, representing a pressing need to get the gun loaded and operational. This is a crucial skill therefore it should be practiced often.

During normal functioning of the semi-automatic pistol, when the last round from a magazine is fired the slide will lock to the rear. This provides a visual and physical indication that the pistol is now empty. A mandatory reload is required, should you wish to fire more rounds.



There are a number of reasons why the slide may not lock to the rear as intended: Defective magazine, defective pistol, incorrect alignment of your grip. These malfunctions may cause you to press the trigger and simply hear a click. If that is the case an immediate action malfunction clearance will diagnose the problem and the reload will be carried out as normal. The immediate action drills are covered in malfunctions.

There are five steps to the mandatory reload. With practice the first three can be done simultaneously to increase efficiency.

1. Finger off trigger
2. Press magazine release
3. Non-dominant hand accesses new magazine
4. Insert new magazine
5. Release slide

Once the pistol is reloaded, reassess whether additional shots are required.



Finger off Trigger

Throughout the reload process the trigger finger must remain in index against the frame. Having a surface for each finger to press against means that a much firmer grip can be achieved without the risk of the trigger being touched.



Press Magazine Release

This is ideally done with the hand used to hold the gun. For right handed shooters the thumb is the first choice; for left handed shooters, without an ambidextrous magazine release button, the middle finger is preferential.





Non-Dominant Hand Accesses New Magazine

The non-dominant hand breaks from the grip and is used to access a magazine from the carrier / pouch.
Use your finger to 'index' the magazine. *(This assists with aligning it to the magazine well of the pistol).*



Insert New Magazine

It is far more efficient bringing the pistol closer to your torso and into the centerline of the body during the reload.



Note that the naturally comfortable alignment of the wrist in this position orients the magazine well toward the magazine you are about to insert.



To check the magazine has seated securely, tug on the base plate. If the magazine comes out of the pistol, reinsert it firmly and repeat this check.



Release Slide

Two methods are acceptable for releasing the slide:

1. Physically pull the slide to the rear, then release it. *(Two grip options are pictured below.)*
2. Press the slide stop lever down to release the slide.

Try both; choose the one that you prefer and make that your primary choice. Trying to use both interchangeably can lead to overthinking a simple process and slowing it unnecessarily.





OPTIONAL RELOAD

Completing an optional reload means that a number of rounds have been fired and circumstances exist that mean further rounds are not immediately required. This opportunity can be used to bring the pistol back to full capacity. Swapping the magazine that is partially used in the pistol with a full one from your pouch / carrier will return the pistol to maximum capacity should you need to use it again.

There are five steps to the optional reload with retention.

1. Finger off trigger
2. Non-dominant hand accesses new magazine & brings it toward the pistol
3. Press magazine release
4. Swap inserted magazine with new magazine
5. Stow used magazine



Finger off Trigger

Throughout the reload process the trigger finger must remain indexed against the frame. Having a surface for each finger to press against means that much firmer grip can be achieved without the risk of the trigger being touched.



Non-Dominant Hand Accesses New Magazine & Brings it Toward the Pistol

Using your finger to 'index' the magazine will result in a more efficient execution of the insertion.



Note that the magazine is sourced from the rearmost pouch for this technique.



Press Magazine Release

This is ideally done with the hand used to hold the gun. For right handed shooters the thumb is the first choice; for left handed shooters, without an ambidextrous magazine release button, the middle finger is preferential.





Swap Inserted Magazine with New Magazine





Stow Used Magazine

Where to stow partially used magazines after removing them from the gun is an important consideration. You will not want to mix partially used and unused magazines. That confusion could lead you to unintentionally load a partially used magazine instead of a full one.

For this reason, we acquire the magazine for this reload from the rearmost magazine pouch, where our **'last magazine' is stored**. The partially used magazine is then returned to that same pouch. If we do need it, we will find it consistently where magazines are sourced for reloads. Placing it in the rearmost pouch will ensure that it will be the last magazine that we access.

Placing the partially used magazine in your beltline, pocket or other area not routinely used is a suboptimal choice. You will have an available magazine pouch, use it! Under stress if you are trying to use your final magazine it should be where you have trained to retrieve it hundreds / thousands of time.



MALFUNCTION CLEARANCE

Semi-automatic pistol malfunctions are not common occurrences, and almost all can be fixed very simply. The causes can be categorized broadly into two headings.

Ammunition Malfunction

Mechanical Malfunction

AMMUNITION MALFUNCTIONS

Both the hangfire and misfire will feel the same to you as the shooter. The trigger press will not feel unusual, but you will only hear the click of the trigger mechanism; the gun will not fire as expected.

Misfire

The firing pin strikes the back of the cartridge, but the primer does not ignite the powder. The cartridge does not fire. There is no bang! This can be caused by a fault with the primer, the powder contained in the casing, or both.

Hangfire

The firing pin strikes the back of the cartridge and there is no immediate result. After a short delay the cartridge will fire as normal. The initial delay could be misunderstood as being a misfire. The delay may be momentary but sometimes can last several seconds.

The solution for both of these malfunctions is the same. If the gun goes click instead of bang, you have a significant problem. There is a compelling reason why you pressed the trigger. The sooner the firearm is fixed, the sooner you are back in the fight. The immediate action is trigger finger indexed, then:





Tap the base of the magazine with your non-dominant hand to make sure that it is correctly seated.



Incorrectly seated magazines are a common error following a poorly executed reload. A misaligned grip may also have caused you to press the magazine release while shooting.

Rack the slide to eject defective cartridge and load the next one.



Either one of these grips is appropriate for the slide manipulation.

Re-Assess the situation. Are shots still required? Something may have changed since you discovered the malfunction. Does your finger need to go back on the trigger?



Squib Load

The firing pin strikes the back of the cartridge and the primer does spark and ignite the powder. There is insufficient pressure generated to force the bullet all the way out of the barrel. There will be greatly reduced recoil felt by the shooter. There will be a very different and much quieter sound compared to **the usual 'bang' associated with firing the gun. The bullet will be stuck in the barrel and the weapon MUST NOT** be fired until this obstruction is cleared. That kind of assessment will have to be completed by an armorer. The pistol is of no use to you until then.

If you are using quality factory manufactured ammunition, this is a very rare event.



MECHANICAL MALFUNCTIONS

Failure to Eject

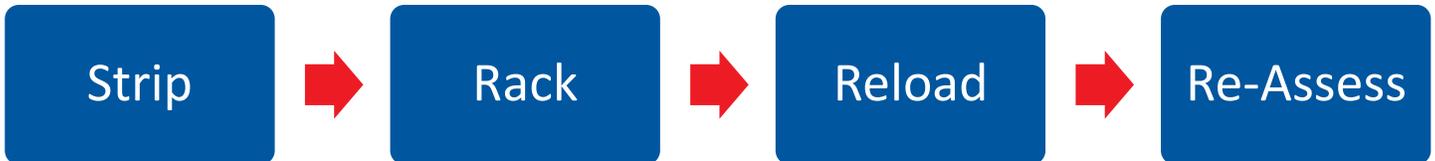
This can occur when pistol has been fired and the spent casing has been extracted from the chamber but has not been thrown clear of the ejection port. The slide comes forward and the casing becomes stuck. The pistol will not fire due to the obstruction. This malfunction is **often referred to as a 'stove pipe' due to the appearance of the** protruding casing. The solution is the same as an ammunition malfunction clearance, trigger finger indexed and then:





Failure to Extract

This can occur due to a faulty magazine or when the pistol has been fired but the spent casing has not been extracted from the chamber. The slide travels backward and another cartridge is pushed toward the chamber from the top of the magazine. Since the chamber is blocked **by the casing that didn't** extract, the slide will be stuck in the rear position. The solution to this malfunction is different. The trigger finger is still indexed, then immediately:



Strip the magazine out of the pistol. Pressing the magazine release alone will not allow the magazine to fall as it normally would. The magazine will be held in place by the pressure of the recoil spring pushing the slide forward. The magazine will need to be pulled forcibly from the pistol while the magazine release is pressed.



Rack the slide to eject the spent casing. It may take multiple attempts if the casing is stuck or the extractor is damaged. Only when the casing is ejected should you move to the next step.

Reload the pistol. The previous two actions will have left you holding a completely unloaded pistol. Insert a magazine; (preferably a different one to that removed) rack the slide.

Reassess the situation. Are shots still required? Something may have changed since you last pressed the trigger.



COVER & CONCEALMENT

Cover	Concealment
Provides some degree of protection from bullets, edged weapons and blunt force trauma. Nothing is truly bulletproof. All cover is ballistically consumable, just at different rates.	Allows you to hide / disguise your location but offers no protection once your location is known.
Examples: <ul style="list-style-type: none">• Ballistic vest/shield• Substantial Tree• Dirt Mound• Stone Wall• Concrete Traffic Barricade• Some Parts of a Vehicle	Examples: <ul style="list-style-type: none">• Darkness• Drywall• Fencing• Garden Shed• Vehicle Doors• Shrubbery

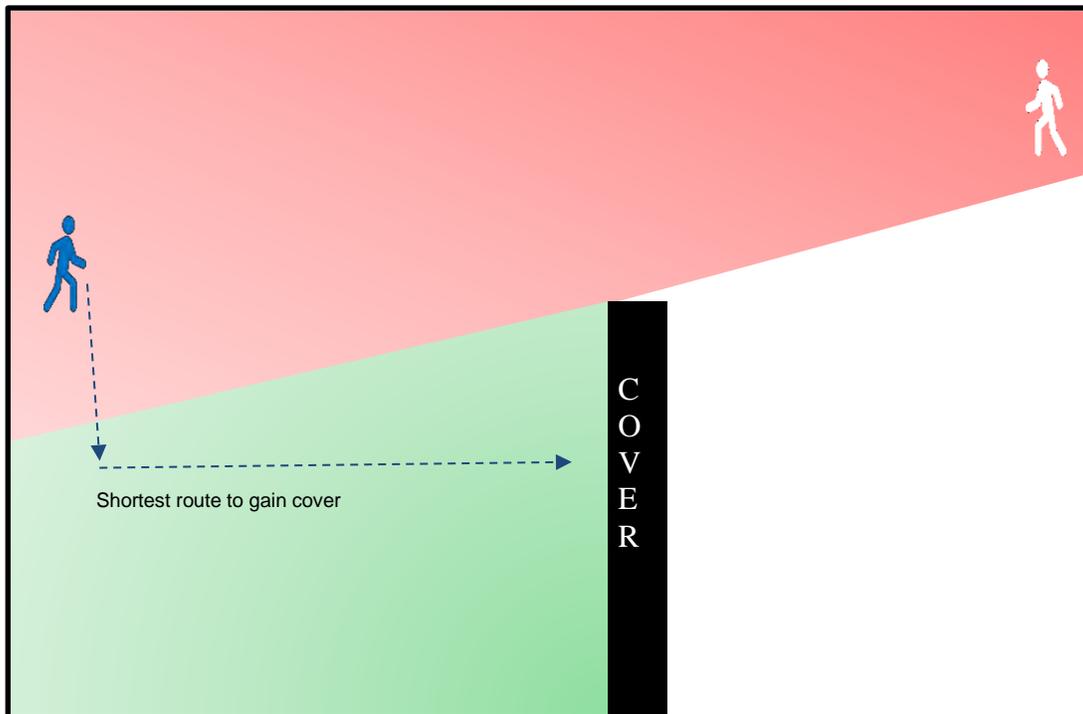
These lists are not exhaustive. There may be other items which fall into either category.

Whenever possible, we should use cover when working defensively or offensively. It is good practice to routinely identify your nearest point of cover as a matter of course as you go about your daily business. Taking the time to identify cover preemptively will certainly speed your transition should circumstances dictate you need to use cover. When using cover there are some simple techniques we can apply to make sure that we are maximizing its protective potential.

Standing off from cover a short distance allows better use of angles for engagement, keeps peripheral vision open and protects you from debris if rounds begin to impact and degrade your cover position. Resist the natural urge to be close to cover.



Cover has a potentially infinite shadow of protection, no matter how far you are behind it. If there is cover directly between your position and a threat, an 'L' movement can be the fastest way to take advantage of cover even at distance.





REDUCED LIGHT

Reduced light can mean no light, or low light. The pistol can be operated effectively in reduced light environments in conjunction with a handheld flashlight, or a weapon mounted light. It is highly recommended to have both in your possession, in good working order at all times. Even a day shift can **require a flash light at a moment's notice**, and we must always be able to see and identify a threat before shooting.

As far as equipment selection goes, the brightest, longest running quality light is the guiding principal. A minimum of two handheld lights are recommended, in addition to a light mounted on every firearm.

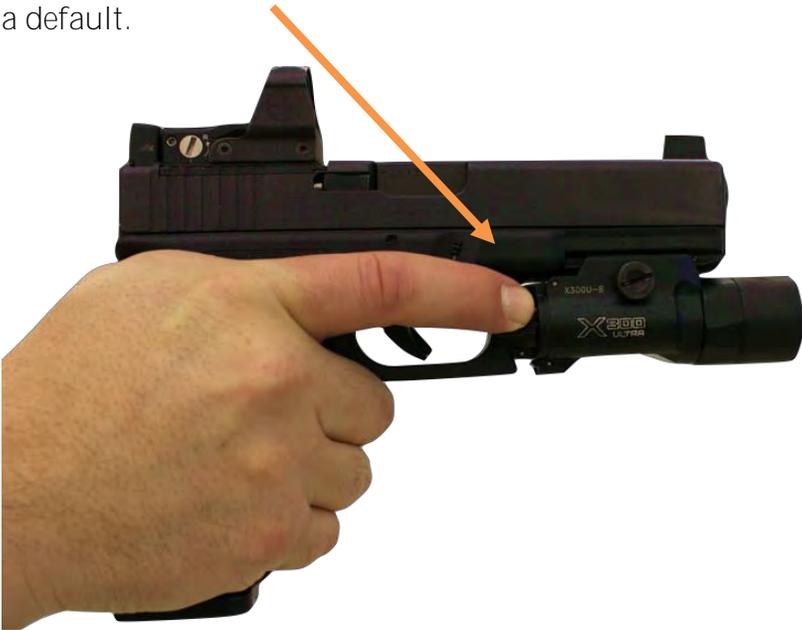
If pointing a firearm is justifiable, then using the weapon mounted light is preferential. A weapon mounted light allows a traditional two-handed grip. Use of a two-handed grip will increase speed and accuracy during what will certainly be challenging circumstances. The weapon mounted light is only for circumstances where you are lawfully justified to point a gun. Just because there is a flashlight attached to the pistol does not detract from the fact that anything you point the weapon mounted light toward now also has a firearm pointed at it too.

When operating the weapon mounted light under ideal circumstances the rocker switch will be operated with the thumb of the non-dominant hand.





The trigger finger can be used if the gun is being operated single handed, but this is a contingency, not a default.



More often than not, you will need a light before you realize you need to use a firearm or can justify pointing a firearm. Using a handheld light in conjunction with a pistol is more difficult.

There are a multitude of techniques for using a handheld flashlight; **by far the most versatile is the 'ice pick grip**. This is the primary technique recommended.

When using a flashlight in conjunction with cover, it is best to have the flashlight directed outside of cover to avoid backlighting yourself.





STATE OF OREGON
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
Basic Police

Light on or off while moving? The answer to that, as with so many questions in this subject matter is, it depends. If you have visual contact with a subject and quite correctly do not want to give it up, or if you are actively searching; then absolutely keep the light on. Turning the light off may provide you with some concealment. Moving in the dark may sound tactical, until you trip over something and then you are no longer concealed and far from tactical. If there is a good reason in any particular circumstance **to have a light on or off, then that's answer to the question. There is no 'always or never' answer for that question.**

Give consideration to who you point your light at. Your colleagues will not thank you for impeding their precious night vision with direct exposure from your light. Shining your flashlight in the eyes of a compliant person may cause an immediate change in demeanor and desire to cooperate with you. Light discipline is a tactic, use it wisely.

Fitness & Nutrition

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATSON 1960-1966
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY INDEED



Fitness and Nutrition 1

Instructional Goals:

This course is designed to:

1. Develop a new officer's awareness of the correlation between fitness and quality of life.
2. Reinforce the importance of nutrition in both occupational and lifestyle wellness.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify breathing techniques to improve performance.
2. Assess the nutritional value of food through reading the nutrition facts label.
3. Recognize and assess the benefits and pitfalls of various diet plans.
4. Identify the nutritional and timing needs of macronutrients for the body.
5. Create a nutrition journal and submit a report to instructors.

Content Outline:

- Breathing for Performance
- Nutrition
- Out-of-Class Assignment
- Fitness
- Basic Health Introduction



Breathing for Performance

Breathing through the nose

1. 90% or greater of all breathing should be through the nose
2. Breathing should be deep through the diaphragm, not shallow into the chest
 - a. Fewer breaths increase red blood cell production, activating the EPO hormone, synthesizing hemoglobin needed for oxygen transportation.
 - b. Blood cells should have an oxygen saturation rate of approximately 95-99%
 - c. Higher carbon dioxide levels promote the release of oxygen from cells to muscles (increase in production of hemoglobin).
3. Training to not over-breathe
 - a. By slowing the rate of breaths taken per minute, greater stores of carbon dioxide will be produced, increasing the release of oxygen from red blood cells.
 - b. You can train breathing by focusing on key points when not physically exerting oneself (i.e....sitting, non-physical work tasks, breathing focused exercises).
 - i. Slow consistent inhale through the nose into the abdomen via the diaphragm.
 - ii. Short pause
 - iii. Exhale through the nose
 - iv. Short breath-hold upon exhale
 - v. Repeat
 - c. You should see/feel expansion and contraction in the abdomen rather than rise and fall in the chest.



Establishing proper breathing

1. Breathing depth drill

a. From the sitting position:

- i. One hand on chest, one hand on the abdomen
- ii. Feel expansion/contraction of abdomen vs. rise/fall of the chest
- iii. Use 2-1-2-2 breathing count:

Inhale for two seconds, pause for one second, exhale for two seconds, hold for two seconds

b. From standing position

- i. Repeat steps from a supine position

2. Abdomen expansion progression (Superman Pose)

a. From sitting position

- i. Hands-on lower 1/3 of the rib cage
- ii. Feel ribs expand during inhale, hold, contract during exhale
- iii. Use 2-1-2-3 breathing count:

Inhale for two seconds, pause for one second, exhale for two seconds, hold for three seconds

b. From standing position

- i. Repeat steps from double-kneeling position
- i. Keeping hands on lower 1/3 of ribs, begin quick breath sequence
- ii. Use 1-1-1-1 breathing count:

Inhale for one second, pause for one second, exhale for one second, hold for one second

- iii. Progress to no pause inhale-exhale breathing



BOLT (Body Oxygen Level Test)

1. Measuring your BOLT score

- a. Take a normal breath in through your nose and allow a normal breath out through your nose.
- b. Hold your nose with your fingers to prevent air from entering your lungs.
- c. Time the number of seconds until you feel the first definite desire to breathe, or the first stresses of your body urging you to breathe. These sensations may include the need to swallow or constriction of the airways. You may also feel the first involuntary contraction of your breathing muscles in your abdomen or throat as your body gives the message to resume breathing. *(Note that BOLT is not a measurement of how long you can hold your breath but simply the time it takes for your body to react to a lack of air.)*
- d. Release your nose, stop the timer and breathe in through your nose. Your inhalation at the end of the breath-hold should be calm.
- e. Your score is the time on the timer (from when you stopped it).
- f. Resume normal breathing.

Source: Measure BOLT - Oxygen Advantage. <https://oxygenadvantage.com/measure-bolt/>

Building Nitric Oxide through Nasal Breathing

1. Nasal breathing leads to a build-up of nitric oxide.

Nitric oxide is released from the nasal cavity into the lower airways and blood vessels.

- a. Nitric oxide promotes vasodilation in airways and blood vessels, improving oxygen transfer and blood flow.
- b. Nitric oxide is the key component in pre-workout supplements. You now have a natural pre-workout!



Nose Unblocking Exercise

1. Take a small, silent breath in through your nose and a small, silent breath out through your nose.
2. Pitch your nose with your fingers to hold your breath.
3. Walk as many paces as possible with your breath held. Try to build up a medium to strong air shortage, without overdoing it.
4. When you resume breathing, do so only through your nose. Try to calm your breathing immediately.
5. After resuming your breathing, your first breath will probably be bigger than normal. Make sure that you calm your breathing as soon as possible by suppressing your second and third breaths.
6. You should be able to recover normal breathing within 2 to 3 breaths. If your breathing is erratic or heavier than usual, you have held your breath for too long.
7. Wait 1 or 2 minutes before repeating the breath-hold.
8. To prepare yourself for the more extended breath holds, go easy for the first few repetitions, increasing your paces each time.

Repeat for a total of 6 breath holds, creating a fairly strong need for air.

Source: The Oxygen Advantage by Patrick McKeown – The Rabbit Hole. <https://blas.com/the-oxygen-advantage/>



Nutrition

Macronutrients

Fats – 9 cal/g	Proteins – 4 cal/g	Carbohydrates – 4 cal/g	Alcohol – 7 cal/g
<p>Sources: Animal by-products, oils, fried foods, nuts, processed foods</p>	<p>Sources: Meats, cheeses, eggs, legumes (beans), supplements</p>	<p>Complex Carbohydrate Sources: Fruits, vegetables, whole-grain bread, whole-grain pasta</p> <p>Simple Carbohydrate Sources: Rice, simple sugars, processed foods</p>	

Saturated fat

- Source– Mainly animal products
- It can create a raise in low-density lipoprotein levels (bad cholesterol). However, LDL’s created by saturated fat tend to be large and fluffy (not small and hard) leaving no tie to heart disease
- Increased risk of Type II diabetes due to potential insulin intolerance
- Switching to polyunsaturated fats will aid in avoiding weight gain

What are macronutrients used for?

- Carbohydrates– Energy source for the body
- Protein– Repair tool for damaged soft tissue
- Fats– Energy, heat and organ insulation, regulates fat-soluble vitamins



Timing

- Protein Timing
- The body most receptive to protein 0-45 minutes following exertion
- Second most receptive time is just before a fasting period
- Protein should be consumed throughout the day, 25-30 grams at a time

Macronutrient Intake After Exertion

- The ideal ratio of carbohydrate to protein intake after physical exertion is 3 to 1
- A 2 to 1 ratio is good
- Should be at a minimum 1 to 1 ratio
- The liquid form will be absorbed the most rapidly but is not essential
- Both the energy accretion and depletion stages are at work post-exertion.
- Both carbohydrate and protein lend to the accretion stage, but only carbohydrate blocks the depletion stage

Meal Timing

- Is breakfast the most important meal of the day?
 - Breakfast is needed to bring down cortisol levels. Cortisol levels are at the highest they will be all day when coming out of the fasting period. Cortisol is the hormone that reacts with the liver to produce cholesterol.
- Should you eat 4-6 smaller meals throughout the day or three big meals?
 - Research indicates that it is entirely dependent on the individual.

Eating Healthier

- Complex carbohydrates should comprise the bulk of the diet
- Proteins intake should be 10-35% of your diet **or** 1 gram/every two lbs. of body weight
- 5-8 cups of fruits and vegetables/day
- 80/20 Rule



What is the 80/20 Rule?

Supplements

Food Preparation

How to Shop	Preparing Food for Shift Work
Make a list before you go shopping Read labels on the foods that you are buying Shop the outside of the store Avoid pre-packaged foods as much as you can	Make meals and snacks ahead of time Package food as best you can (Tupperware) Keep healthy snacks available and with you

Out-of-Class Assignment: 10-Day Nutrition Journal

- Track all of the calories you consume for ten consecutive days in a food journal.
 - Include all food and drink.
- Determine the caloric value of each food/drink item consumed.
- Upon conclusion of the food journal, submit a brief paper including:
 - Daily caloric intake
 - A summary of the quality of your diet during this journaling period
 - Any significant changes you determine need to be made
 - A one-time calculation of their Basal Metabolic Rate (BMR) and daily caloric needs (DNC) using the Harris-Benedict Equation.

Turn the paper into the Health and Fitness Instructor.

[Additional Fitness Information on Next Pages]



*** ADDITIONAL INFORMATION ***

Fitness

Aerobic– with oxygen	Anaerobic– depleting a muscle or muscle group's oxygen supply
----------------------	---------------------------------------------------------------

Training Heart Rate Zone

- Calculate max heart rate (220-age)
- Calculate the training heart rate zone (60-85%)
- RPE (Rate of perceived exertion)

Calculate Your Max Heart Rate Here:

Calculate Your Training Heart Rate Zone Here:



Measures of Body Composition

Weight	BMI	Percent Body Fat
<p>Not a true measure of body composition or overall health.</p> <p>Skinny Fat– Person’s body appears to be lean but in reality is not over fat by appearance only</p>	<p>Calculated from a person’s weight and height:</p> $\frac{\text{Weight (pounds)}}{((\text{height (inches)} * \text{Height (inches)}) * 703) = \text{BMI}}$ <p>This method does not discern between muscle and fat, only mass.</p>	<p>Methods to obtain percent body fat:</p> <p>Skinfold Caliper- Measure of fat in skin and tissues. Varies greatly depending on who administers the test.</p> <p>Underwater Weighing (Hydro densitometry) - Immersion of the body into a water tank and measuring the amount of displaced water.</p> <p>Body Average Density Measurement- Measuring the girth in specific areas to determine body fat. Areas measured are the upper arm, forearm, abdomen, hips, thigh, and calf.</p> <p>Bioelectrical Impedance Measurement- Passing an electrical current through the body and measuring the amount of impedance (how long it takes to pass through tissue).</p> <p>Fat-free = faster</p> <p>Fatty = slower</p> <p>Dual Energy X-Ray Absorptiometry- Identifies specific fat deposits, similar to bone density measurement.</p>



4 Components of Fitness:

- 1) Flexibility
- 2) Cardiovascular Endurance
- 3) Muscular Endurance
- 4) Muscular Strength

Calculate Your BMI Here:

Frequency, intensity, and time for daily and weekly workouts

- Frequency– How often you exercise
- Intensity– How hard you train
- Time– How long your training session lasts
- Daily vs. Weekly FIT goals
 - Daily goals are generally more strength, cardiovascular or short-term endurance-related
 - Weekly goals are distance or quantitative related

Strength vs. Power vs. Endurance

- Strength– High weight, low rep, low speed, extended recovery period
- Power– Combination of speed and strength. Blending weight and repetition to gain maximum benefit in both areas
- Endurance– Low weight, high rep, increased intensity, shorter recovery period



Training Modalities

Weight Training/Strength Training	Interval Training	Yoga/Pilates/Barre
<p>Typically in a gym or weight room setting</p> <p>Adding resistance to movement to incrementally increase the resistance (amount of weight that can be moved)</p>	<p>Circuit Training</p> <ul style="list-style-type: none"> Performing a specific rotation of exercises, in order, for either a specified number of repetitions or amount of time <p>Tabata Training</p> <ul style="list-style-type: none"> 20 seconds of exercise followed by 10 seconds of rest Each set is 4 minutes of total time Can be 1 exercise or combination of exercises <p>HIIT Training (High-Intensity Interval Training)</p> <ul style="list-style-type: none"> Warm-up, high-intensity exercise separated by medium intensity exercise, cool down <p>CrossFit</p> <p>Speed/Agility Training</p> <ul style="list-style-type: none"> Must combine movements to improve strength, power, stability, and flexibility. 	<p>Yoga</p> <ul style="list-style-type: none"> Uniting the mind, body, and spirit Creating balance through developing strength and flexibility <p>Pilates</p> <ul style="list-style-type: none"> Developing core strength to support the spine and back Six Pilates Principles: Centering, Control, Flow, Breath, Precision, Concentration <p>Barre</p> <ul style="list-style-type: none"> Combination of Pilates, yoga, and ballet Lengthening muscles as well as strengthening them



Basic Health Introduction

Two primary health problems faced by public safety officials:

Cardiovascular Disease (CVD)	Back Problems
<ul style="list-style-type: none"> ▪ CVD affects the heart and circulatory system ▪ Reduce effects by proper nutrition and a regular fitness program 	<ul style="list-style-type: none"> ▪ Use proper lifting techniques ▪ Proper adjustment/alignment of duty belt to lessen pressure on the lower back ▪ Increase flexibility in the hamstrings; build strength through the core and abdominal muscles

Factors influencing health:

1. Heredity

- Traits inherited from the family that may lead to future health problems
- Highest risk diseases that can be hereditary: Cancer, Diabetes, CVD and Asthma (World Health Organization, 2016)

2. Lifestyle

- Most influential factors: Excessive use of alcohol, tobacco use, high-risk activities, and your environment

Controllable risk factors:

Physical inactivity
 Smoking/tobacco use
 Excessive consumption of alcohol
 Obesity

High blood pressure
 High blood cholesterol
 Stress



Effects of tobacco and alcohol on the body:

Lung/liver disease	Cancer	CVD
Tobacco Smokers are 12-13 times more likely to die from COPD (Chronic Obstructive Pulmonary Disease) than non-smokers.	Tobacco Cigarette smoking causes most cases of lung cancer. If no one smoked, 1 of every three deaths cancer deaths in the U.S. would not happen.	Tobacco Smoking increases the risk of CVD by 2-4 times.
Alcohol Cirrhosis of the liver (irreversible scarring/blocks the flow of blood), alcoholic hepatitis	Alcohol The leading cause of mouth, throat, esophagus, stomach, and liver cancer.	Alcohol It can cause irregular heartbeat, stroke, and high blood pressure (CDC 2010, 2013, 2014) (NIAAA 2014).



Fitness and Nutrition Part 2

Please read the following article and be prepared to discuss in class.

Hydrate Right

Reviewed by Taylor Wolfram, MS, RDN, LDN

Published May 3, 2018

Proper hydration is one of the most important aspects of healthy physical activity. Drinking the right amount of fluids before, during and after physical activity is vital to providing your body the fluids it needs to perform properly. Sports dietitians assist athletes by developing individualized hydration plans that enhance performance in training and competition while minimizing risks for dehydration, over-hydration and heat illness and injury.

Hydration Goal

The overall goal is to minimize dehydration without over-drinking. Adequate hydration varies among individuals. Practical ways to monitor hydration are:

- *Urine color.* The color of the first morning's urine void after awaking is an overall indicator of hydration status. Straw or lemonade colored urine is a sign of appropriate hydration. Dark colored urine, the color of apple juice, indicates dehydration. Bright urine often is produced soon after consuming vitamin supplements.
- *Sweat loss.* Change in body weight before and after exercise is used to estimate sweat loss. Since an athlete's sweat loss during exercise is an indicator of hydration status, athletes are advised to follow customized fluid replacement plans that consider thirst, urine color, fluid intake, sweat loss and body weight changes that occur during exercise.



Minimize Dehydration

Dehydration can occur in virtually every physical activity scenario. It doesn't have to be hot. You don't have to have visible perspiration. You can become dehydrated in the water, at a pool or lake, or skiing on a winter day.

Dehydration results when athletes fail to adequately replace fluid lost through sweating. Since dehydration that exceeds 2 percent body weight loss harms exercise performance, athletes are advised to begin exercise well hydrated, minimize dehydration during exercise and replace fluid losses after exercise.

Be alert for conditions that increase your fluid loss through sweat.

- *Air Temperature:* The higher the temperature, the greater your sweat losses.
- *Intensity:* The harder you work out, the more you perspire.
- *Body Size and Gender:* Larger people sweat more. Men generally sweat more than women.
- *Duration:* The longer the workout, the more fluid loss.
- *Fitness:* Well-trained athletes perspire more than less fit people. Why? Athletes cool their bodies through sweat more efficiently than most people because their bodies are used to the extra stress. Thus, fluid needs are higher for highly trained athletes than for less fit individuals.

Remember swimmers sweat, too. Like any athletic activity, when you swim, your body temperature rises and your body sweats to keep from overheating. You may not notice because you are in the water, but you can become dehydrated. Swimmers, from competitive athletes to families splashing around, need to drink fluids before, during and after swimming, even if you don't feel thirsty.



Warning Signs

Know the signs of dehydration. Early signs are:

- Thirst
- Flushed skin
- Premature fatigue
- Increased body temperature
- Faster breathing and pulse rate
- Increased perception of effort
- Decreased exercise capacity

Later signs include:

- Dizziness
- Increased weakness
- Labored breathing with exercise

Fluid Replacement

Replace fluids during exercise to promote adequate hydration. Drink water rather than pouring it over your head. Drinking is the only way to rehydrate and cool your body from the inside out. Sports drinks are more appropriate than water for athletes engaged in moderate- to high-intensity exercise that lasts an hour or longer. Rehydrate after exercise by drinking enough fluid to replace fluid losses during exercise.

Reviewed March 2018



History of Policing

BASIC POLICE ACADEMY





History of Policing

Instructional Goal:

This course is designed to develop a new officer's understanding of the evolution of American policing and what that means for law enforcement professionals today.

Learning Outcome:

Upon completion of instruction, the student will be able to:

1. Explain how the history of law enforcement in America has an impact on the perception of police today.

Content Outline:

Part 1:

The Early Days of American Law Enforcement

Watch

Constables

Sheriffs

The Development of Modern Policing

Peel's Principles

Political Era

Reform Era

Community Policing Era

Problem-Oriented Policing

Evidence-Based Policing

Part 2:

Acknowledging the Impacts of History

A Brief History of Slavery and the
Origins of American Policing

Policing in the Civil Rights Era to Today

History of Communities of Color in Oregon

The History of Social Justice in Oregon

The Impact of History on Communities

Generational Trauma

Cultural Mistrust



Part 1

The Early Days of American Law Enforcement

Source: The National Law Enforcement Museum

The early policing system in the United States was modeled after the English structure, which incorporated the watch, constables, and sheriffs in a community-based police organization.

Initially run by a combination of obligatory and voluntary participation, the 17th-century watch typically reported fires, maintained order in the streets, raised the "hue and cry" (pursuing suspected criminals with loud cries to raise the alarm), and captured and arrested lawbreakers. Constables had similar tasks, which included maintaining health and sanitation and bringing suspects and witnesses to court—frequently for such conduct as working on the Sabbath, cursing in public places, and failing to pen animals properly.

In the more rural, sparsely populated areas of the Colonies, the sheriff was the primary law enforcement figure. Appointed by the governor, sheriffs' duties included serving legal documents such as writs, appearing in court, and collecting taxes. In many cases, the sheriff was paid a fixed amount for each task he performed, some, for example, receiving payment based on the amount of taxes they collected. Occasionally, these tasks proved dangerous. The first known American peace officer to be killed in the line of duty was Columbia County (N.Y.) Sheriff Cornelius Hogeboom, who was shot on October 22, 1791, as he attempted to serve a writ of ejectment.

In the 1700s, more people settled in towns, and more shops and businesses were built, which meant more work for the watch. Seaports bustling with sailors and overseas trading ships boosted the merchant class economy but also caused unprecedented social problems that affected law enforcement. Taverns were built to entertain sailors in port cities, and public drunkenness, brawls, and prostitution became more frequent. As police work became increasingly time-consuming and difficult, fewer men volunteered for the watch, and many evaded their mandatory duties.



In 1749, Philadelphia restructured the watch in an attempt to solve these problems; a tax paid the watch, all male citizens were no longer obligated to work when summoned, and only men interested in the paid job applied.

Even with positive developments like these, the Colonial law enforcement system still required drastic change. During the Industrial Revolution of the early 19th century, the number of factories, buildings, and people surged substantially. The overall boom in industrial growth and overcrowding brought more crime, riots, public health issues, race and socio-economic divisions, and general disorder.

The solution? A new and improved law enforcement system implemented first by England in 1829: a stronger, more centralized, preventive police force designed to deter crime from happening, rather than to react once it had occurred.

The Influence of the British Model on Modern Policing

To a large extent, policing in London became the model for policing in America. In 1822, British home secretary Sir Robert Peel criticized the state of policing in London. Some years later, he was responsible for the passage of the Metropolitan Police Act creating the world's first large-scale organized police force in the city of London.

Sir Robert Peel was among the first to envision a broader role for officers than just crime-fighting. Peel emphasized the prevention of crime. He also felt that uniforms were necessary because they would make officers stand out in a crowd and thus discourage crime. Officers were assigned to regular foot-patrol areas, charged with the task of preventing and suppressing crime in their designated geographic regions. Patrol beats enabled the police officers to get to know their assigned neighborhood and for residents to become familiar with members of the local police department.

Beyond that, Peel identified a series of principles that he said ought to characterize any police force.

Note- There are several versions of Peel's Principles, some listing 12 principles and some listing 9. There is also no documentation that Peel wrote the principles of policing that have been attributed to him.



"Peel's (9) Principles of Policing"

- 1) The basic mission for which the police exist is to prevent crime and disorder.
- 2) The ability of the police to perform their duties is dependent upon public approval of police actions.
- 3) Police must secure the willing cooperation of the public in voluntary observance of the law to be able to secure and maintain the respect of the public.
- 4) The degree of cooperation of the public that can be secured diminishes proportionately to the necessity of the use of physical force
- 5) Police seek and preserve public favor not by catering to public opinion but by constantly demonstrating absolute impartial service to the law.
- 6) Police use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice, and warning is found to be insufficient.
- 7) Police, at all times, should maintain a relationship with the public that gives reality to the historical tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence.
- 8) Police should always direct their action strictly toward their functions and never appear to usurp the powers of the judiciary.
- 9) The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with it.



The Development of Modern Policing

In the United States, policing developed in a fashion similar to the British experience. Most major U.S. cities had established municipal police departments by the Civil War. Initially, the police were used to control specific populations such as slaves or recent immigrants (more on this in Part 2). They also provided many community services, such as maintaining health and sanitation, regulating commerce, and controlling vices.

There are three commonly acknowledged eras of modern policing:

- The Political Era
- The Reform Era
- The Community Policing Era

The Political Era, which is generally associated with a time before the 20th century, refers to a period when the policing was under the control of politicians and focused on serving the politically powerful.

This era was marked by corrupt behavior on the part of the police, including police brutality. The police ruled largely by physical coercion. Controlling industrial and race riots became the central focus of many urban police departments. "Shoot first, ask questions later" was widely seen as the primary operating mode of law enforcement, especially on the western frontier. Corruption was widespread. Laws limiting drinking, gambling, and sex provided ample opportunity for the criminal element to provide much-desired products and services. Such illegal activities could only thrive, of course, with support from local law enforcement. The payoffs to officers who protected criminals were significant. Many Americans did not trust the police who were seen as in the pockets of big-city political machines.



Political Era	Reform Era
<ul style="list-style-type: none">• Police focused on serving the politically powerful• Politicians hired their supporters as police• Regulate criminal activity rather than control it• Heavily involved in providing essential services for those in need• Came about because of a need for social order and security in a rapidly changing society	<ul style="list-style-type: none">• Police gained pride in their profession• Law enforcement focused on "traditional" crime-fighting and the capture of criminals• Crackdown on organized crime• Progressive policing policy led by August Vollmer and O.W. Wilson• Came about because citizens called for reform and the removal of politics from policing

Modernization of the American police force began during **the Reform Era** when police administrators implemented strategies and technology.

August Vollmer, the first police chief of Berkeley, California, and perhaps the foremost presence in America's police reform movement, argued that policing should be regarded as a public service as a profession focused on improving society. Vollmer argued that the police had "far greater obligations than the mere apprehending and prosecution of lawbreakers." The police, he claimed, should try to prevent crime by working with families, schools, and other influential institutions. He called for organizational reforms in police agencies, elevated standards of recruitment and retention, and the adoption of modern management techniques, imposing greater accountability on police management. Written policies and procedures were adopted to define and structure the police role within the community.

The automobile, telephone, and radio allowed police to respond to calls for services quickly and efficiently. At the same time, this resulted in police officers no longer walking beats nor getting to know the neighborhood's residents.



Vollmer's reforms were consistent with a reform mentality intended to move policing toward professional stature. It was hoped that policing would become a civil service profession divorced from politics.



When the social unrest of the 1960s led to urban riots, assassinations, and increased gang violence, police/community relations suffered. Some people viewed the police as an occupying force. Police brutality often led to civil disorder, and some members of the public saw the police at the forefront of maintaining the status quo of an unjust and discriminatory society.

The Community Policing Era brought back the emphasis on the police/citizen relationship. It stresses a service delivery element to police work. Traditional police functions such as patrol, investigations, and the like remain, but many police agencies have changed their mission statements to reflect a new way of thinking.

Another factor established in this era was that research began to reveal that the police could not reduce crime by their efforts alone. A series of studies regarding police effectiveness in the 1970s (the Kansas City Patrol Experiment, the Rand Investigation Experiment, and the Rapid Response Studies) told police that nothing they were doing was working to fight crime. These studies resulted in an increased interest in how to involve citizens in crime problems/solutions and increased experimentation for preventing crime.



The Community Policing Era has seen a plethora of strategies centered on this idea of police effectiveness.

In 1979, Herman Goldstein developed and advanced the concept of **Problem-Oriented Policing**, which encouraged police to begin thinking differently about their purpose. His idea was that policing should fundamentally be about changing the conditions that give rise to recurring crime problems and should not merely be about responding to incidents as they occur or trying to forestall them through preventive patrols. Note, Problem-Oriented Policing (POP) is not separate or competing with Community Policing. It is a strategy designed to be used within the Community Policing philosophy.

In 1998, Lawrence Sherman drew connections between evidence-based medicine and policing. This strategy, **Evidence-Based Policing (EBP)**, asserted that "police practices should be based on scientific evidence about what works best." Law enforcement agencies should somehow use research knowledge to help guide strategic and tactical decisions.

EBP can involve many types of activities, including:

- Rigorous evaluation methods should be used to examine the effectiveness of a police training program, a patrol deployment approach, or an investigative strategy.
- Crime analysis should guide the deployment of resources to crime hot spots.
- Training officers on what is known about effective police practices regarding crime control, police/community relations, reducing disparity and bias, dealing with disorder, etc.

Evidence-Based Policing-
Research, evaluation, analysis and scientific processes should have a "seat at the table" in law enforcement decision making about tactics, strategies, and policies.

Evidence-Based Policing
Translating Research into Practice
Cynthia Lum and Christopher S. Koper
2017

Example: Aligning patrol deployment with the research knowledge about shift lengths. Research shows that ten-hour shifts lead to less officer fatigue and better performance.



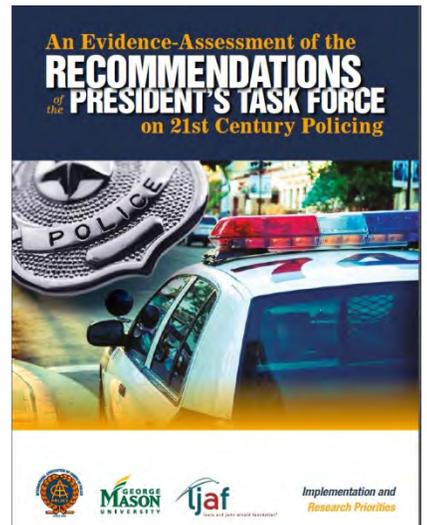
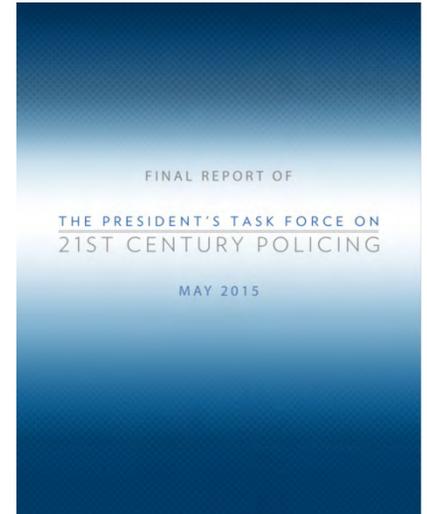
The push for science-driven policing has continued to grow with the Smart Policing Initiative and groups such as the Center for Evidence-Based Crime Policy, The Police Foundation, The American Society of Evidence-Based Policing, and even the Center for Policing Excellence here at DPSST among others.

Throughout the Academy, you will discuss The President's Task Force on 21st Century Policing, which identifies best practices and offers recommendations on how policing practices can promote effective crime reduction while building public trust.

The Task Force presented recommendations to law enforcement agencies to strengthen policing categorized under six pillars:

- Pillar 1: Building Trust and Legitimacy
- Pillar 2: Policy and Oversight
- Pillar 3: Technology and Social Media
- Pillar 4: Community Policing and Crime Reduction
- Pillar 5: Training and Education
- Pillar 6: Officer Wellness and Safety

A follow-up report, *An Evidence-Assessment of the Recommendations of the President's Task Force on 21st Century Policing*, relates what we know from research about those recommendations and what more needs to be learned through police-research partnerships to advance them.





Community Policing Era

- Police departments work to identify and serve the needs of their communities.
- Partnerships between the police and the community
- Police focus on quality-of-life
- Came about because of a realization that police cannot do it all on their own and effective community partnerships can help prevent and solve crimes
- Increased experimentation for preventing crime
- Move to a science-based approach (Evidence-Based Policing), using research to inform decisions



Part 2

Acknowledging the Impacts of History

Understanding the history of policing as well as the social, political, and economic factors that shaped police institutions can serve to benefit officers in their efforts to build trust with communities of color. In Emotional Intelligence, you have discussed the importance of empathy, sensing others' feelings and perspectives, and taking an active interest in their concerns. As was covered in Part 1, the policing profession was built upon political power, corruption, and oppression. Some communities experienced (and still do) the adverse effects of policing more than others. Those experiences impact the police/community relationship today, and an empathetic response is necessary.

Reform efforts have brought the policing profession a long way, but as in all professions, we must always strive to be better. So, what can be done now to build better relationships with communities? Tips for engaging diverse communities will be covered later, but first, we must start by acknowledging the injustices in our history. To truly acknowledge history means to become educated and to be conscientious, not to minimize the experiences of others.

To help us explore these issues, following are two articles exploring different time periods and geographic regions.

- The first article is *A Brief History of Slavery and the Origins of American Policing*, written by Victor Kappeler. Dr. Kappeler is the Dean of the School of Justice Studies at Eastern Kentucky University and a policing scholar.
- The second article is *The History of Social Justice in Oregon from the Oregon Social Justice Documentation Project*. The Oregon Social Justice Project consists of a collection of individual research projects conducted by students at Oregon State University.



A Brief History of Slavery and the Origins of American Policing- Written by Victor E. Kappeler, Ph.D.

Source: A Brief History of Slavery and the Origins of American...

<https://plsonline.eku.edu/insidelook/brief-history-slavery-and-origins-american-policing>

The birth and development of the American police can be traced to a multitude of historical, legal, and political-economic conditions. The institution of slavery and the control of minorities, however, were two of the more formidable historic features of American society shaping early policing. Slave patrols and Night Watches, which later became modern police departments, were both designed to control the behaviors of minorities. For example, New England settlers appointed Indian Constables to police Native Americans (National Constable Association, 1995), the St. Louis police were founded to protect residents from Native Americans in that frontier city, and many southern police departments began as slave patrols. In 1704, the colony of Carolina developed the nation's first slave patrol. Slave patrols helped to maintain the economic order and to assist the wealthy landowners in recovering and punishing slaves who essentially were considered property.

Policing was not the only social institution enmeshed in slavery. Slavery was fully institutionalized in the American economic and legal order, with laws being enacted at both the state and national divisions of government. Slavery and the abuse of people of color, was not merely a southern affair, as many have been taught to believe. A legally sanctioned law enforcement system existed in America before the Civil War for the express purpose of controlling the slave population and protecting the interests of slave owners.



Before the American Civil War, Abraham Lincoln and other leaders of the anti-slavery Republican Party sought not to abolish slavery but merely to stop its extension into new territories and states in the American West. This policy was unacceptable to most Southern politicians, who believed that the growth of free states would turn the U.S. power structure irrevocably against them. In November 1860, Lincoln's election as president signaled the secession of seven Southern states and the formation of the Confederate States of America. Shortly after his inauguration in 1861, the Civil War began.

As the war dragged on, the Republican-dominated federal government began to realize the strategic advantages of emancipation: The liberation of slaves would weaken the Confederacy by depriving it of a major portion of its labor force, which would in turn strengthen the Union by producing an influx of manpower.

In 1862, Congress annulled the fugitive slave laws, prohibited slavery in the U.S. territories, and authorized Lincoln to employ freed slaves in the army.

On January 1, 1863, President Lincoln formally issued the Emancipation Proclamation. For most white Americans, the Civil War was a war for the Union. But for black Americans, it was a battle for freedom.

As the Confederacy staggered toward defeat, Lincoln realized that the Emancipation Proclamation, a war measure, might have little constitutional authority once the war was over. The Republican Party subsequently introduced the 13th Amendment into Congress

In 1865 (246 years after the first shipload of captive Africans landed at Jamestown, Virginia, and were bought as slaves) the 13th Amendment is formally adopted into the U.S. Constitution, ensuring that *"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."*

History.com



Because of its tradition of slavery, which rested on the racist rationalization that Blacks were sub-human, America had a long and shameful history of mistreating people of color, long after the end of the Civil War.

As soon as the war ended, many whites organized to oppose black freedom. Using terrorism and the courts, they forced African Americans away from voting booths and other public places.

Jim Crow laws were a collection of state and local statutes that legalized racial segregation. Named after an insulting song lyric regarding African Americans, the laws—which existed for about 100 years, from the post-Civil War era until 1968—were meant to return Southern states to an antebellum class structure by marginalizing black Americans. Black communities and individuals that attempted to defy Jim Crow laws often met with violence and death.

Black codes were strict laws detailing when, where and how freed slaves could work, and for how much compensation. The codes appeared throughout the South as a legal way to put black citizens into indentured servitude, to take voting rights away, to control where they lived and how they traveled and to seize children for labor purposes.

The legal system was stacked against black citizens, with ex-Confederate soldiers working as police and judges, making it difficult for African Americans to win court cases and ensuring they became victim to the black codes.

These codes worked in conjunction with labor camps for the incarcerated, where prisoners were treated as slaves. Black offenders typically received longer sentences than their white equals, and because of the grueling work, often did not live out their entire sentence.

The turn of the century saw states across the south ratcheting up Jim Crow laws, affecting every section of daily life. Segregated waiting rooms in professional offices were required, as well as water fountains, restrooms, building entrances, elevators, cemeteries, even amusement-park cashier windows. Laws forbade African Americans from living in white neighborhoods. Segregation was enforced for public pools, phone booths, hospitals, asylums, jails and residential homes for the elderly and handicapped. Some states required separate textbooks black and white students. Marriage and cohabitation between whites and blacks was strictly forbidden in most southern states. It was not uncommon to see signs posted at town and city limits warning African Americans that they were not welcome there.

Smithsonian Museum of American History, History.com



Violence was on the rise, making danger a regular aspect of black lives. Black schools were vandalized and destroyed, and bands of violent whites attacked black citizens in the night. These were sometimes gruesome incidents where the victims were tortured and mutilated before being murdered. Families were attacked and forced off their land all across the South.

The most ruthless organization of the Jim Crow era, the Ku Klux Klan, was born in this setting in 1865 in Pulaski, Tennessee, as a private club for Confederate veterans. The KKK grew into a secret society terrorizing black communities and seeping through white southern culture, with members at the highest levels of government and in the lowest echelons of criminal back alleys.

Source: Jim Crow Laws: Definition, Facts & Timeline - HISTORY.

<https://www.history.com/topics/early-20th-century-us/jim-crow-laws>

Finally, in 1871 Congress passed the Ku Klux Klan Act, which prohibited state actors from violating the Civil Rights of all citizens in part because of law enforcements' involvement with the infamous group. This legislation, however, did not stem the tide of racial or ethnic abuse that persisted well into the 1960s.

Source: A Brief History of Slavery and the Origins of American...

<https://plsonline.eku.edu/insidelook/brief-history-slavery-and-origins-american-policing>

On June 7, 1892, Homer Plessy walked into the Press Street Depot in New Orleans, bought a first-class ticket to Covington, and boarded the train. As the train pulled away from the station, the conductor asked Plessy if he was a “colored man.” Plessy said he was and the conductor told him to move to the coloured car. Homer Plessy refused. “I am an American citizen,” he told the trainman. “I have paid for a first-class ticket, and intend to ride to Covington in the first-class car.” The conductor stopped the train, and Detective Christopher Cain boarded the car, arrested Plessy, and forcibly dragged him off the train with the help of a few other passengers. After a night in jail, Plessy appeared in criminal court to answer charges of violating the Separate Car Act.

In 1954, the Supreme Court reversed the “Separate but Equal” ruling which declared segregation in public schools unconstitutional, and, by extension, that ruling was applied to other public facilities. In the years following, subsequent decisions struck down similar kinds of Jim Crow legislation.



Policing in the Civil Rights Era to Today- Same or Different?

Do a Google image search for "policing in the civil rights era." What are the prevalent images? What other search terms come up?

Aggressive dispersion tactics, such as police dogs and fire hoses, against individuals in peaceful protests and sit-ins, were the most widely publicized examples of police brutality in that era. But it was the pervasive violent policing in communities of color that built distrust at a local, everyday level.

Source: The Long, Painful History of Police ... - Smithsonian.

<https://www.smithsonianmag.com/smithsonian-institution/long-painful-history-police-brutality-in-the-us-180964098/>

The post-World War II era saw an increase in civil rights activities in the black community, with a focus on ensuring that black citizens were able to vote. This ushered in a decades-long effort in the civil rights movement resulting in the removal of Jim Crow laws.

In 1948 President Harry Truman ordered integration in the military, and in 1954, the Supreme Court ruled that educational segregation was unconstitutional. In 1964, President Lyndon B. Johnson signed the Civil Rights Act, which legally ended discrimination and segregation that had been institutionalized by Jim Crow laws. And in 1965, the Voting Rights Act ended efforts to keep minorities from voting. The Fair Housing Act of 1968, which ended discrimination in renting and selling homes, followed.

Jim Crow laws were technically off the books, though that has not always guaranteed full integration or adherence to anti-racism laws throughout the United States.

An unprecedented number of demonstrations swept the country in the first half of 1963. Civil rights organizations demanded the right to vote, full access to jobs and education, and an end to segregated public accommodations. These demands met with strong resistance and violence from local governments. Justice Department records list more than 978 demonstrations in 109 cities, with over 2,000 arrests and four deaths.

The passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965 were turning points in the struggle for civil rights. Together the two bills outlawed segregated public facilities and prohibited discriminatory practices in employment and voting.

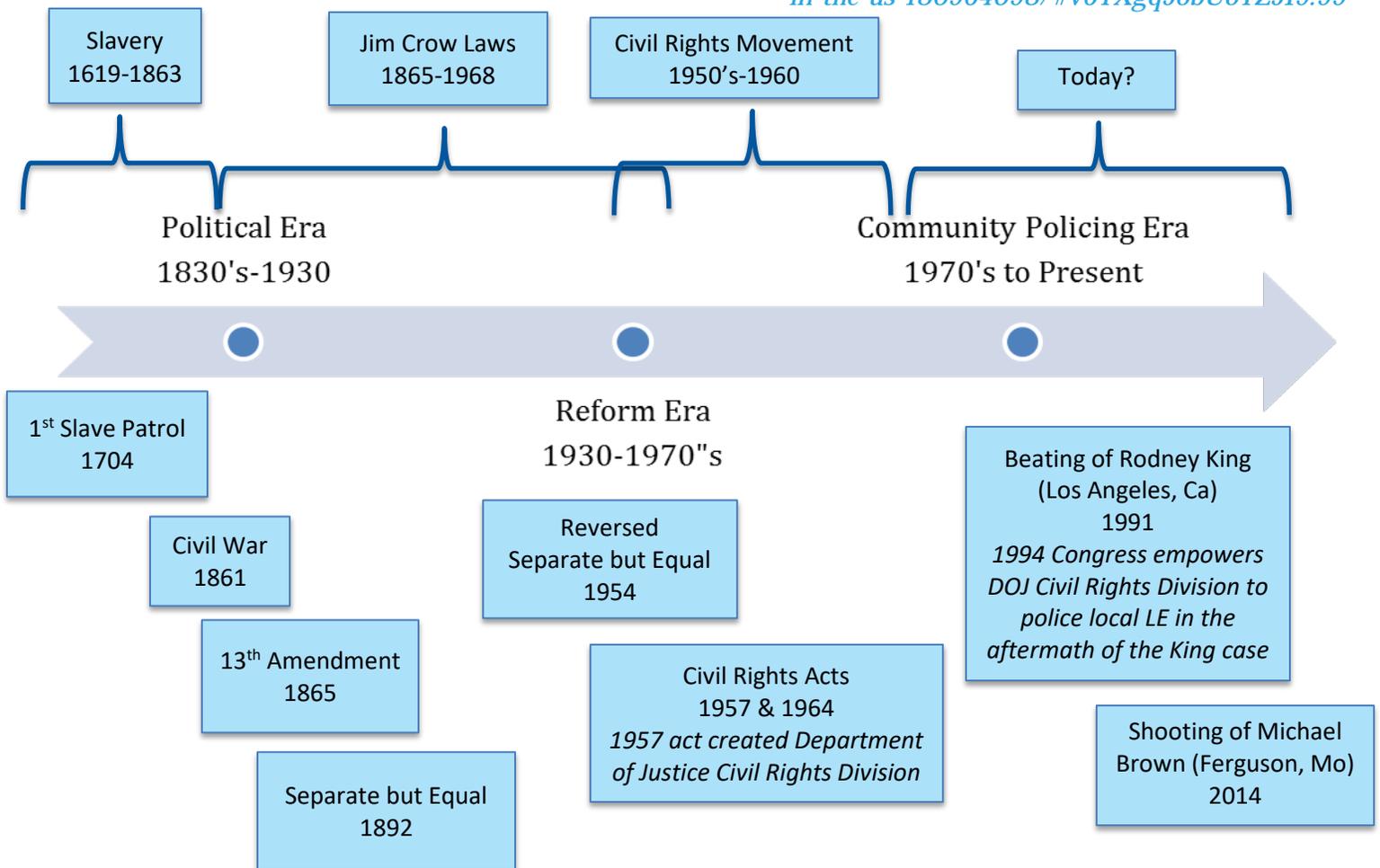
Smithsonian National Museum of American History



Source: *Jim Crow Laws: Definition, Facts & Timeline - HISTORY.*
<https://www.history.com/topics/early-20th-century-us/jim-crow-laws>

Black newspapers reported incidents of police brutality throughout the early and mid-20th century, and the popularization of radio storytelling spread those stories even further. In 1991, following the beating of cab driver Rodney King, video footage vividly told the story of police brutality on television to a much wider audience. The police officers, who were acquitted of the crime, had hit King more than 50 times with their batons.

Source: <https://www.smithsonianmag.com/smithsonian-institution/long-painful-history-police-brutality-in-the-us-180964098/#v6YXgq5obUoTZ5I9.99>



Timeline not to scale



Here we are, decades later, having the same dialogue about the same issues. The only difference is that today we have the immediacy of information; 24-hour news cycles, live streaming, social media, etc. When an incident occurs, it is everywhere quickly.

History of Communities of Color in Oregon

Often it is easy for us to dismiss this history; "it was a long time ago," "it happened in the South," "Oregon is a progressive state," etc. Although not all of the discrimination and oppression directed at communities of color in Oregon was a direct result of law enforcement, understanding the bigger picture is essential to acknowledge injustices. It should be considered when working to bridge the gap today.

The West coast is not immune from a history of bigotry and oppression. The earliest settlers arrived under the nineteenth-century banner of Manifest Destiny, which asserted that white Americans had the right and obligation to expand across the continent and impose their rule. Although Indians had lived and thrived here for thousands of years, white settlers viewed the region as unoccupied wilderness. The government forcibly removed them from their traditional homelands and confined them to reservations, distributing their lands.

Oregon had laws in place that served to oppress and discriminate against blacks, Chinese, Native Americans, and other minority communities. Oregon enforced Jim Crow segregation laws until the 1953 Public Accommodation Law, which prohibited the denial of service to black people and other people of color.

St. Johns Riot 1910
East Indian workers immigrated to Oregon to work in lumber mills in the early 20th century. They were targets of violence from workers who resented the "tide of turbans". Police reportedly stood by as a mob of white mill workers brutally attacked "the Hindu's"

Oregon had an active KKK, with the first Klansmen sworn in in Medford in 1921. By 1923 there were 35,000 Oregon members. Members were elected to political positions and served in law enforcement.

Just as it was seen around the country, here, there were allegations of police brutality, over-policing and under-protecting people of color.



The History of Social Justice in Oregon- From the Oregon Social Justice Documentation Project

Source: The Oregon Black Laws - Oregon Social Justice | Home.
<http://blogs.oregonstate.edu/oregonsocialjustice/oregon-black-laws/>

In the summer of 1844, a bill was introduced "to prevent slavery." This bill would exclude all African Americans from the territory altogether, under the guise of respecting the status of Oregon as a free state. This was the founding of the Exclusion law or what became known as one of the Black Laws of Oregon. In November 1857, when Oregonians were preparing for statehood by creating their state Constitution, ninety percent of voters approved the Exclusion law. The exclusion law stipulated that "no free negro or mulatto, not residing in this state at the time of the adoption of this Constitution, shall come, reside, or be within this State, or hold any real estate, or make any contracts, or maintain any suit therein." The Exclusion law remained in the state constitution until 1926 when it was finally repealed.

"No free negro or mulatto... shall ever come, reside, or be within this state, or hold any real estate, or make any contracts, or sustain any suit therein"

Oregon Constitution
1857

A lot of discrimination that African Americans faced in Oregon (as in other parts of the country) was based on racist social conventions, customs, or traditions that pass from person to person and generation to generation. This type of discrimination that is not ground in legal precedence, but rather the culmination of racist attitudes in whites and a lack of power for African Americans.

This racism and lack of power meant that African Americans would be restricted to specific neighborhoods by restrictive zoning practices (redlining). Real estate agencies, as well as individual landlords, also often refused to sell or rent to African Americans. Home improvement in African American neighborhoods was made nearly impossible when most local banks refused to give loans to African American homeowners. The African American community saw this as a detriment to their ability to integrate into the city as a whole. African American people were socially barred from many aspects of ordinary life that the white people could do easily.



Another form of discrimination was Sundown Laws. These laws refer to the town ordinances that numerous cities across the country recognized that communicated that African Americans and sometimes other minorities such as Latinos and Asians were not to be in the city limits when the sun had set. Like housing discrimination, there was not always a law on the books, but that did not necessarily soften the force of the discrimination. Oregon alone has 24 towns that are either suspected or confirmed Sundown Towns.

Later you will learn more about the impact of this history on communities, especially communities of color. In Community Competency, you will talk about concepts such as cultural mistrust and historical and generational trauma and what that means for you as an officer.

Cultural Mistrust	Historical Trauma
<p>Cultural mistrust is an attitudinal response to historical and personal oppression in which people of color do not trust Whites in institutional, personal and social contexts (Terrell & Terrell, 1981).</p>	<p>Multigenerational trauma experienced by a specific cultural group.</p> <p>Historical trauma can be experienced by "anyone living in families at one time marked by severe levels of trauma, poverty, dislocation, war, etc., and who are still suffering as a result." (Cutler, n.d.)</p>

Additional Online Resources

Looking Back to Move Forward: Timeline of Oregon and US Racial, Immigration and Education History
<https://www.portlandoregon.gov/civic/article/516558>

Oregon Secretary of State's Office: Web Exhibits and Projects
<https://sos.oregon.gov/archives/Pages/exhibits.aspx>

Oregon Historical Society: The Oregon Encyclopedia
<https://www.oregonencyclopedia.org/>



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Future Trends in Policing (2014) from the Police Executive Research Forum (PERF) and the COPS Office

Ignoring the Past: Coverage of Slavery and Slave Patrols in Criminal Justice Texts. K. B. Turner, David Giacomassi & Margaret Vandiver. Journal of Criminal Justice Education Vol. 17, Iss. 1, 2006

Origins and Evolution of American Policing

<https://www.pearsonhighered.com/assets/samplechapter/0/1/3/3/0133028313.pdf>

Sir Robert Peel's Nine Principles of Policing. Source: J. L. Lyman, "The Metropolitan Police Act of 1829: An analysis of certain events influencing the passage and character of the Metropolitan Police Act in England," Journal of Criminal Law, Criminology, and Police Science, vol. 55, no. 1 (March 1964): 141–54.

The Early Days of American Law Enforcement – From the National Law Enforcement Museum

The History of Modern Policing- From the USDOJ: Office of Community Oriented Policing

White Policing of Black Populations: A History of Race and Social Control in America by Homer Hawkins and Richard Thomas

Human Trafficking

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATSON 1960-1980
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY INDEED



Human Trafficking

Instructional Goal:

This course is designed to develop a new officer's awareness of human trafficking crimes.

Learning Outcomes:

Upon completion of instruction, student will be able to:

1. Identify red flags of human trafficking
2. Identify resources for victims of human trafficking.

Content Outline:

- Defining Trafficking
- Federal Trafficking Victims Protection Act
- Intersection of Violence
- Labor Trafficking
- Sex Trafficking
- Federal and State Laws
- Crimes
- Challenges
- Red Flags



What is Human Trafficking?

According to the International Association of Chiefs of Police:

Human trafficking is a global phenomenon that involves obtaining or maintaining the labor or services of another through the use of force, fraud, or coercion in violation of an individual's human rights.

Unlike the trade in drugs and weapons, those who traffic in humans can sell and resell their commodity forcing each victim to suffer repeatedly.

The *Trafficking Victims Protection Act of 2000* defines sex trafficking as the recruitment, harboring, transportation, provision, or obtaining of a person for a commercial sex act.

- A sex act is induced by force, fraud, or coercion, or the person induced to perform such an act is under 18 years of age.
- The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, or for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Commercial Sexual Exploitation of Children (CSEC)

According to the Department of Justice, the Commercial Sexual Exploitation of Children, or CSEC, refers to a range of crimes and activities involving the sexual abuse or exploitation of a child for the financial benefit of any person or in exchange for anything of value (including monetary and non-monetary benefits) given or received by any person. Examples of crimes and acts that constitute CSEC:

- Child sex trafficking/the prostitution of children;
- Child sex tourism involving commercial sexual activity;
- Commercial production of child pornography;
- Online transmission of live video of a child engaged in sexual activity in exchange for anything of value.



CSEC also includes situations where a child, whether or not at the direction of any other person, engages in sexual activity in exchange for anything of value, which includes non-monetary things such as food, shelter, drugs, or protection from any person.

Depending on the specific circumstances, CSEC may also occur in the context of internet-based marriage brokering, early marriage, and children performing in sexual venues.

The Intersection of Violence

Sex Trafficking of Minors	
Domestic Violence	Physical abuse Verbal abuse Psychological abuse Economic abuse
Systemic Violence	Sexism Racism Classism Prison industrial system
Sexual Violence	Rape, gang rape Sexual exploitation
Child Abuse	Early childhood sexual abuse Physical and emotional abuse



Labor Trafficking

Bonded Labor/Debt Bondage- a person incurs a debt he/she is never able to pay off, or involuntary domestic servitude, where a person is forced to work in someone's home or business with little to no pay.

- Domestic Servitude (Nannies)
- Agricultural Work (Nurseries)
- Peddling (Sales Crews)
- Hospitality industry (Restaurants & Hotels)

Victims of labor trafficking also may be sexually abused or simultaneously victims of sex trafficking.

Federal Laws

18 U.S.C 1591 Sex Trafficking of Children or by Force, Fraud, or Coercion

Whoever Knowingly-

1) In or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, or obtains by any means a person; or

2) Benefits, financially or by receiving anything of value, from participation

Knowing that force fraud, or coercion will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act.

Mandatory Minimums 10 and 15 years



18 U.S.C 2421 Mann Act- Transportation

Whoever knowingly transports any individual in interstate or foreign commerce, or in an Territory of Possession of the United States, with intent that such individual engage in prostitution , or in any sexual activity which any person can be charged with a criminal offense, or attempts to do so.

18 U.S.C 2423 Transportation of Minors

A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense.

Mandatory Minimum 10 years

Oregon Revised Statutes

167.012 Promoting prostitution (1) A person commits the crime of promoting prostitution if, with intent to promote prostitution, the person knowingly: (a) Owns, controls, manages, supervises or otherwise maintains a place of prostitution or a prostitution enterprise; or (b) Induces or causes a person to engage in prostitution or to remain in a place of prostitution; or (c) **Receives or agrees to receive money** or other property, other than as a prostitute being compensated for personally rendered prostitution services, pursuant to an agreement or understanding that the money or other property is derived from a prostitution activity; or (d) Engages in any conduct that institutes, aids or facilitates an act or enterprise of prostitution.

167.017 Compelling prostitution (1) A person commits the crime of compelling prostitution if the person knowingly: (a) Uses force or intimidation to compel another to engage in prostitution **or attempted prostitution**; (b) Induces or causes a person under 18 years of age to engage in prostitution; (c) **Aids or facilitates** the commission of prostitution **or attempted prostitution** by a person under 18 years of age; or (d) Induces or causes the spouse, child or stepchild of the person to engage in prostitution.



All Criminal Behavior

- Sex Abuse/ Sexual Assault
- Shoplifting
- Coercion
- Assault charges (might look like DV)
- Weapons violations
- Drug trafficking
- Stalking

The Crime

Sex Trafficking Venues

- Pornography
- Stripping
- Erotic/ Nude Massage
- Escort Service
- Private Parties
- Web-caming
- Gang-based Prostitution / Organized Crime
- Interfamilial Pimping
- Internet Sites & Hotels (out-call vs. in-call)
- Walking the Track
- Dating Apps/Chat Apps



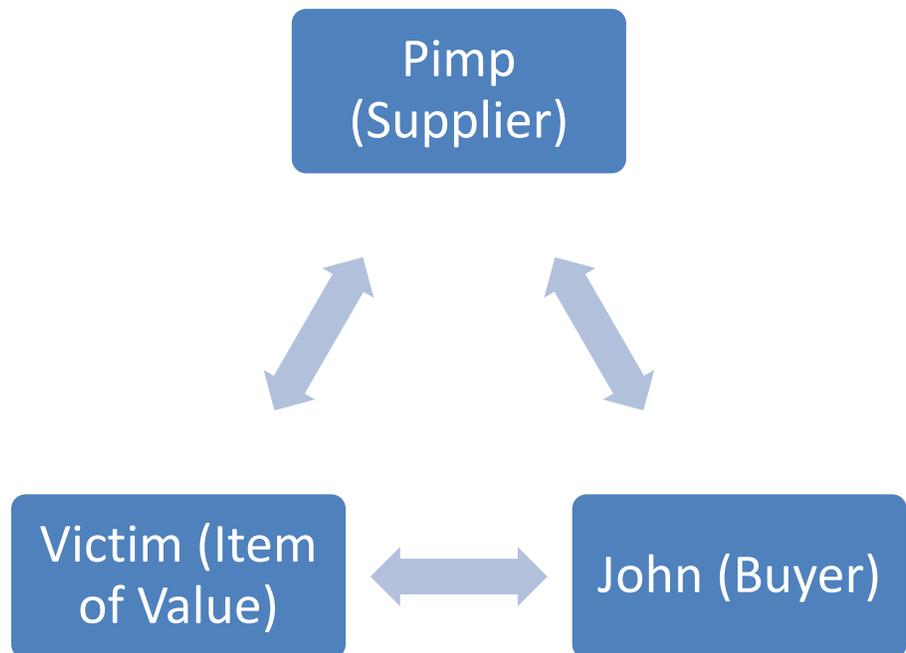
Sex Trafficking- Common Business Models

- Pimp directed
- Commercial Front business (massage parlor, nail salon)
- Internet based
- Facility Based (brothel)
- Family Directed
- Mobile (delivery vans)
- Survival

Pimps and Exploiters

Pimps	Organized Crime/Gangs	Johns/Buyers
<ul style="list-style-type: none"> • Guerilla vs. finesse • “Boyfriend” • Street “daddy” • Madams • Familial 	<ul style="list-style-type: none"> • Chinese • Mexican & El Salvadorian • Biker Gangs & Street Gangs 	

Supply and Demand





Pimp Tactics of Coercion and Control

- Isolation
- Monopolization of perception
- Induced debility and exhaustion
- Occasional indulgences
- Threats
- Demonstrating “omnipotence”
- Degradation
- Enforcing trivial demands

Challenges

Why Do They Stay?

- Trauma Bonding
- Fear & Intimidation
- Family
- Community
- Addiction/Normalcy

Inherent Challenges

- Keeping in touch with the victim
- History of sexual, physical, and/or emotional abuse and neglect
- Manipulation by pimp
- Chronic runaways
- Absence of family and/or family dysfunction
- Limited resources and availability of services
- Safety issues- contact with law enforcement and the criminal justice system can put the victim in danger with the pimp



Red Flags

- Homeless or runaway youth
- Has no identification
- Basic needs are not getting met
- Doesn't know where they are, or well-known areas of town
- Not in control of their travel
- Controlling or dominating relationship
- Physical & Sexual violence, history of strangulation
- History of prostitution charges
- Tattoos that you might see on multiple girls
- Clues in behavior or appearance that they might be underage
- History of being in child welfare or in juvenile justice
- Family members who have a history of being in the life or gang attachments

Not just one of these red flags mean that they are a victim but the more and more you can check off the more likely you are dealing with one.

Disclosures

Understand that disclosures will likely be progressively evolving. In most cases you will have more than one interview. Increased trust with law enforcement increases the victim's ability to disclose.

Consider what you have learned in previous classes: emotional intelligence, communication, supporting victims of crime, criminal investigations, investigative interviewing, domestic violence, vehicle stops, criminal networks, and sexual assault investigations.

How do the concepts overlap and apply?



Minor Sex Trafficking is Child Abuse

You will learn more about child abuse and reporting in your Child Abuse Investigations class. To report, call the DHS hotline 1-855-503-SAFE (7233).

The National Human Trafficking Hotline 1 (888) 373-7888
Text "BeFree" (233733)

Research the resources available in your community. Are there special task forces? Shelters? Advocates? Know what resources are available before you need to access them.

Implicit Bias

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATSON 1960-1980
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY INDEED



Implicit Bias

Instructional Goal:

This course is designed to develop a new officer's understanding of the concept of implicit bias and the implications on policing.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Explain the impact of bias on perceptions.
2. Recognize situations where decisions may be inappropriately impacted by bias.
3. Identify steps for well-intentioned officers to avoid biased policing.

Content Outline:

- The Science of Bias
 - The Implicit System in our Brain
 - Stereotypes
 - Implicit Associations
- Racially Biased Policing
 - Ill-Intentioned vs. Well-Meaning Officers
 - The Impact of Perceptions on Police and Communities
- Minimizing Bias
 - Awareness
 - Reduce Ambiguity
 - Engage with People
 - Tools



According to the National Academies of Science, Engineering, and Medicine: It is not enough to simply identify “what works” for reducing crime and disorder. It is also critical to consider how pro-active policing affects the legality of policing, potential abuses of police authority, and the equitable application of police services in the everyday lives of citizens.

It is common to hear community or media concerns about bias impacting critical officer decisions such as shoot/don't shoot or use of force. Still, the reality is that the risk of bias impacting officer decisions in proactive policing or discretionary activities may also be of great significance.

Review from Roles & Responsibilities:
“Proactive policing” refers to policing strategies that police organizations develop and implement with the intent to *prevent and reduce* crime [before it occurs]. They differ from traditional reactive approaches in policing, which focus primarily on responding to crime once it has occurred and answering citizen requests for police service.

There are a lot of misconceptions about bias by both police, the community, and the media. It is our responsibility to become educated on the research and take steps to minimize bias.

There has been a lot of scientific research on the topic of bias; unfortunately, much of the research is contradictory or murky at best. However, there are some points that researchers agree upon, so before we start, here are some essential points:

- The assumption that biased policing comes from “racist” police is incorrect.
- Even good/well-intentioned people have biases (because we are human).
- Biases impact what we perceive and can impact our decisions.
- Through training, we can prevent bias from impacting our actions.
- Training about bias is not about making officers less safe.



The Science of Bias

The Implicit System in our Brain

What is bias? According to the Bureau of Justice, bias is a human trait resulting from our tendency and need to classify individuals into categories as we strive to process information and make sense of the world quickly.

Bias researchers inform us that there is a difference between “explicit” and “implicit” bias and that bias has changed over time. Early researchers reported that prejudice was based on animosity toward groups and that a person with prejudice was aware of it. This type of bias is known as explicit bias. Bias today is less likely to display as explicit bias and more likely to manifest as implicit (or “unconscious”) bias. Implicit bias can impact what people perceive and do. It works outside of conscious awareness and manifests even in people who consciously hold non-prejudiced attitudes.

Implicit Bias	Explicit Bias
<p>Implicit bias involves all of the subconscious feelings, perceptions, attitudes, and stereotypes that influence behavior.</p> <p>It is an automatic positive or negative preference for a group based on one’s subconscious thoughts.</p> <p>It does not require prejudice or hatred; it only requires knowledge of a stereotype to produce discriminatory actions.</p>	<p>Explicit bias is the traditional conceptualization of bias.</p> <p>Individuals are aware of their prejudices and attitudes toward certain groups.</p> <p>Positive or negative preferences for a particular group are conscious.</p> <p>Overt racism and racist comments are examples of explicit biases.</p>

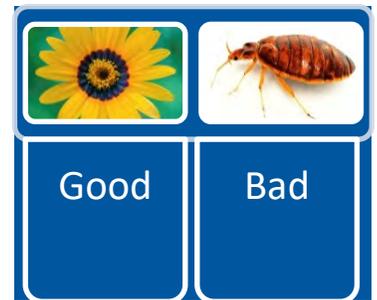


Implicit bias is defined as subtle and largely unconscious or semi-conscious attitudes that influence behavior (Dasgupta, 2013). Explicit bias is made up of attitudes, beliefs, and stereotypes that an individual “claims” as part of him or herself. Implicit bias can be just as problematic as explicit bias, because both may produce discriminatory behavior. With implicit bias, the individual may be unaware that biases, rather than the facts of a situation, are driving his or her decision-making.

Measuring Bias

Whereas explicit bias is typically measured by asking someone to identify their beliefs, implicit bias is measured in a more nuanced way. The Implicit Association Test (IAT) is one of the primary methods of measuring implicit bias, which it does by analyzing how strongly a person mentally associates two separate concepts, such as race and weapons (Project Implicit, 2011).

In the IAT, participants are presented with words or images and asked to categorize them. The difference in time to respond between strongly associated items and less strongly associated items is called the IAT effect (with a larger time differential signifying a more significant effect). For example, respondents are typically faster to respond when a flower is paired with a desirable attribute than when a bug is paired with a desirable attribute (Greenwald, McGhee, & Schwartz, 1998). This is presumably because it takes longer to complete the task when the pairs are cognitively less compatible.



The underlying assumption of implicit bias is that all individuals have cognitive processes that are outside of their conscious awareness (Greenwald & Banaji, 1995). The IAT test is designed to reveal these unconscious attitudes through automatic response. By measuring automatic responses, implicit

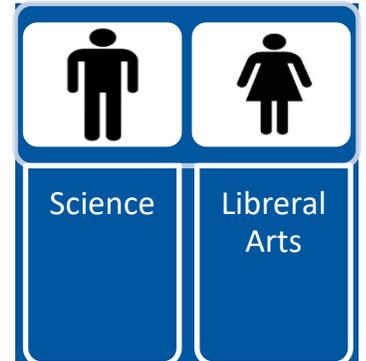
All individuals have cognitive processes that are outside of their conscious awareness.

measures of prejudice are considered impervious to efforts to artificially conceal attitudes (Greenwald et al., 1998; Greenwald, Poehlman, Uhlmann, & Banaji, 2009; Kim, 2003), while explicit measures allow the test taker time to consider the social repercussions before selecting their response.



Stereotypes

Stereotypes are the belief that most members of a group have some characteristic (for example, the belief that police officers like donuts). Researchers have primarily used the IAT to measure how strongly people associate attributes with certain social groups. This is the idea of stereotyping— or assigning people or things to particular categories. For example, Nosek et al. (2002)



The IAT measures the strength of associations between concepts (e.g., black people, gay people) and evaluations (e.g., good, bad) or stereotypes (e.g., athletic, clumsy).

-Project Implicit

found participants more strongly associated men with science and women with liberal arts.

There has been considerable debate surrounding the interpretation of these findings. While the creators of the IAT have argued that associations indicate a preference, that is positive or negative evaluations of certain social groups compared to others (Dasgupta, Greenwald, & Banaji, 2003). However, others counter that the associations reflected in the IAT merely indicate familiarity or exposure to certain stereotypes (Kinoshita & Peek-O'Leary, 2005; Rothermund, Wentura, & De Houwer, 2005). The implication of this is that an officer's day-to-day work may contribute to the development of negative stereotypes. Policing inherently involves dealing with criminality and other negative behavior, so if an officer is consistently, repeatedly exposed to negative stimuli and contacts within a given community, he or she may develop negative stereotypes regarding the members of that community.

Stereotyping:

A simplistic belief, often negative, about individual characteristics generalized to all people within a group.

Assigning people or things to particular categories.



Competing Research

Decades of research on implicit attitudes and beliefs promoted the idea that implicit bias is a stable phenomenon (Devine, 1989; Wilson et al., 2000). From this came the idea that although explicit biases could be changed, implicit biases were “trait-like” and at best, one could hope to understand and ignore them (Bargh, 1999). Competing research, however, has emerged, which claims the opposite—that implicit attitudes are, in fact, quite malleable and can be readily changed by altering one’s environment (Blair, 2002; Dasgupta, 2009; Gawronski & Bodenhausen, 2006). For example:

Malleable:
Easily influenced, pliable

If a police officer who is implicitly biased against Latinos moves from an impoverished and high crime Latino neighborhood to an affluent and low crime Latino neighborhood, they are likely to experience changes in his or her attitudes about Latinos. This could consequently alter their beliefs, stereotypes, and even behaviors towards Latinos (Dasgupta, 2013).

This is the concept of counter-stereotyping, or exposing individuals to information that goes against their established attitudes in an attempt to alter them, and is a foundation of law enforcement implicit bias training (L. James et al., 2016).

Counter-Stereotyping:
Exposing individuals to information that goes against their established attitudes in an attempt to alter them.

Of course, one would also expect the reverse would be true. If an officer is consistently exposed to information that confirms their attitudes, then those attitudes (and subsequent influences on behavior and decisions) will likely get stronger. For example:

If an officer works in a predominately African American neighborhood with a high crime rate, they may begin to believe African Americans are more dangerous than Whites. This bias could be explicit (i.e., they would claim it when asked about their attitudes), or it may be subtle and implicit (i.e., they may not be aware they have an association between African Americans and crime). However, it is possible that even a small number of interactions with African Americans that counter an officer's implicit stereotyping could change their beliefs (Dasgupta, 2004, 2009, 2013). Thus, implicit bias is perhaps not as stable among police officers as public rhetoric implies.



Implicit Associations

There is a growing body of evidence demonstrating that certain situations can readily induce implicit bias. The majority of research examining implicit associations assumes that external factors are responsible for subtle or even dramatic shifts in attitude.

Gregg and colleagues (2006) found that implicit bias is “**easier done than undone.**” This has implications for police officers because it implies that negative experiences with a particular social group carry more weight than positive experiences with the same group.

Negative experiences with a particular social group carry more weight than positive experiences with the same group.

Another—although less extensive—line of research has examined the possibility that implicit bias may also reflect internal flux, such as fatigue or sudden stress, within the individual. Could a sleep-deprived officer or an officer facing a threat-of-harm situation revert to racial bias in their decision making rather than looking for a weapon? Johnson and colleagues (2016) conducted a hospital-based experiment to test whether the stress and fatigue resident physicians experienced working in an emergency department would exacerbate reliance on mental shortcuts—in this case, implicit racial bias. They found that residents’ stress and fatigue did not demonstrate an impact. Still, that implicit racial bias against Black Americans increased when the emergency department was overcrowded or when they had more than ten patients in their care.



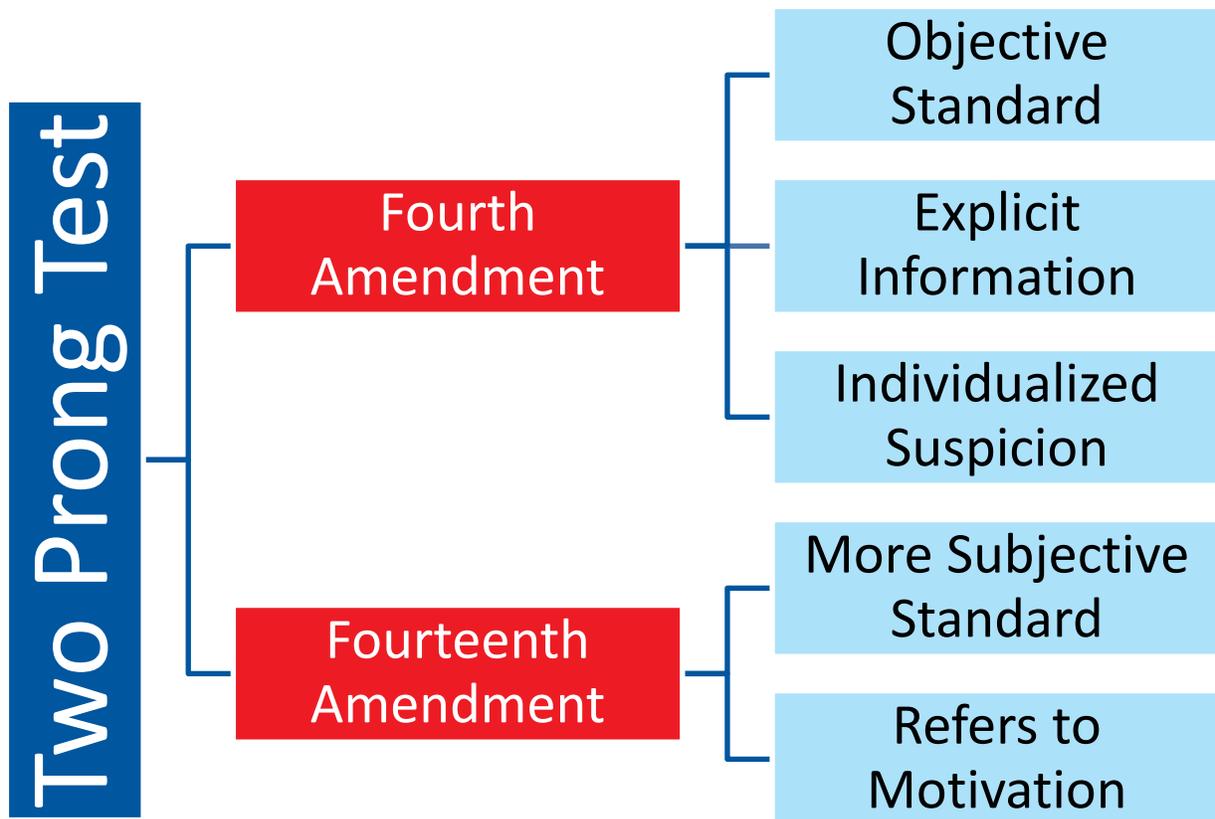
Racially Biased Policing

Concerns about discrimination in proactive policing are often framed as concerns about racial profiling: police decisions to engage in stops, searches or arrest based at least in part on an individual's race, ethnicity, religion or national origin outside of the context in which officers target an individual because s/he satisfies a specific description of a suspect or other person of interest.

From Proactive Policing: Effects on Crime and Communities

Federal Protections Against Racial Profiling

The most important legal constraints on proactive policing are the Fourth Amendment (which protects against unreasonable search and seizure) and the Fourteenth Amendment (protects against governmental discrimination, the equal protection clause).





Oregon's Profiling Laws

HB 2002 (2015)

Banned racial profiling by police and established procedures for complaints alleging profiling.

Unsure if the 2015 law was having any effect, the Oregon legislature passed HB 2355 in 2017, to track who is stopped and why.

HB 2355 (2017)

Requires collection of certain data elements from officer-initiated pedestrian and officer-initiated traffic stops by all Oregon Law Enforcement Officers.

Required Data to Be Tracked:

Date of Stop Time of Stop Location of Stop Race Ethnicity Age Sex	Nature/Reason for Stop Disposition of Stop- warning, citation, summons Search Conducted Type of Search Search Results Arrest Made as a Result of Contact
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ORS 131.915 Definitions

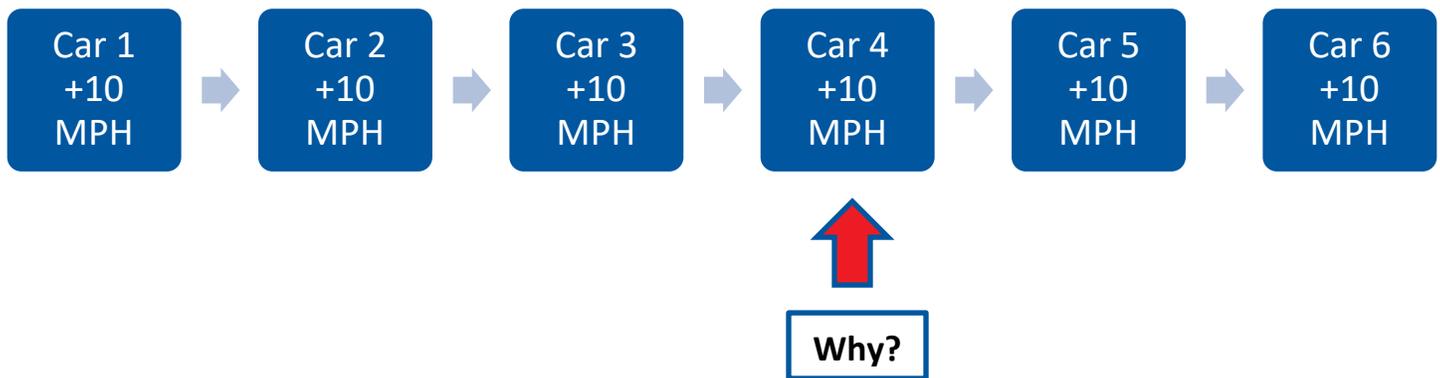
"Profiling" means that a law enforcement agency or a law enforcement officer targets an individual for suspicion of violating a provision of law based solely on the real or perceived factor of the individual's age, race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, homelessness or disability unless the agency or officer is acting on a suspect description or information related to an identified or suspected violation of a provision of law.

Note that Oregon's definition of profiling encompasses more than just race.
 It also includes 12 other classifications.



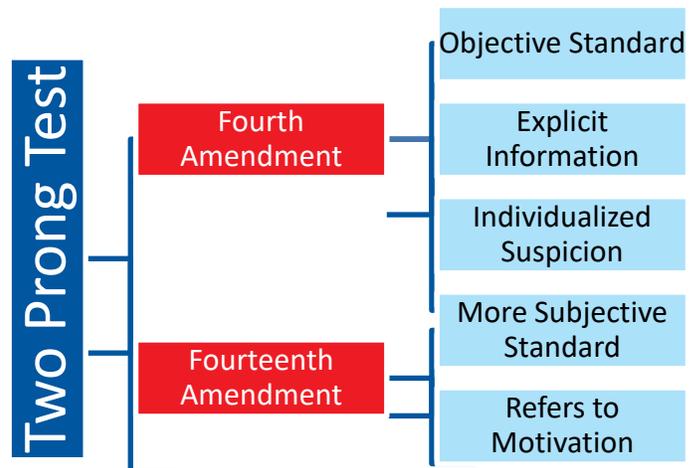
This definition doesn't address the officer's subjective motivation or underlying reason for stopping a person even with probable cause. So, while an officer may be okay under the state law, there are still 14th Amendment implications. Consider the following:

You observe six cars drive by your location, and all are traveling 10 miles per hour over the posted speed limit.



Stopping any of the speeding vehicles meets the Fourth Amendment objective standard. But does it meet the more subjective standard under the Fourteenth? That depends on your motivation; how do you decide which of the speeding vehicles to stop? Biased policing occurs when officers inappropriately consider race/ethnicity or other characteristics in deciding with whom and how to intervene.

This is obviously a problem when explicit bias is a factor, and the decision is made to stop a driver because of their race. However, it is also a problem if implicit bias is a factor. The officer may choose to stop one of the vehicles because of an implicit association of black = crime, which exists subconsciously.



Additional Resource:

iLearnOregon- Statistical Transparency of Policing (STOP) Training



Bias can impact any number of decisions that officers make, from critical to micro-decisions. For example:

- Whom do you choose to watch or investigate as a “suspicious person”/ whom do you choose to ignore?
- Whom do you choose to stop (applies to pedestrians and drivers)?
- Whom do you choose to treat with dignity and respect?
- What questions do you choose to ask?
 - “Do you own this car?”
 - “Are you on probation?”
 - “Where are you coming from?”
- Whom do you choose to search?
- From whom do you choose to seek consent to search?
- Whom do you choose to arrest/whom do you choose to let go?
- What types of crimes do you choose to enforce vigorously/what crimes do you choose to ignore?
- Against whom do you choose to use force, excessive force, or even deadly force?

The influence of bias on these decisions might be automatic and outside of your conscious awareness. We want to believe that we would know if bias was impacting our decisions, and we want to think that we are acting fairly and impartially. Many picture the perpetrators of Racially Biased Policing as only ill-intentioned officers, but this overlooks the role of implicit bias. This is problematic because it produces distortions that harm relationships between police and racial/ethnic minority communities as well as leads police to minimize the problem and be defensive about it.



Ill-Intentioned vs. Well-Meaning Officers

There is, of course, a sharp distinction between officers who are explicitly biased (e.g., they would tell you they dislike a particular group if asked) and those who are implicitly biased (e.g., they subconsciously associate a particular group with increased threat levels due to previous experience).

This raises the possibility that even well-meaning officers can have an implicit bias that affects their behavior. Given the extensive body of research demonstrating that implicit biases exist in people across many walks of life (Greenwald, Banaji, & Nosek, 2015), it is to be expected that police officers also have implicit biases. Further, the possibility that police behavior may be guided by implicit bias against social groups, as opposed to legally defined criminal behavior, is a significant concern among the American public.

Following high profile cases where police officers killed unarmed black citizens, the public tends to believe the officers were driven by racial bias. In contrast, officers tend to claim they were acting based on factual information indicating the person posed a threat. As Payne (2001) pointed out, both groups may be telling the truth. Officer decisions may be influenced by biases that are operating outside of their conscious awareness. The idea that officers may have subtle implicit biases that influence their behavior and decisions in ways that they are not consciously aware of is certainly a topic worthy of investigation. To illustrate, Greenwald and colleagues (2015) argued that even the smallest differences in an IAT score could represent significantly harmful actions of discrimination in social life. For police, this can mean the difference between life and death. It can also be a demonstrable threat to democratic freedoms and equality and undermine the legitimacy of the police—even when explicit bias (such as blatant racism) is not at play.

Officer decisions may be influenced by biases that are operating outside of their conscious awareness.



A clear example of the subtlety of implicit bias comes from a study by Fachner and Carter (2015). They described how implicit bias could creep into officers' most critical decision; to shoot or not to shoot. They describe the phenomenon of "Threat Perception Failures" (TPF) in police shootings, which occur when an officer responds to a perceived deadly threat. Yet, their perception of the situation does not reflect the facts of the situation. For example, if an officer honestly perceived that a suspect was armed when s/he did not have a weapon, this might be due to the *misperception* of an object (such as a wallet) or an action (such as reaching for a wallet).

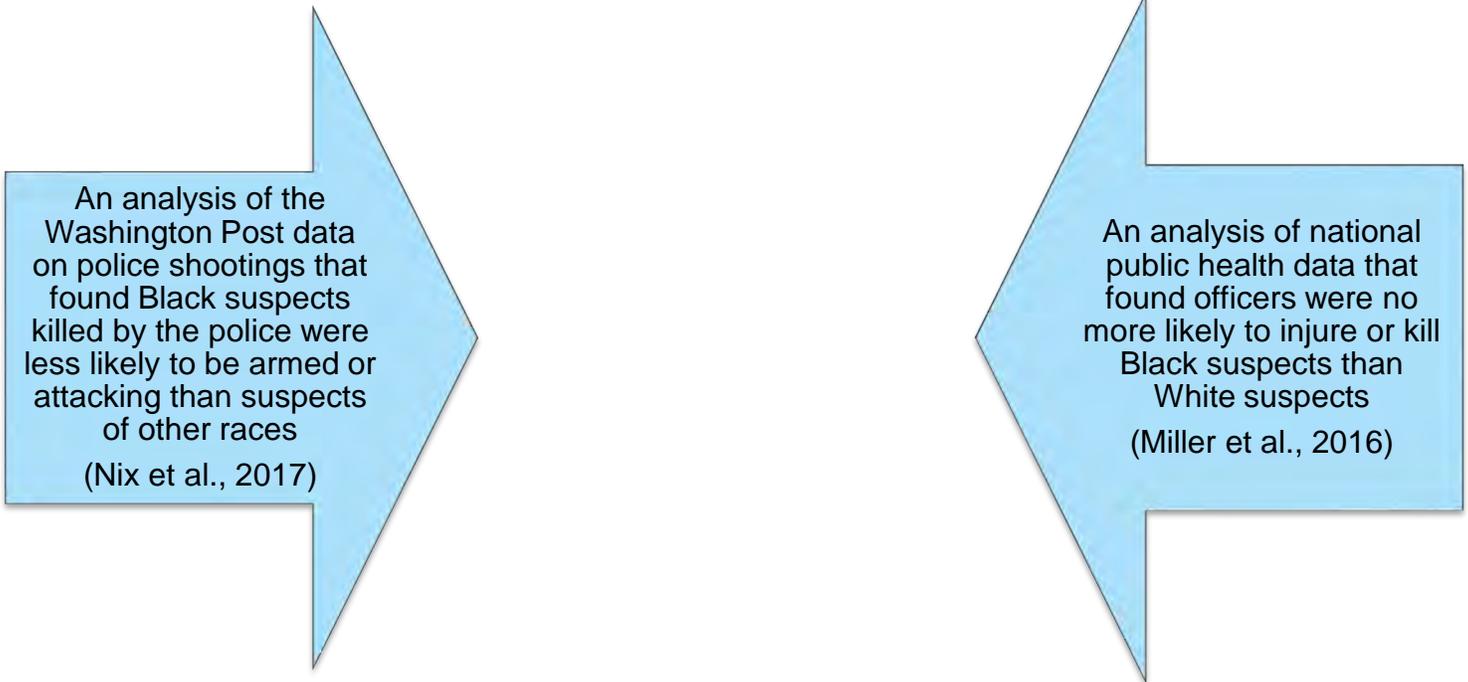


This misperception could be reasonable or not. The difficulty in determining what is reasonable increases with the ambiguity of the situation. That is to say, a cell phone is more likely to be mistaken for a gun when a situation is unfolding quickly, and an officer does not have a lot of information to go on. Here, Fachner and Carter (2015) argue, is where bias can drive faulty perception. When they analyzed officer-involved shootings by the Philadelphia Police Department (PPD), they found that the shooting of unarmed African Americans was more likely to be due to TPF than the shooting of unarmed individuals of other races. They conclude that PPD officers may be more "on guard" and thus have a heightened perception of danger when faced with African American suspects. If these same officers were asked about their biases, they likely would not be openly prejudiced against African Americans. They would assert that their decisions were based on suspects' actions, not demographics. But, as TPF illustrates, the influence of implicit bias can be subtle and unconscious.

The difficulty in determining what is reasonable increases with the ambiguity of the situation.



Other examples of implicit bias in police use of force come from a handful of field studies conducted in 2016. Fridell (forthcoming) reviewed these studies to make sense of the sometimes contradictory findings regarding the impact of suspect race on police decisions to use force. For example:



Other studies fell somewhere in between:

- A National Bureau of Economics paper reporting evidence of racial discrimination against Blacks with regards to less lethal force but not lethal force (Fryer, 2016).
- A report by the Center for Policing Equity that found evidence of racial discrimination in less lethal and lethal force when benchmarked against all arrests, but no over-representation of Blacks when benchmarked against violent crimes. This indicates that in these instances, officers are uninfluenced by suspect race; Goff, Lloyd, Geller, Raphael, & Glaser, 2016).



Laboratory testing of “shoot/don’t shoot” decisions have also produced conflicting results that run the spectrum from anti-Black bias to no bias, to pro-Black bias. For example:

- Correll and colleagues (2007; 2002; 2006) have consistently found that police officers are quicker to press a button labeled “shoot” when presented with images of armed Black suspects compared to armed White suspects and are quicker to press “don’t shoot” when presented with images of unarmed White suspects compared to unarmed Black suspects. This research team has also found that police participants do not make errors based on race in the same way that non-police participants do, i.e., accidentally pressing “shoot” for unarmed Black suspects or pressing “don’t shoot” for armed White suspects (Correll & Keese, 2009).
- James and colleagues (2013; 2016) explored whether implicit bias predicted police decisions to shoot in a use-of-force simulator. Using the IAT, they first found 96% of the sample associated Black Americans with weapons. However, in testing officers’ actual decisions to shoot in the use-of-force simulator, the authors found officers were less likely to shoot Black suspects erroneously and were slower to shoot when faced with Black compared to White suspects. This suggests that meta-cognitive processes may over-ride the effects of implicit bias if the perceived consequences of “getting it wrong” are high enough.
- James and colleagues (2017) also investigated the impact of officer fatigue on police decisions to shoot, speculating that the ability of officers to “override” their implicit biases may be reduced when they were fatigued. Although they found a trend in this direction, their results were not significant, suggesting that perceived consequences of shooting in error withstood the test of fatigue. This finding differed from Ma and colleagues (2013), who found that recruits who reported less sleep the night before had increased racial bias in their shooting errors than recruits who reportedly slept more. Thus, the findings from laboratories appear to be as murky and mixed as findings from the field regarding the extent and expression of implicit racial bias in policing.

Metacognition refers to awareness of one's own knowledge—what one does and doesn't know—and one's ability to understand, control, and manipulate one's cognitive processes (Meichenbaum, 1985).



The Impact of Perceptions on Police and Communities

Recent shootings of Black Americans by police in the United States have inflamed the debate over whether police decisions to use deadly force are biased by suspect race. These debates often assume that police officers' implicit bias associating Black suspects with greater threat will result in racially biased *decisions* to shoot that favor White over Black Americans (Elek, & Agor, 2014). Two significant lines of research shed light on this crucial issue facing the police profession—analyses of deadly force incidents in the field, and experimental research conducted in a laboratory setting. Neither of these methods is without flaw. Some of the results of “shoot” / “don’t shoot” experimental studies also fuel the assumption that implicit racial biases predict decisions to shoot. For example:

- Correll and colleagues have consistently found that both police and non-police participants were quicker to press “shoot” for armed Black suspects than armed White suspects (Sadler et al., 2012; Correll & Keesee, 2009; Correll et al., 2007; Correll, Urland, & Ito, 2006; Correll et al., 2002).
- Furthermore, Correll and colleagues found that a neurophysiological threat response in the brain was more pronounced when participants were faced with Black suspects and that this predicted speed of pressing “shoot” for armed Black suspects (Correll et al., 2006).

Other research-based on incident reports, however, takes a very different perspective. Some have suggested that minority suspects, in particular Black suspects, pose a greater threat to the police (Fyfe, 1978; Fyfe, 1982; Brown and Langan, 2001). For example:

- Fyfe found that sixty percent of Black suspects shot by the police were carrying handguns compared to thirty-five percent of White suspects (Fyfe, 1978).
- In a similar vein, Brown and Langan reported that between 1976 and 1998, Black suspects made up twelve percent of the population but committed forty-three percent of felonious killings of officers (Brown and Langan, 2001).



A third perspective has emerged that suggests that officers may be more *hesitant* to shoot Black suspects than White suspects. For example:

- Wheeler and Sparling analyzed incident reports from a major metropolitan police department. They found that officers fired more shots at White suspects than at Black suspects, suggesting “perhaps, police behave more cautiously with Blacks because of departmental policy or public sentiment concerning the treatment of Blacks” (Inn et al., 1977, 35).
- Klinger interviewed over a hundred officers and found evidence of increased wariness about using deadly force against Black suspects, for fear of how it would be perceived and the associated consequences (Klinger, 2004).
- James and colleagues found that police and non-police participants were significantly *slower* to shoot armed Black suspects than armed White suspects and were significantly *less likely* to mistakenly shoot unarmed Black suspects than unarmed White suspects (James, Vila, & Daratha, 2013; James, Vila, & Klinger, 2014; James, James, & Vila, 2016).



Reducing and Managing Bias

Knowing what the research tells us, how can we work to reduce and manage our biases?

Awareness

Education is vital to help manage our biases. We know implicit biases exist, and knowledge can help us recognize when our own biases show up. Even though they are occurring in our subconscious, we can learn to be aware of them.

You learned about the importance of self-awareness and self-regulation in Emotional Intelligence, and those concepts apply here as well. Being aware that implicit biases exist is the first step. Digging deeper to explore our own biases through an IAT or other means is one way to increase our self-awareness. Part of self-awareness is the ability to recognize and understand what factors you are bringing into an encounter. What is your motivation for asking that person for consent to search?

Education includes knowing when to be on the lookout for our biases. According to Dr. Lorie Fridell (Producing Bias-Free Policing, 2017), situations that increase the likelihood of bias include:

Situations that
involve
discretionary
activities

Ambiguous
situations

Fast-moving
situations



Reduce Ambiguity

Biases and stereotypes are most likely to impact us when we are facing ambiguous stimuli. An example is the 2014 shooting by a trooper in Columbia, South Carolina. The trooper pulled over a young black male for a traffic violation and, after the man was out of the car, asked him for his driver's license. The young man quickly turned and reached into the car. The officer, in fear (as indicated by the dashcam video), fired his weapon at the young man. This ambiguous behavior on the part of a Black male-produced perception of threat, likely if a White woman had acted the same way, the perception (and outcome) may have been different.

What are some ways we reduce ambiguity?

- Slow down the encounter (when feasible). Do you have time to take in some observations before engaging? Do you have time to wait for backup? Do you have time to talk through the situation with the individual?
- Get more information– stereotypes fill in when information is ambiguous.
- Watch out for “profiling by proxy.” Are you there because a caller reported a suspicious individual? Is the individual suspicious because of their behaviors or because of the caller’s biases?
- Practice scenarios that force making split-second decisions without being influenced by suspect characteristics.
 - Focus attention, not on demographics and other aspects of appearance, but on indicators of threat.
- Get to know the community you serve. Make them un-ambiguous.



Engage with People

Reducing our biases requires more than education; it requires action. Contact Theory and exposure to counter-stereotypes are two strategies to do this.

- **Contact Theory-** Biases can be reduced through positive contact with members of other groups (stereotyped groups, outgroups).
- **Expose yourself to counter stereotypes-** If a person has an association between a group and a stereotype, exposure to members of that group who reflect the opposite of that stereotype can reduce the strength of it.

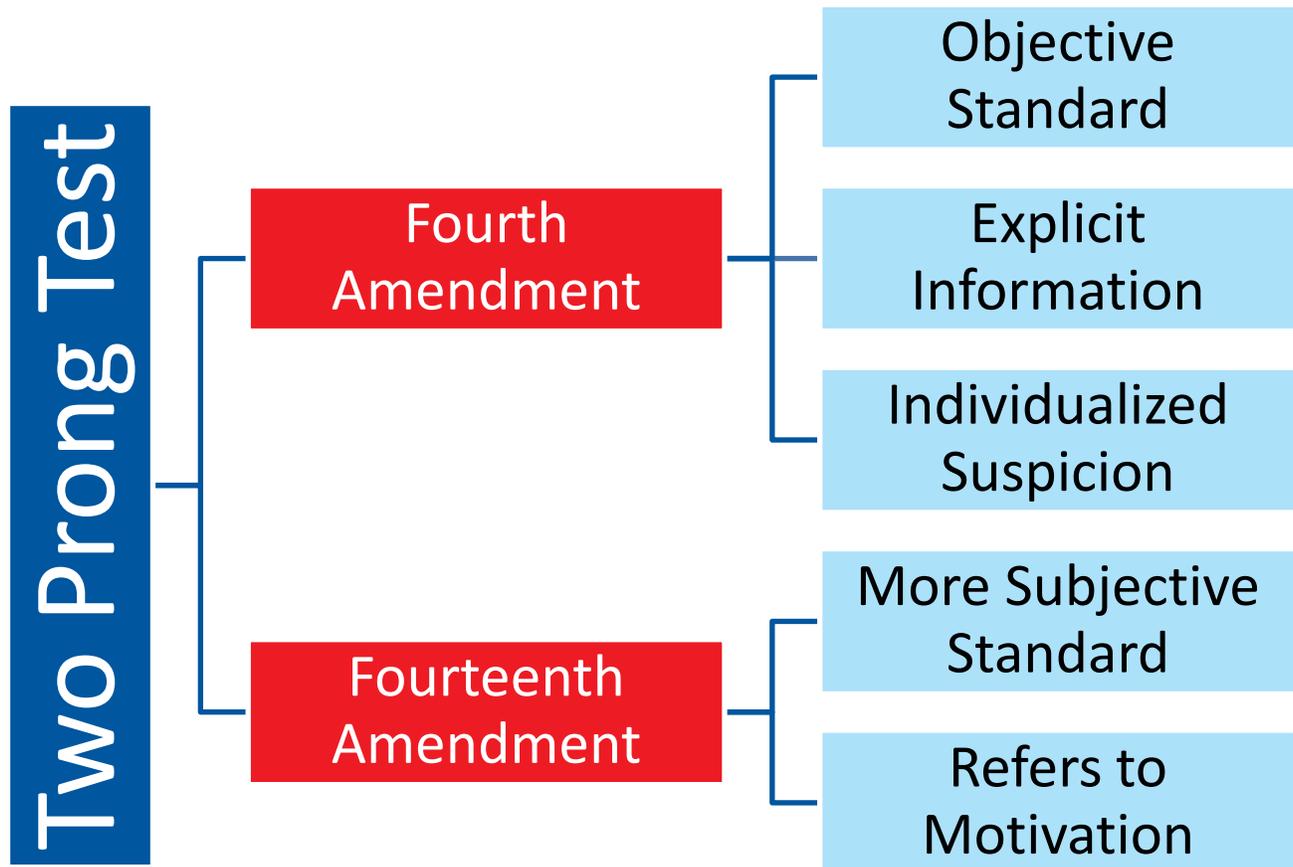
Tools

Many implicit bias training programs exist, and two predominant modalities for teaching officers about implicit bias have emerged. The goal of both training modalities is to increase fairness in officer decision making, and ultimately to enhance the outcomes of police-citizen encounters.

<p>The first is the traditional classroom-based training format, in which officers are presented with an informative lecture on the science of bias.</p> <p>Examples:</p> <p>Fair and Impartial Policing (Fridell, 2016) Clear Sight (Spokane County Sheriff's Office, 2017) Principled Policing (National Initiative for Building Community Trust and Justice, 2017)</p>	<p>The second is simulation-based training, in which officers are presented with multiple scenarios in which the suspect demographics are unrelated to the outcome. The purpose is to “counter condition” officers’ implicit associations that affect decision making.</p> <p>Example:</p> <p>Counter Bias Training Simulation (CBTsim; James & James, 2016).</p>
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Lastly, make sure your decisions pass the two-prong test. It's not just whether you are violating anyone's 4th Amendment rights, but what is your motivation for the stop? Is bias playing a role?





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Intoxilyzer

BASIC POLICE ACADEMY





Intoxilyzer 8000

Pride	Honor
Dedication	Loyalty

Oregon State Police
Forensic Services Division

Intoxilyzer 8000

Curriculum Overview

- Criminal DUII Law
- Implied Consent Law
- Criminal vs. Administrative Law
- Blood and Urine Collection Procedures
- Implied Consent and DUII Documentation
- Oregon DUII Case Law
- Intoxilyzer 8000 Operation
- Review Questions
- Practical Exercises and Final Exam



"Premier Public Safety Services" 2

Criminal DUII Law



"Premier Public Safety Services" 3

Criminal DUII Laws

Crime Classification system:

Crime vs. Violation

- Crime – Imprisonment is authorized
- Violation – No imprisonment, possible fine and/or community service

Misdemeanor vs. Felony

- Misdemeanor crime – Can not be sentenced more than 1 year
- Felony crime – Sentence is more than 1 year



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Criminal DUII Laws

DUII is generally a Class A misdemeanor

It becomes a class C felony if the subject has 2 prior convictions for DUII in the prior 10 years in any jurisdiction

- A felony conviction carries a mandatory minimum of 90 days in jail
- If the subject has 3 prior convictions for DUII within 10 years prior to the date of arrest, a 4th or subsequent conviction carries a presumptive prison sentence.



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Criminal DUII Laws

Criminal Sanctions for DUII Conviction:

1st offense – minimum of \$1,000.00
 2nd offense – minimum of \$1,500.00
 3rd offense - minimum of \$2,000.00

- (if no prison term imposed)

If the BAC is ≥ 0.15 – minimum fine is \$2000.00



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Criminal DUII Laws

What is "Diversion"?

Diversion is an agreement made between the defendant and the Court in which the State will forego prosecution and sentencing of the subject for one year in exchange for the defendant's agreement to plead guilty to the DUII and complete certain requirements.

- If completed — DUII charge will be dismissed
- If not — They are convicted and sentenced



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Criminal DUII Laws

Diversion eligibility

- Present DUII did not involve a crash resulting in death or physical injury to any person other than the defendant.
- Has no pending or prior convictions for DUII in the past 15 years
- Is not currently or previously participated in a diversion program in the past 15 years.
- Has no pending convictions for murder, manslaughter, criminally negligent homicide or assault (from operation of a vehicle) in the past 15 years



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Criminal DUII Laws

What do you need to know about Diversion?

A person may ask you to explain "Diversion";

- Do not give advice to a subject about whether or not to take "Diversion";
 - Reading off the DO7 is not giving advice.
- Be sure to document injuries of others if any and notify the prosecutor so that an objection to diversion can be made (if applicable)



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Implied Consent Law



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Implied Consent Law

What is "Implied Consent"?

Under law, anyone who drives a motor vehicle on a premises open to the public in Oregon has given their consent to take a breath, blood or urine test when arrested for DUII and asked to do so or else his/her license is subject to suspension.



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Implied Consent Law

Is an unlicensed driver arrested for DUII subject to the Implied Consent law?

YES



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Implied Consent Law

Required elements for suspension under Implied Consent Law:

Under arrest for DUII

- Operating a motor vehicle upon premises open to public/highway
- Probable Cause to make arrest

Informed of their rights and consequences.

Refused or failed test

Operator is qualified to administer test

Instrument/procedures are approved



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Implied Consent Law

Remember:

- Arrests are based on PC
- No PC, no legal arrest.
- No PC, no legal search
- IC suspension may not mean DUII conviction
- IC dismissal may not mean DUII acquittal.



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Implied Consent Law

Offenses and consequences:

Non-Commercial driver	Failure	Refusal
1 st Offense	90 days	1 year
2 nd Offense	1 year	3 years
Commercial driver		
1 st Offense	90 days	1 year
Hazmat	3 years	5 years
2 nd Offense	Lifetime (20 years)	Lifetime (20 years)



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Implied Consent Law

A driver who possesses a CDL license is operating a commercial motor vehicle and is arrested for DUII. He refuses the breath test.

Will his license and/or CDL be suspended?

YES

If the same driver was operating his personal vehicle and has a BAC of 0.06%

Will his license and/or CDL be suspended?

NO



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Implied Consent Law

What constitutes a failure of a chemical test under implied consent?

Non-commercial -- 0.08%

Commercial -- 0.04%

Minor -- >0.00%



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Implied Consent Law

What constitutes a refusal of a chemical test under implied consent?

Anything substantially short of unqualified assent to take a chemical test of the blood, breath, or urine constitutes a refusal. Once the defendant has refused, he cannot reconsider and recant his refusal.

- It is within the officer's discretion to allow it.



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Implied Consent Law

Fine for refusing a breath and/or urine test 813.095

\$650

Consecutive Suspensions:

Refusal of a urine test carries same suspension time as refusal of breath test and is consecutive to any other suspension.



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Implied Consent Law

A driver is arrested for DUII and submits a breath sample of 0.15% BAC. This is his second offense.

How long will he be suspended?

1 year

If he'd refused the test?

3 years



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Implied Consent Law

A driver is injured in a motor vehicle crash and is receiving care at a medical facility. He is arrested for DUII and refuses to take the blood test. He also refuses a urine test.

How long will his suspension period be?

1 year for each refusal (assuming no prior suspensions) for a total of 2 years.



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Implied Consent Law

Does the suspect have the right to request an independent test?

YES

- After taking requested test
- Reasonable opportunity
- Own expense
- Qualified person of their choosing



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Implied Consent Law

Does the suspect have the right to appeal a license suspension?

Yes

The request must be received by 5:00 pm on the tenth (calendar) day following the arrest for the refusal of a test or the failure of a breath test. If the suspect failed a blood test they have till the tenth day following the date DMV sent the notice of suspension.

- The initial 30 day suspension can not be appealed



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Implied Consent Law

What is the role of a police officer in an implied consent hearing?

- Can request the hearing be conducted in person.
 - Check box at the bottom of Implied Consent Form
- Officer who was actively involved in the investigation may present evidence, examine and cross-examine witnesses and make arguments



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Implied Consent Law

DMV may reschedule the hearing if the officer is unable to appear due to illness, vacation, or "Official Duty conflicts"

- Community caretaking
- Court
- Hazardous or impeding travel conditions
- Participation in employer approved training
- Physical incapacity
- Service in the US Armed Forces, military reserves, National Guard or the organized militia

Can only be done once



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Criminal Law vs. Administrative Law



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Criminal vs. Administrative Law

Does BAC prove impairment?

NO

A BAC of 0.08% = Suspension

- Under Implied Consent Law

A BAC greater than 0.08% does not ensure a criminal conviction

Document existence of "impairment" in conjunction with BAC

- Impairment = Probable cause



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Criminal vs. Administrative Law

Minors

For an adult to be arrested for DUII, an officer needs probable cause to believe that the person is impaired.

- The BAC may be over or under a 0.08%

What is the requirement for a minor?

The SAME



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Criminal vs. Administrative Law

Minors

What is "Zero Tolerance"?

- Under Implied Consent Law, any amount of alcohol = suspension.
- Under Criminal DUII law, impairment is required.
- Do NOT arrest a minor for DUII unless they are impaired.

Only applies to minors



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Criminal vs. Administrative Law

Right to counsel

Criminal Law (DUII Law)

A person has a guaranteed "right" under the Constitution when placed under arrest to speak to an attorney (*Miranda*).

Right to communicate

Administrative Law (Implied Consent)

relates to affording a person the reasonable opportunity to communicate to the outside world.

- Anyone



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Criminal vs. Administrative Law

Implied Consent

- Right to communicate with counsel or others
- No right to privacy
- Must give defendant "REASONABLE OPPORTUNITY" to communicate

Criminal

- Right to counsel (Article I §11)
- Right to speak privately prior to breath test
- Must give "REASONABLE OPPORTUNITY" to consult with counsel



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Criminal vs. Administrative Law

If the suspect does NOT ask to talk to counsel or 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"



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Blood and Urine Collection Procedures



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Collection Procedures

Blood Collection

Under Implied Consent, subject must be under arrest and receiving treatment at a medical care facility for injuries resulting from the crash

- If someone other than the suspect is injured, or the person is at the hospital other than because of a crash, DO NOT READ IMPLIED CONSENT
- If a person is unconscious, express consent is not required.
- Must be performed by a licensed physician
 - or person acting under the direction or control of a licensed physician
- Hospital must release blood/urine results (ORS 676.260)



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Collection Procedures

Blood Collection Procedures

- Do not use alcohol swabs
- Do not collect from same arm as IV
- Use grey stopper tubes (Purple is also OK)
 - Do not use tubes with red stoppers
- Collect at least two 5ml tubes of blood
- Observe the blood draw
- Mark the container with the suspects information including name and time of collection rather than having the hospital write the information
 - Do not put tape on tube or where the name is written



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Collection Procedures

Blood Collection Procedures

- Place in evidence bag and attach evidence tape.
 - Be sure to put sample in the larger pouch.
- Place evidence bag into box. Apply evidence tape to seal the box. Initial and date the tape seal.
- Complete laboratory's FORM 49 (Toxicology)
 - Remember: OSP Lab does not test blood for drugs – only alcohol
- Do not freeze



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Collection Procedures

Urine Collection

Officer has completed the 8 hour DID training.
Officer suspects intoxicant other than or in addition to alcohol.

Suspect is under arrest for DUII and either

- Breath test result is < 0.08%
- Involved in a crash resulting in injury or property damage.

Suspect must be given privacy



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Collection Procedures

Urine Collection Procedures

- Universal precautions: wear gloves.
- Inspect facilities: remove cleaning bottles.
- Flush toilet prior to use/add bluing reagent if available.
- Request suspect remove bulky clothing and wash hands.
- Remove contents from collection box and complete information on cup's label.
 - Suspects name
 - Officers name
 - Date
 - Time
- Place label on side of urine cup
- Provide privacy



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Collection Procedures

Urine Collection Procedures

- Collection of specimen
 - Collect at least 30 ml of urine
 - Ensure the lid is secure
 - Note temperature on thermal strip (90 – 100).
- Place in evidence bag and attach evidence tape.
- Place bag in box, apply security seal, initial and date seal.
- Complete laboratory's FORM 49 (Toxicology)

Remember:

- OSP Lab does not test urine for alcohol – Only Drugs
- Mark container with the suspects info (Do not cover with tape.)
- Note temperature of the sample
- Make sure the lid is on tight



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Implied Consent & DUII Documentation



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Documentation

Importance of completing forms correctly:

In 2013 DMV received 14,514 Implied Consent Combined Reports.

- 97% of those forms are processed
 - Of the 3% rejected
 - » 60% boxes incorrectly marked
 - » 26% incorrect date of arrest
 - » 14% received untimely
- About 25% request an Implied Consent hearing



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Documentation

Approximately 30% of those cases are disaffirmed

The majority of disaffirms are due to:

- Failure of the police officer to appear
- Incomplete or inaccurate police documents
- Untimely or no documents received by DMV from police



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Documentation

Possible documentation needed to successfully complete the DMV Implied Consent process.

- Implied Consent Combined Report
 - Rights and Consequences
 - Basis for suspension/length of suspension
 - Temporary Driving Permit
- CDL Addendum
- Blood Test Failure
- Form 49



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IMPLIED CONSENT COMBINED REPORT

DMV
IMPLIED CONSENT COMBINED REPORT
 MOTORIST'S SIGNATURE: _____ DATE: _____
 OFFICER'S SIGNATURE: _____ DATE: _____

TEST REFUSAL:
 (Can NOT be in addition to a breath test failure above. Exception: Only a urine test refusal and suspension length may be marked in addition to a Breath Test Failure.)
NOTE: Mark type of test refused in ADDITION to a suspension length below.

You refused to submit to a **breath test**.

You refused to submit to a **blood test** when receiving medical care in a health care facility immediately after a motor vehicle accident.

You refused to submit to a **urine test**. You had been involved in an accident resulting in injury or property damage or you had already submitted to a breath test and the result was less than .08%. The officer who requested the urine test was certified by the Department of Public Safety Standards and Training as having completed 8 hours of training in recognition of drug impaired driving, and had reasonable suspicion that you had been driving while under the influence of a controlled substance, an inhalant or any combination of an inhalant, a controlled substance and intoxicating liquor. **NOTE:** The suspension will be consecutive to any other suspension imposed under the Motorist Implied Consent Law. The urine test was requested by the reporting officer or _____.

Your suspension for refusing a test(s) will be for:
 (ONLY MARK ONE BOX)
 1 year
 3 years, because you are subject to the increased provisions of ORS 813.430. (See paragraph (e) on back).

If you hold a CDL*, were driving a motor vehicle or Commercial Motor Vehicle (CMV) and you refused to submit to a test, your CDL will also be suspended in accordance with ORS 813.404 for:
 ▶ **3 years**, if you have not received a conviction or CDL suspension as described in ORS 809.404; or
 ▶ **Lifetime**, if you have received a conviction or CDL suspension as described in ORS 809.404.

NOTE: CDL suspension will be concurrent to any other suspension imposed under the Motorist Implied Consent Law.
 *You hold a CDL if Oregon or another jurisdiction issued a CDL to you that is, not expired or if expired, expired less than one year, or is suspended, but not cancelled or revoked (ORS 801.307).

RIGHTS AND CONSEQUENCES

TEST REFUSAL:
 (Can NOT be in addition to a breath test failure above. Exception: Only a urine test refusal and suspension length may be marked in addition to a Breath Test Failure.)
NOTE: Mark type of test refused in ADDITION to a suspension length below.

You refused to submit to a **breath test**.

You refused to submit to a **blood test** when receiving medical care in a health care facility immediately after a motor vehicle accident.

You refused to submit to a **urine test**. You had been involved in an accident resulting in injury or property damage or you had already submitted to a breath test and the result was less than .08%. The officer who requested the urine test was certified by the Department of Public Safety Standards and Training as having completed 8 hours of training in recognition of drug impaired driving, and had reasonable suspicion that you had been driving while under the influence of a controlled substance, an inhalant or any combination of an inhalant, a controlled substance and intoxicating liquor. **NOTE:** The suspension will be consecutive to any other suspension imposed under the Motorist Implied Consent Law. The urine test was requested by the reporting officer or _____.

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 (ONLY MARK ONE BOX)
 1 year
 3 years, because you are subject to the increased provisions of ORS 813.430. (See paragraph (e) on back).

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 ▶ **3 years**, if you have not received a conviction or CDL suspension as described in ORS 809.404; or
 ▶ **Lifetime**, if you have received a conviction or CDL suspension as described in ORS 809.404.

NOTE: CDL suspension will be concurrent to any other suspension imposed under the Motorist Implied Consent Law.
 *You hold a CDL if Oregon or another jurisdiction issued a CDL to you that is, not expired or if expired, expired less than one year, or is suspended, but not cancelled or revoked (ORS 801.307).

(back side of IMPLIED CONSENT Form)

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Implied Consent

Rights and Consequences

D07

TEST REFUSAL:
 (Can NOT be in addition to a breath test failure above. Exception: Only a urine test refusal and suspension length may be marked in addition to a Breath Test Failure.)
NOTE: Mark type of test refused in ADDITION to a suspension length below.

You refused to submit to a **breath test**.

You refused to submit to a **blood test** when receiving medical care in a health care facility immediately after a motor vehicle accident.

You refused to submit to a **urine test**. You had been involved in an accident resulting in injury or property damage or you had already submitted to a breath test and the result was less than .08%. The officer who requested the urine test was certified by the Department of Public Safety Standards and Training as having completed 8 hours of training in recognition of drug impaired driving, and had reasonable suspicion that you had been driving while under the influence of a controlled substance, an inhalant or any combination of an inhalant, a controlled substance and intoxicating liquor. **NOTE:** The suspension will be consecutive to any other suspension imposed under the Motorist Implied Consent Law. The urine test was requested by the reporting officer or _____.

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 (ONLY MARK ONE BOX)
 1 year
 3 years, because you are subject to the increased provisions of ORS 813.430. (See paragraph (e) on back).

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 ▶ **3 years**, if you have not received a conviction or CDL suspension as described in ORS 809.404; or
 ▶ **Lifetime**, if you have received a conviction or CDL suspension as described in ORS 809.404.

NOTE: CDL suspension will be concurrent to any other suspension imposed under the Motorist Implied Consent Law.
 *You hold a CDL if Oregon or another jurisdiction issued a CDL to you that is, not expired or if expired, expired less than one year, or is suspended, but not cancelled or revoked (ORS 801.307).

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Implied Consent

Rights and Consequences

D07

TEST REFUSAL:
 (Can NOT be in addition to a breath test failure above. Exception: Only a urine test refusal and suspension length may be marked in addition to a Breath Test Failure.)
NOTE: Mark type of test refused in ADDITION to a suspension length below.

You refused to submit to a **breath test**.

You refused to submit to a **blood test** when receiving medical care in a health care facility immediately after a motor vehicle accident.

You refused to submit to a **urine test**. You had been involved in an accident resulting in injury or property damage or you had already submitted to a breath test and the result was less than .08%. The officer who requested the urine test was certified by the Department of Public Safety Standards and Training as having completed 8 hours of training in recognition of drug impaired driving, and had reasonable suspicion that you had been driving while under the influence of a controlled substance, an inhalant or any combination of an inhalant, a controlled substance and intoxicating liquor. **NOTE:** The suspension will be consecutive to any other suspension imposed under the Motorist Implied Consent Law. The urine test was requested by the reporting officer or _____.

Your suspension for refusing a test(s) will be for:
 (ONLY MARK ONE BOX)
 1 year
 3 years, because you are subject to the increased provisions of ORS 813.430. (See paragraph (e) on back).

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 ▶ **3 years**, if you have not received a conviction or CDL suspension as described in ORS 809.404; or
 ▶ **Lifetime**, if you have received a conviction or CDL suspension as described in ORS 809.404.

NOTE: CDL suspension will be concurrent to any other suspension imposed under the Motorist Implied Consent Law.
 *You hold a CDL if Oregon or another jurisdiction issued a CDL to you that is, not expired or if expired, expired less than one year, or is suspended, but not cancelled or revoked (ORS 801.307).

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Documentation

When would you issue a temporary permit?

Only if you seize a valid ODL or Oregon permit.

- Grants same driving privileges as person's license
- Valid for 30 days
- Becomes effective 12 hours after the permit is issued
- No fee
- Return license to DMV with paperwork



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COMMERCIAL DRIVER LICENSE IMPLIED CONSENT ADDENDUM

DMV
Commercial Driver License (CDL) Implied Consent Addendum
 MOTORIST'S SIGNATURE: _____ DATE: _____
 OFFICER'S SIGNATURE: _____ DATE: _____

TEST REFUSAL:
 (Can NOT be in addition to a breath test failure above. Exception: Only a urine test refusal and suspension length may be marked in addition to a Breath Test Failure.)
NOTE: Mark type of test refused in ADDITION to a suspension length below.

You refused to submit to a **breath test**.

You refused to submit to a **blood test** when receiving medical care in a health care facility immediately after a motor vehicle accident.

You refused to submit to a **urine test**. You had been involved in an accident resulting in injury or property damage or you had already submitted to a breath test and the result was less than .08%. The officer who requested the urine test was certified by the Department of Public Safety Standards and Training as having completed 8 hours of training in recognition of drug impaired driving, and had reasonable suspicion that you had been driving while under the influence of a controlled substance, an inhalant or any combination of an inhalant, a controlled substance and intoxicating liquor. **NOTE:** The suspension will be consecutive to any other suspension imposed under the Motorist Implied Consent Law. The urine test was requested by the reporting officer or _____.

Your suspension for refusing a test(s) will be for:
 (ONLY MARK ONE BOX)
 1 year
 3 years, because you are subject to the increased provisions of ORS 813.430. (See paragraph (e) on back).

If you hold a CDL*, were driving a motor vehicle or Commercial Motor Vehicle (CMV) and you refused to submit to a test, your CDL will also be suspended in accordance with ORS 813.404 for:
 ▶ **3 years**, if you have not received a conviction or CDL suspension as described in ORS 809.404; or
 ▶ **Lifetime**, if you have received a conviction or CDL suspension as described in ORS 809.404.

NOTE: CDL suspension will be concurrent to any other suspension imposed under the Motorist Implied Consent Law.
 *You hold a CDL if Oregon or another jurisdiction issued a CDL to you that is, not expired or if expired, expired less than one year, or is suspended, but not cancelled or revoked (ORS 801.307).

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Implied Consent Case Law



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Case Law

Admissibility of Hearsay:

Cole v. MVD, Dinsmore v. MVD (2004)

Hearsay police reports are generally admissible in Implied Consent hearings. Therefore, if relevant, the subpoenaed officer should bring and offer into evidence the reports of other officers who played a role in the stop, arrest or DUI processing.



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Case Law

Reason for / Validity of Stop:

Pomerenke v. MVD (1995)

Even if the stopping officer is not subpoenaed to the hearing, the subpoenaed officer should be able to articulate the reason for the stop, or have the stopping officer's report.

Officers should be in the practice of communicating the reason for stop and arrest and corroborating the information in his/her report.



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Case Law

Reason for / Validity of Stop:

Pooler v. MVD (1988)

DMV may not suspend driving privileges based on a breath test failure or refusal unless the driver is first validly arrested.



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Case Law

PC required to compel SFSTs:

Ezzell v. DMV (2001)

Officer should obtain consent, or have probable cause before requesting field sobriety tests. At hearing, the officer should articulate the point at which he/she first developed probable cause.

Without PC, be prepared to allow subject to refuse field sobriety tests and to discontinue the contact.



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Case Law

Credibility of Witnesses:

Tew v. MVD (2002)

ALJs are often required to make findings regarding witness credibility. The court addressed factors the ALJ may consider in making a credibility determination, including the fact that intoxication can affect a person's ability to perceive and recall events and police officers are generally considered disinterested witnesses with no stake in the outcome of a hearing.

But if an officer chooses to advocate for DMV and cross-examines witnesses or makes argument (as authorized by ORS 813.412), he/she may lose standing as a disinterested or unbiased witness.



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Case Law

Right to Communicate:

Moore v. MVD (1982)

The right to communicate in the Implied Consent context differs from the right to counsel in a criminal case. In the Implied Consent context, a petitioner has a right to call someone other than an attorney. And, although the person is not entitled to a private consultation with counsel under the Implied Consent law, the best practice is to afford such privacy. Finally, if the officer limits the petitioner's time on the phone, he or she should articulate the reason for doing so.



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Case Law

Challenges to BAC result:

Owens v. MVD:

Challenges to the accuracy of a breath test result are beyond the scope of an Implied Consent hearing.



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Case Law

What constitutes a refusal?

Caldiera v. MVD:

- Any conduct, short of an unequivocal, unqualified assent to the request to take a test is a refusal.
- Any attempt by the suspect to place conditions on, or delay the test can constitute a refusal.

Gilliam v. ODOT:

- Officers do not have to wait the full three minutes on instrument to declare a refusal if the subject is willfully failing to provide a proper breath sample; for example, by feigning an inability to blow or by not sealing lips around the mouthpiece.

Officers should be prepared to articulate the reasons for declaring a refusal. The instrument does not declare a refusal.



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Case Law

What constitutes refusal of a urine test?

Robinson v. MVD (2003)

Although the court recognized that "a more flexible standard must be applied" in the urine test context, it held that the suspect refused the test by stating that she could not produce a sample *and would not even try*.

By statute, there are limited defenses: a person may provide documentation from a licensed physician showing that the person has a medical condition that makes it impossible for the person to provide a urine sample, or may assert a denial of privacy in producing the sample.



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Case Law

Properly kept observation period:

State v. Barletta (2003):

- Officer believed that defendant had not violated pretest requirements, but his belief was not objectively reasonable

State v. Balderson (1996):

- Officer did a careful enough observation to be able to establish a reasonable certainty, at the time of the observation, that no violation occurred

State v. Snuggerud (1998):

- coughing and blowing nose does not violate requirement

State v. Goddard (1987):

- no requirement to rinse mouth before the breath test



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Case Law

Implied Consent documentation:

Coulter v. DMV (2000)

Jurisdiction of Implied Consent Form
If form not completed correctly (i.e., wrong basis for the suspension is marked), suspension is invalid.

Basile v. MVD (2000)

In the refusal context, the failure to mark the box indicating the suspension length is not a fatal defect.



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Operation of the Intoxilyzer 8000



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Operation of the Intoxilyzer 8000

"Operator" versus a "Technician"

When you leave this class you will ONLY be a trained "Operator"

Operate the Intoxilyzer 8000 as instructed
Training is provided by OSP

- OSP also tests and certifies the instruments at intervals of not more than 90 days.



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Operation of the Intoxilyzer 8000

Where is the Intoxilyzer 8000 Student Manual?

There is NO "Student Manual"
Operator's Guides located on-site

A copy of the Intoxilyzer 8000 Operator's Guide is available online

<http://www.oregon.gov/OSP/Forensics>



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Operation of the Intoxilyzer 8000

Operator's Permit

PIN # - DO NOT FORGET

- DO NOT use another operator's permit

Valid approx. 4-6 weeks after class

Expire every even numbered year

If lost contact OSP Implied Consent for replacement

- Operator's can still run test – manual entry



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OPERATOR'S CHECKLIST - F2

OREGON STATE POLICE FORENSIC SERVICES DIVISION	
INTOXILYZER 8000 OPERATOR'S CHECKLIST	
[Phone Print]	
Date	Training Officer (Print)
Driver's Name (Last, First, Middle)	Training Officer's Department
OBSERVATION CHECKLIST	
<input type="checkbox"/> 1. Pre-test observation period. The operator is certain that the subject has not taken anything by mouth (drinking, smoking, eating, using gum, etc.), vomited, or regurgitated liquid from the stomach into the mouth for at least 15 minutes before taking the breath test.	
<input type="checkbox"/> 2. When the instrument display indicates "Ready to Test", push "Start Test" button to initiate the testing process.	
<input type="checkbox"/> 3. Observe when the instrument has one period of calibration, when the operator will observe information required by the instruction.	
<input type="checkbox"/> 4. After receiving the subject on how to give a proper breath sample, have the subject provide a proper breath sample when "Pass Test into Mouthpiece or Airway Line" appears on display. When the instrument has completed the sample, continue the required observation period.	
<input type="checkbox"/> 5. When "Pass Test into Mouthpiece or Airway Line" again appears, use display based the subject provides a proper breath sample. When the instrument has accepted the sample, let the instrument to complete the "Pre-Test" process.	
<input type="checkbox"/> 6. When the instrument display indicates "Complete", enter any appropriate comments regarding the testing process.	
<input type="checkbox"/> 7. Remove the test report(s) from the printer.	
Comments:	
Instrument Serial #	Location
Operator's Name (Print)	Operator's Signature
Operator's Department	Operator's Permit #

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Operation of the Intoxilyzer 8000

Observation Period:

- Must be conducted on all subjects prior to breath test
- Most important step
- AT LEAST 15 minutes prior to 1st sample and continuing through to end of 2nd sample
- Not allowed to take anything by mouth, vomit, or regurgitate.

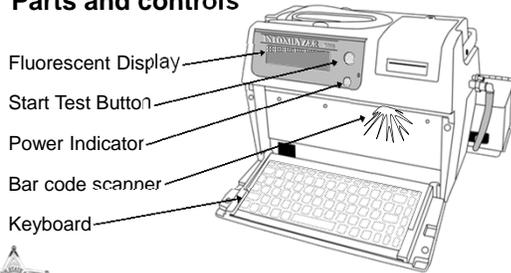


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Operation of the Intoxilyzer 8000

Parts and controls

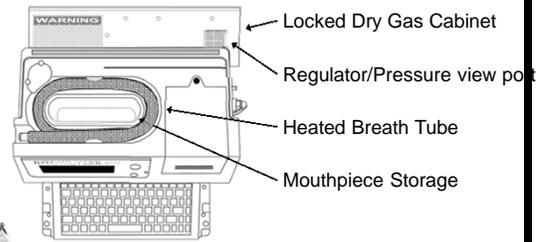


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Operation of the Intoxilyzer 8000

Parts and controls

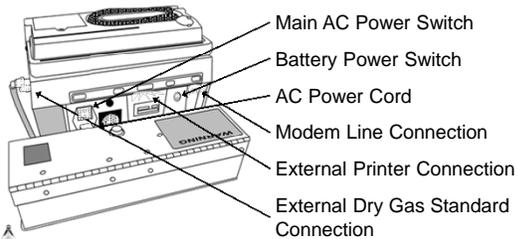


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Operation of the Intoxilyzer 8000

Parts and controls

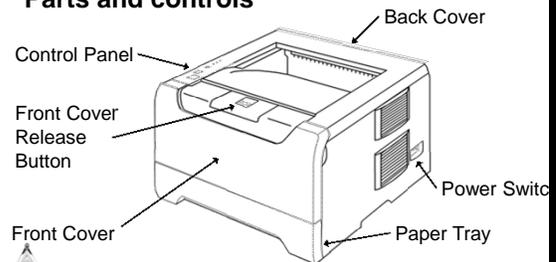


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Operation of the Intoxilyzer 8000

Parts and controls



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Operation of the Intoxilyzer 8000

Complete vs. Incomplete Reports

Complete Test Reports

3 types of Completed test reports

- A numerical result (e.g. "0.12% BAC")
- "Refused"
- "Interferent Detected"



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Operation of the Intoxilyzer 8000

Complete vs. Incomplete Reports

Incomplete Test Reports

"Test Result" section will contain an exception message

"Additional Comments" clarification message

- "Invalid Test"
- "Invalid Sample"

"Suggested Corrective Action"

Do not throw any Test Report



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Operation of the Intoxilyzer 8000

Exception Messages

Instrument monitors its internal systems during testing sequence.

- Notifies operator of conditions that might affect results of test.
- Only reports test results when no exceptions have occurred.

Suggested Corrective Action Statements

- Intended to provide operator with a course of action
- Neither required or necessary



Test Reports



TEST REPORT

OREGON DEPARTMENT OF STATE POLICE
FORENSIC SERVICES DIVISION
BREATH TEST REPORT

TEST DATE: 07/13/2014
INSTRUMENT: OVI 5700/14700 - ALCOHOL ANALYZER MODEL 8000
SITE: 86 00389 TEST LOCATION: FORENSIC SERVICES DIVISION

SUBJECT NAME: DOB: JUMP Q
SUBJECT LICENSE #: 09 17344
SUBJECT DOB: 02/17/1944

TIME	INAC	STATUS	TIME
12:00	0.000	PASS	12:00:00
12:01	0.000	PASS	12:01:00
12:02	0.000	PASS	12:02:00
12:03	0.000	PASS	12:03:00
12:04	0.000	PASS	12:04:00
12:05	0.000	PASS	12:05:00
12:06	0.000	PASS	12:06:00
12:07	0.000	PASS	12:07:00
12:08	0.000	PASS	12:08:00
12:09	0.000	PASS	12:09:00
12:10	0.000	PASS	12:10:00
12:11	0.000	PASS	12:11:00
12:12	0.000	PASS	12:12:00
12:13	0.000	PASS	12:13:00
12:14	0.000	PASS	12:14:00
12:15	0.000	PASS	12:15:00

** EXPECTED VALUE FOR CONTROL: 0.000 INAC **

TEST RESULT: 0.07 INAC

ADDITIONAL OBSERVATIONS: Any observations made by the operator during the testing sequence may be recorded in the comments section below.

NOTE: If the operator has reason to believe that the person arrested has been having wine under the influence of a controlled substance, an inhibitor or any combination of an inhibitor, a controlled substance and intoxicating liquor, the operator should consider contacting a Drug Recognition Operator.

OPERATOR'S SIGN: OPERATOR: JMS
OPERATOR'S REPORT #: 11111-00000000
TEST METHOD: 00 711

The above named individual has voluntarily met the requirements of ORS 813.200 in the chemical analysis of a person's breath and is approved to operate the above listed equipment using the above listed method as specified by the Department of State Police.

COMMENTS:

Operation of the Intoxilyzer 8000

Complete Test Report

Interfering Substance Detected

- Substance other than alcohol (e.g., acetone, toluene, etc.) was detected in the breath sample.

The test is complete and should NOT be restarted

- Discontinue Implied Consent process.
- Ask about medical conditions or chemical exposure
- Consider requesting blood



Operation of the Intoxilyzer 8000

Complete Test Report

Test Refused

- Operator terminated the testing sequence because the subject refused to continue.
 - "R" key - only during the 3 minute breath sample period
 - "Start Test" button - only during the 3 minute breath sample period
 - » Pressing at any other time in the testing sequence we give you a "Sequence aborted" test report

The test is complete and should not be restarted.

- Refused report is not required to document a refusal



Operation of the Intoxilyzer 8000

Invalid Test Report

Sequence Aborted

- The operator aborted the testing sequence.
 - "A" key - only during the 3 minute breath sample period.
 - "Start Test" button
 - » If pressed before the "Review Data" section - no test report will be printed and no record of the test is kept
 - » If pressed during the 3 minute breath sample period - a "Refusal" test report will print

Test is not complete and can be restarted.

- "F6" auto populate - If test needs to be restarted



Operation of the Intoxilyzer 8000

Invalid Test Report

Purge Fail

- Instrument is unable to purge the sample cell after running a breath test.
 - Purge pump not operating properly
 - Obstructed breath path
- Test is not complete and can be restarted.
 - Check for obvious obstructions
 - New mouthpiece
 - Place instrument out of service



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Operation of the Intoxilyzer 8000

Invalid Test Report

Ambient Fail

- Alcohol or other contaminant has been introduced into the sample chamber from the surrounding room air during "Air Blank"

The test is not complete and can be restarted.

- Remove contaminants (subject)
- New mouthpiece
- Restart test
 - » "F6" auto populate



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Operation of the Intoxilyzer 8000

Invalid Test Report

Unstable Signal

- The instrument could not obtain a stable reference during the test.

The test is not complete and can be restarted.

- Check for reason
 - » Did subject blow at the wrong time
- New mouthpiece – restart test
 - » "F6" auto populate – If test needs to be restarted
- Out of Service



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Operation of the Intoxilyzer 8000

Invalid Test Report

Diagnostic Fail

- The instrument failed the Diagnostic routine

The test is not complete and can be restarted.

- Check for reason
 - » Did subject blow at the wrong time
- New mouthpiece – restart test
 - » "F6" auto populate – If test needs to be restarted
- Out of Service



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Operation of the Intoxilyzer 8000

Invalid Test Report

Control Out of Tolerance

- The result obtained during the testing of the external breath standard is out of tolerance.

The test is not complete and can be restarted.

- Remove contaminants (subject)
- Check dry gas connection
- New mouthpiece – restart test
 - » "F6" auto populate – If test needs to be restarted
- Out of Service



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Operation of the Intoxilyzer 8000

Invalid Test Report

RFI Detected

- Radio or cell phone transmission is detected.

The test is not complete and can be restarted.

- Remove cell phone/radio
- New mouthpiece – restart test
 - » "F6" auto populate – If test needs to be restarted
- Out of Service



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Operation of the Intoxilyzer 8000

Invalid Test Report

Residual Alcohol Present

- Residual Alcohol was detected in the subject's mouth.
 - Recent consumption of alcohol or vomited/regurgitated

The test is not complete and can be restarted.

- Check subject's mouth
- Conduct another pre-test observation period
- New mouthpiece – restart test
 - » "F6" auto populate – If test needs to be restarted



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91

Operation of the Intoxilyzer 8000

Invalid Test Report

Sample Correlation Failure

- Subject did not provide two similar breath samples

The test is not complete and can be restarted.

- Check subject's mouth
- Conduct another pre-test observation period
- Re-instruct the subject
- New mouthpiece – restart test
 - » "F6" auto populate – If test needs to be restarted



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Operation of the Intoxilyzer 8000

Invalid Test Report

Range Exceeded

- Test result was higher than 0.60% BAC.

The test is not complete and can be restarted.

- Check subject's mouth
- Conduct another pre-test observation period
- New mouthpiece – restart test
 - » "F6" auto populate – If test needs to be restarted



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Operation of the Intoxilyzer 8000

Invalid Test Report

No Sample Given

- Subject did not blow hard enough to activate the audible tone.

The test is not complete and can be restarted.

- Re-instruct the subject
- New mouthpiece – restart test
 - » "F6" auto populate – If test needs to be restarted



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Operation of the Intoxilyzer 8000

Invalid Test Report

Improper Sample

- Subject blew into the instrument at the improper time.

The test is not complete and can be restarted.

- Re-instruct the subject
- New mouthpiece – restart test
 - » "F6" auto populate – If test needs to be restarted

How to Avoid

- Maintain control of the breath tube! Do not let the subject provide a sample until the proper time in the test sequence.



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95

Operation of the Intoxilyzer 8000

Invalid Test Report

Deficient Sample

- Subject did not blow long enough with sufficient force to provide a proper sample.

The test is not complete and can be restarted.

- Re-instruct the subject
- New mouthpiece – restart test
 - » "F6" auto populate – If test needs to be restarted
- Exception: subject may be physically incapable of providing a proper sample (no suspension)



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Operation of the Intoxilyzer 8000

Reprinting a Test report

Test Reports can be reprinted by the operator until memory is downloaded.

- "F4"
- Scan permit or "Enter" and manually enter information
- Enter PIN
- Select test report ("Page up" and "Page down" keys)
- Enter # of copies wanted

Reprinted Test Reports are identical to the original and can be used in addition to and/or in place of the original.

- Once memory has been downloaded contact OSP Implied Consent Unit.



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Operation of the Intoxilyzer 8000

Jail Release Test:

- Establishing the presence of alcohol on the breath.
- NOT A PRETEST
- Available for use by jail/corrections personnel – No permit required
- Does not count toward permit renewal



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Operation of the Intoxilyzer 8000

Conducting a Jail Release Test

- Observation period is recommended
- Press "Start test button"
- "Jail Release (Y/N)"
- "Ready in 00:XX" (30 seconds or less)
- "Air Blank" (purge the sample chamber and breath path)
- "Please blow into mouthpiece to activate tone."
- Read directions to subject (located on the front of the instrument.)
- Have subject provide sample.



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Operation of the Intoxilyzer 8000

Conducting a Jail Release Test

- Audible tone and "Please Blow" message on display
- "period" after "Please Blow" (period will appear after breath sample requirements are met)

Please Blow.

○○○○○

- "Air Blank" (purge the sample chamber and breath path)
- Print test report
 - "F12" reprint the last jail release test



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Operation of the Intoxilyzer 8000

Conducting a Breath Test

- Check instrument (power and time)
 - Incorrect time will not affect test – report to OSP
- Operator's Checklist "F2"
- Conduct Pre-test observation period
- "Start Test" Button
- Select test method – "Jail release (Y/N)"



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101

Operation of the Intoxilyzer 8000

Conducting a Breath Test

- Scan Operator's Permit or Press "Enter" and Manually Enter Operator's Permit Information
- Enter PIN
- Scanning the Subject's Driver's License/ID or Press "Enter" and Manually Enter the Driver's License/ID
- Review Data (Y/N)



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Operation of the Intoxilyzer 8000

Conducting a Breath Test

- "Ready in 00:XX" (30 seconds or less)
- "Air Blank" (purge sample chamber/breath path)
- "Diagnostics" (check components and operational standards)
- "Air Blank" (purge sample chamber/breath path)
- "Please blow into mouthpiece to activate tone."
- Read directions to subject (front of instrument.)



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103

Operation of the Intoxilyzer 8000

Conducting a Breath Test

- Breath Sample period
- "Air Blank" (purge sample chamber/breath path)
- Two-minute Continued Observation Period
- "Air Blank" (purge sample chamber/breath path)
- Breath Sample period

Sample one

Please Blow.

OOOOO

Sample two

Please Blow.

OOOOO



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Operation of the Intoxilyzer 8000

Conducting a Breath Test

- "Air Blank" (purge sample chamber/breath path)
- "Control Sample" (control test on external ethanol breath standard)
- "Air Blank" (purge sample chamber/breath path)
- Comments
- Printing of Test Report (3 copies)
- Reprint Test (Y/N)



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Operation of the Intoxilyzer 8000

Other Types of Messages Displayed

- Tank Pressure Low Change Standard Soon
 - Continue test and notify agency
- No Permit Found
- Incorrect PIN
- Permit Expired
- Clearance Exceeded



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Operation of the Intoxilyzer 8000

Out-of-service

- Determine exception message from test report
- Contact OSP regional dispatch
- Leave on (unless dangerous)
- Place a placard on the instrument
- Notify host agency/dispatch
- Locate an alternative testing location and restart test.



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Review



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Review

What would the operator do if the subject gave the first breath sample but not the second?

This is a Refusal

- Press the "Start Test" or the "R" button



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Review

What has happened if the instrument displays "Improper Sample" and prints "Invalid Test – Improper Sample" on the report?

The subject has blown into the instrument at an improper time during the testing sequence.

How should it be corrected?

Refer to the "Suggested Corrective Action" statement



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110

Review

If the instrument displays "RFI Detected", what would the "Suggested Corrective Action" statement recommend doing?

Remove any Radio Frequency transmission source from the vicinity of the instrument and restart test (phone/radio).



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111

Review

If the instrument displays "Interfering Substance Detected", what would the "Suggested Corrective Action" statement recommend doing?

Discontinue the Implied Consent process

- ask the subject about diabetes, fasting, and solvent exposure. If diabetic, consider EMS assistance.

Consider requesting a voluntary blood sample.
Record any observation made



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112

Review

During the "Air Blank" section of the test the instrument is unable to purge the sample chamber, what exception message will you receive and what corrective actions should you take?

"Purge Failure" and report will read "Invalid Test – Purge Failure"

- Remove mouthpiece and check for obstructions
- Use new mouthpiece
- Place out of service
- Locate alternative testing location
- Record observations in comments sections



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113

Review

During the three minute sampling period your subject did not blow with sufficient force to activate the audible tone, what message will be on the display?

"No Sample Given"



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Review

For the purpose of a DUII investigation, what must an officer have to conduct a search?

- Probable cause and Exigency; or
- Voluntary Consent; or
- Warrant



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Review

Which applies to a criminal DUII arrest, a person's right to counsel or a person's right to communicate?

Right to Counsel



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Review

What DMV forms should you complete when investigating the following DUII related incidents?

- Motor vehicle crash
- BAC less than 0.08
- Juvenile less than 0.08 but greater than 0.00
- CDL less than 0.08 but greater than 0.04
- CDL greater than 0.08
- Less than 0.08 and Urine Test Refusal



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Review

What is the difference between a person's "right to counsel" and his/her "right to communicate"?

Right to counsel applies to criminal (DUII) law.
Right to communicate applies to administrative (Implied Consent) law.



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Review

Under Implied Consent what would you do if your suspect has one of the following?

	Implied consent combined report	Temporary permit	Seize license
Out of State License			
Temporary Permit			
Hardship Permit			
No driver's license			
Learners permit			



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Final Examination and Practical Exercises

To receive credit for course, each student will need to score at least 80% on the final exam and complete the following:

- Jail Release Test
- Scanned Breath Test
- Manually entered Refusal
- Reprint of a Breath Test
 - Write name in upper right hand corner
 - Hand all four items in with final exam



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Introduction to the Justice System

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATKINS 1960-1966
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY NEED



Introduction to the Justice System

Instructional Goal:

This course is designed to develop a new officer's understanding of the criminal justice system, general criminal code concepts, and application.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Locate and differentiate between criminal code offenses
2. Articulate sources of law
3. Analyze a situation to identify the appropriate criminal code application to the circumstances
4. Identify elements of a crime in a given situation.

Content Outline:

- Sources of Law & Court Systems
- The Components of the Justice System
- Stages of the Justice System
- Oregon Revised Statutes
- Criminal Liability



Preamble: We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Sources of Law & Court Systems

- Federal Constitution
- U.S. Congress
- Federal Courts
- Oregon Constitution
- Oregon Legislature
- Oregon Courts

Federal Constitution

The United States Constitution, enacted in 1791, is the supreme law of the United States of America on issues of federal law. The U.S. constitution also supersedes state constitutions and laws in areas of federal jurisdiction. The U.S. Constitution delineates the national frame of government. The first three articles entrench the doctrine of separation of powers by dividing the federal government into three branches:

Legislative
(Congress)

Executive
(President)

Judicial
(Supreme Court)

Over the years, the States ratified twenty-seven amendments to the Constitution. The first ten amendments are commonly referred to as the Bill of Rights. The Bill of Rights was drafted to provide greater constitutional protection for individual liberties. The Bill of Rights was a limit on federal government power. The protections of the Bill of Rights were later expanded to state governments through the Fourteenth Amendment. The U.S. Constitution guarantees a minimum level of protection for the liberties of all citizens of the United States.



In-Class Activity

Identify the U.S. and Oregon Constitutional provisions that protect these rights:

	U.S Constitution Amendment Choices 1-10	Oregon Constitution Article I Choices Sections 1 – 30
Freedom of speech and press		
Freedom of religious opinion		
Right to remain silent		
Right to counsel		
Right to bear arms		
Right to a speedy trial by an impartial jury		
Protection from self-incrimination		
Protection from double-jeopardy		
Protection against unreasonable search and seizures		
Protection from cruel and unusual punishments		



U.S. Congress

Congress is a source of federal law. It enacts legislation, which, unless vetoed, is signed into law by the President. Laws promulgated by Congress are published in the United States Code. Generally, federal laws must relate to a federal issue (e.g., interstate commerce or federal budgets).

Federal Courts

U.S. Supreme Court

This is the highest federal court. It is comprised of nine justices selected by the President and confirmed by the U.S. Senate, to serve a lifetime appointment. The Supreme Court has original jurisdiction (trial powers) over very few cases (e.g., lawsuits between states or cases involving ambassadors). The court has appellate jurisdiction on cases that involve an issue of federal law (e.g., U.S. Constitutional issues or federal codes). This court has the discretion to determine which cases to hear on appeal. Parties file a writ of certiorari with the court to request review of a decision by the Federal Appellate Courts or the highest state courts regarding an issue of federal law. If four of the nine justices agree to hear the case, certiorari will be granted. The court generally receives over 7,000 requests, but only accepts approximately 100-150 cases a year.

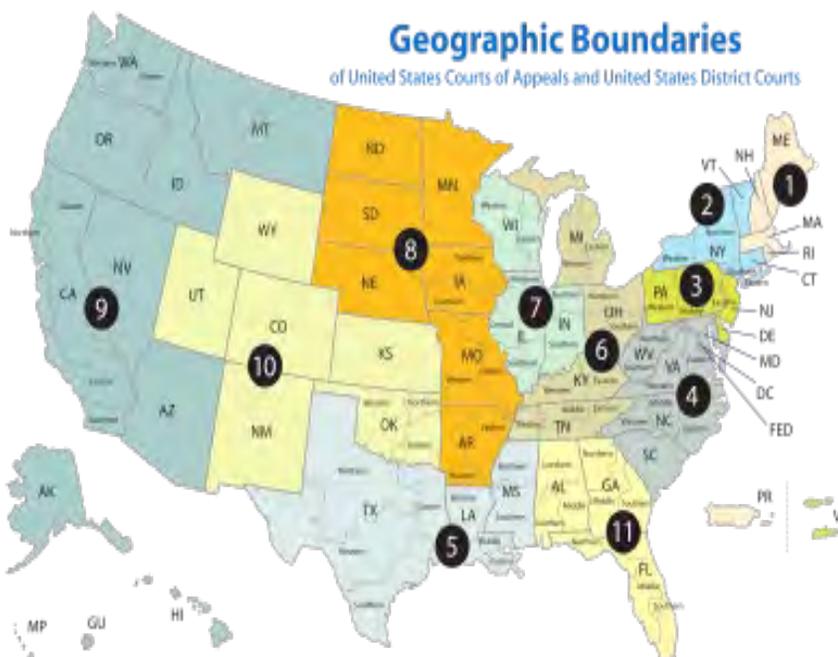
Most Supreme Court cases concerning criminal justice deal with procedural law issues (*Miranda*, *Terry v. Ohio*, and *Tennessee v. Garner*)

Opinions by the U.S. Supreme Court are binding on all courts in the United States as it relates to the issue of federal law decided. However, the U.S. Supreme Court cannot overturn a decision of a State Supreme Court on an issue that interprets the State Constitution so long as that decision does not violate the protections of the U.S. Constitution.



U.S. Courts of Appeals

The federal appellate courts are divided into thirteen circuits. Oregon and the western U.S. are in the 9th Circuit. In most cases, a three-judge panel of the U.S. Courts of Appeals hears challenges to Federal District Court decisions within their assigned circuit. If the U.S. Supreme Court has not ruled on a matter, the opinion of the Court of Appeals is binding on the district courts within the circuit. For example, an issue relating to a probable cause and exigency exception to the warrant requirement of the 4th Amendment from the 9th Circuit is binding on the federal district court in Oregon, but only persuasive authority for the federal district court in Texas.



Federal District Courts

The Federal District Courts are trial courts in the federal system. This means if a party raises a federal issue of law, the district court has jurisdiction to hear the case. For example, a person who believes an Oregon Police officer violated his civil rights under 42 U.S.C. § 1983, could file a case in Oregon District Court. If the officer was found liable by the trier of fact, the officer could file a notice of appeal with the 9th Circuit. Federal district court judges occasionally publish

opinions on their rulings. While those opinions are not binding on state trial courts, they may provide persuasive authority.



Oregon Constitution

In 1859, the people of the state enacted the Oregon Constitution. Since that time, the Legislature, or the people through the initiative process, has amended the Constitution numerous times. The Oregon Constitution is quite expansive, with 46 sections, which include sections similar to the federal constitution. For example, Article I is the Oregon Bill of Rights. This portion provides protections against unreasonable searches or seizures in section 9, as well as the prohibition on double-jeopardy and protections against compulsory self-incrimination in section 12. In many crucial areas, the Oregon Constitution has been interpreted by the Oregon appellate courts to provide a greater level of protection for individual liberties than the U.S. Constitution. Therefore, Oregon courts generally apply principles of the Oregon Constitution rather than Federal constitutional principles when making legal decisions.

Oregon Legislature

When the Oregon Legislature passes a bill, it is presented to the governor for signature. Unless the governor vetoes the bill, it is signed into law. Oregon laws are published in the Oregon Revised Statutes (ORS). The legislature meets every year, with a longer session in odd-numbered years. In general, Oregon laws apply to people in the geographical boundaries of Oregon.

Oregon Courts

Oregon Supreme Court

The Oregon Supreme Court is composed of seven justices elected by nonpartisan statewide ballot to serve six-year terms. Justices elected to the Supreme Court must be United States citizens, members of the Oregon State Bar, and an Oregon resident for at least three years. The court has its offices and courtroom in the Supreme Court Building just east of the Oregon State Capital in Salem. The members of the court elect one of their members to serve as chief justice for a six-year term.



The Supreme Court was established by Amended Article VII of the Oregon Constitution. It is primarily a court of review; that is, it reviews the decisions of the Court of Appeals in selected cases. The Supreme Court decides which cases to review, usually selecting those with significant legal issues calling for interpretation of laws or legal principles affecting many citizens and institutions of society. Cases are accepted for review on the vote of three justices. When the Supreme Court decides not to review a case, the Court of Appeals' decision becomes final. In addition to its review function, the Supreme Court hears direct appeals in death penalty cases and tax court cases. It may accept original jurisdiction in mandamus, quo warranto, and habeas corpus proceedings. Decisions of the court are published in the Oregon Reports (OR).

Administrative Authority – The chief justice is the administrative head of the judicial department and, as such, exercises administrative authority over and supervises the appellate, circuit, and tax courts. The chief justice makes rules and issues orders to carry out necessary duties and requires appropriate reports from judges and other officers and employees of the courts. As head of the judicial department, the chief justice appoints the chief judge of the Court of Appeals and the presiding judges of all local courts from the judges elected to those courts in the state. The chief justice is also charged with supervising a statewide plan for budgeting, accounting, and fiscal management of the judicial department.

Oregon Court of Appeals

The Court of Appeals is a thirteen-judge court. Judges, elected on a statewide, nonpartisan basis for six-year terms, must be United States citizens, members of the Oregon State Bar, and qualified electors of their county of residence. The chief justice of the Supreme Court appoints a chief judge from among the judges of the Court of Appeals.

Court of Appeals judges have their offices in the Justice Building in Salem and usually hear cases in the courtroom of the Supreme Court Building. The court ordinarily sits in panels of three judges. The Supreme Court has the authority to appoint a Supreme Court judge, a circuit court judge, or a tax court judge to serve as a judge pro tempore of the Court of Appeals.



Jurisdiction – The Court of Appeals has jurisdiction of all civil and criminal appeals, except death penalty cases and appeals from the Tax Court, and for review of most state administrative agency actions. The Court of Appeals must take a case that is appealed to it from the lower courts. However, the court does not need to issue a written opinion of the decision. The Court of Appeals’ opinions are published in the Oregon Appellate Reports (Or App).

Circuit Courts

The Circuit Court routinely handles the following matters:

Offenses	Civil Cases	Appeals
Crimes (Misdemeanor or Felony)	Domestic Relations	Municipal Court re-trials
Violations (traffic, wildlife, etc.)	Probate Matters	Justice Court re-trials
Juvenile Delinquency	Real Property	
	Personal Injury	
	Juvenile Dependency	

The circuit courts are the state trial courts of general jurisdiction. This means they create the record – facts and legal rulings - that the appellate courts review for legal errors. The circuit courts have juvenile, probate, adoptions, guardianship, and conservatorship jurisdiction in all counties except Gilliam, Grant, Harney, Malheur, Morrow, Sherman, and Wheeler, where the county court exercises juvenile jurisdiction. However, the circuit court has exclusive jurisdiction over the termination of parental rights proceedings.

Circuit Court judges are elected on a non-partisan ballot for a term of six years. They must be citizens of the United States, members of the Oregon State Bar, residents of Oregon for at least three years, and residents of their judicial district at least one-year (except Multnomah County judges, who may reside within ten miles of the county). The circuit judges are grouped in twenty-six geographical areas called judicial districts.



To expedite judicial business, the chief justice of the Supreme Court may assign any circuit judge to sit in any judicial district in the state, and the chief justice may appoint members of the Oregon State Bar as circuit judges pro tempore.

County Courts

At one time, county courts existed in all thirty-six Oregon counties. The title “county judge” is retained in some counties as the title of the chair of the board of county commissioners. There is no requirement that county judges be members of the bar.

Where a county judge’s judicial function still exists, it is limited to juvenile and probate matters. It occupies only a portion of the judge’s time, which is primarily devoted to non-judicial administrative responsibilities as a member of the county board.

Only seven counties now have county judges who retain any judicial authority: Gilliam, Sherman, and Wheeler (juvenile and probate jurisdiction); Grant, Harney, and Malheur (probate only); and Morrow (juvenile only).

Justice Court

A justice of the peace holds justice Court within the district for which he or she is elected. The county commissioners have the power to establish justice court district boundaries. The justice of the peace is a remnant of territorial days when each precinct of the state was entitled to a justice court. Thirty justice courts currently administer justice in nineteen counties.

Justice courts have jurisdiction within their county concurrent with the circuit court in all criminal prosecutions except for felony trials. The usual types of cases adjudicated by justice courts are criminal misdemeanors, including misdemeanor traffic crimes, other minor traffic violations, and boating, wildlife, and liquor violations occurring in their counties. Actions at law in justice courts are conducted using the mode of proceeding and rules of evidence similar to those used in the circuit courts.



The justice court has small claims/civil jurisdiction nonexclusive where the money or damages claimed do not exceed \$7,500, except in actions involving title to real property, false imprisonment, libel, slander, or malicious prosecution. Justices of the Peace also perform weddings at no charge if performed at their offices during regular business hours.

If a justice court is not a court of record, as is usually the case, its appeals go to the Circuit Court. An appeal to the Circuit Court means the case is again presented to the trier of fact for a decision so that a record can be made. If the justice court is a court of record, its appeals go to the Court of Appeals.

A justice of the peace must be a citizen of the United States, a resident of Oregon for three years, and a resident of the justice court district for one year before becoming a nonpartisan candidate for election to that office. If the justice court is a court of record, the justice of the peace must also be a member of the Oregon State Bar.

Municipal Court

Most incorporated cities in Oregon have a municipal court. Municipal courts have jurisdiction over violations of the city's municipal ordinances and concurrent jurisdiction with circuit courts over criminal cases occurring within the city limits or on city-owned or controlled property. Municipal courts have no jurisdiction over felonies. The usual types of cases adjudicated by municipal courts are criminal misdemeanors, including misdemeanor traffic crimes, other minor traffic violations; certain minor liquor and drug violations; parking violations; and municipal code violations such as animal and fire violations. Municipal judges can perform weddings within their jurisdiction. Although municipal courts are not usually courts of record, the procedures in such courts are controlled to a large extent by state statute. If a municipal court is not a court of record, appeals go to the Circuit Court like justice courts. If it is a court of record, its appeals go to the Court of Appeals.

The city council appoints municipal judges in most instances except for a few judges who are elected by the city's voters. The qualifications of a municipal judge are determined by the city council or the city charter. A municipal judge need not be an attorney unless the municipal court is a court of record.



Specialty Courts

In Oregon, depending on the jurisdiction, you may come across a variety of specialty courts. These are treatment courts designed to be problem-solving courts operating under a special model to provide court-directed supervision and treatment to non-violent individuals with substance abuse or mental health issues underlying their criminal behavior.

Treatment courts serve a targeted population, rely on consistent judicial interaction throughout the program, and require collaboration amongst a multi-disciplinary team made up of judicial, treatment, supervision, legal, and other parties.

Examples of specialty courts in Oregon include Adult Drug Court, Family Drug Court, Mental Health Court, DUII Court, Juvenile Drug Court, and Veterans Court.

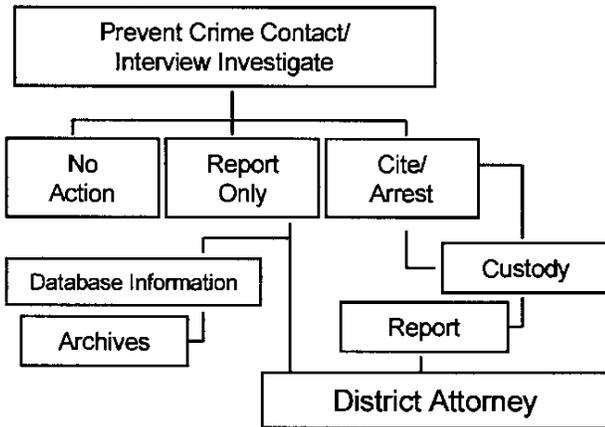


Interrelation of the Components of the Oregon Criminal Justice System

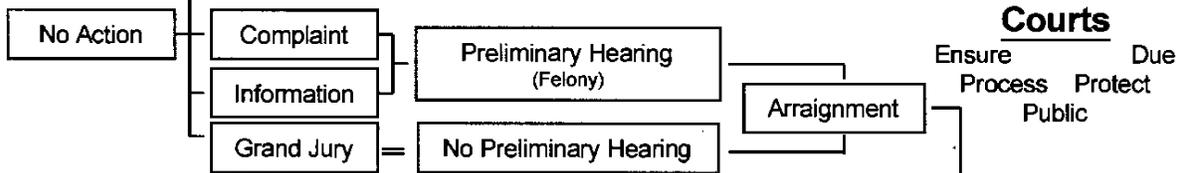
Police ♦ Prosecution ♦ Courts ♦ Corrections

Police

Peace Officers ♦ Protect Public

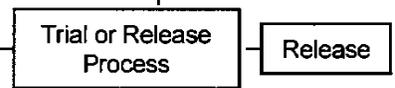


Prosecution



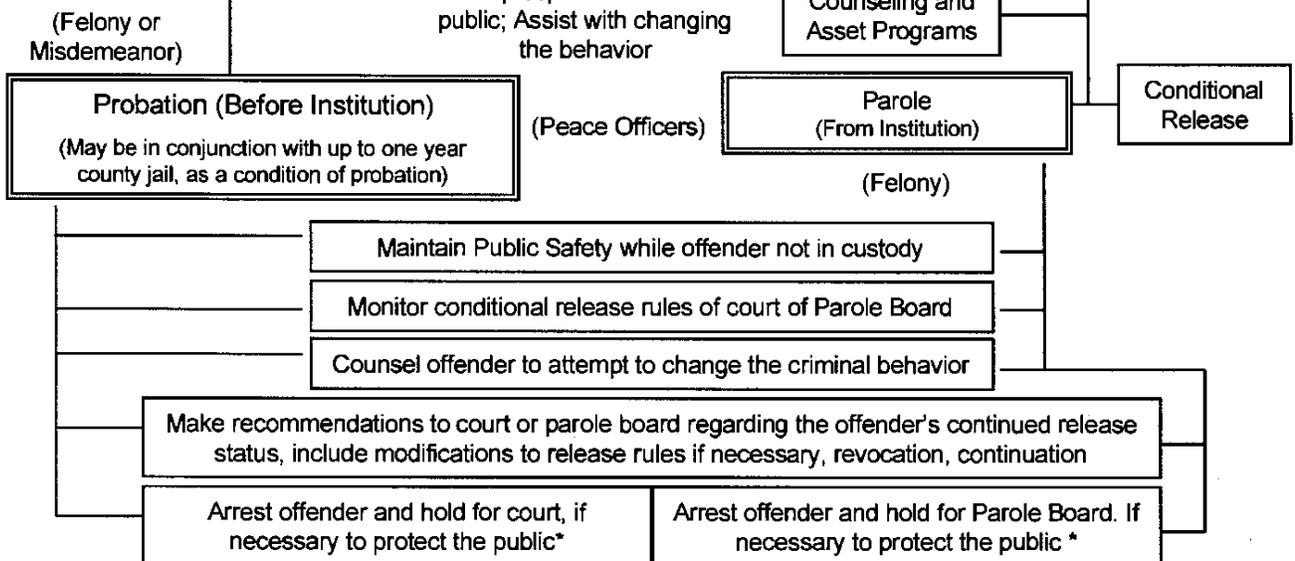
Courts

Ensure Process Protect Public



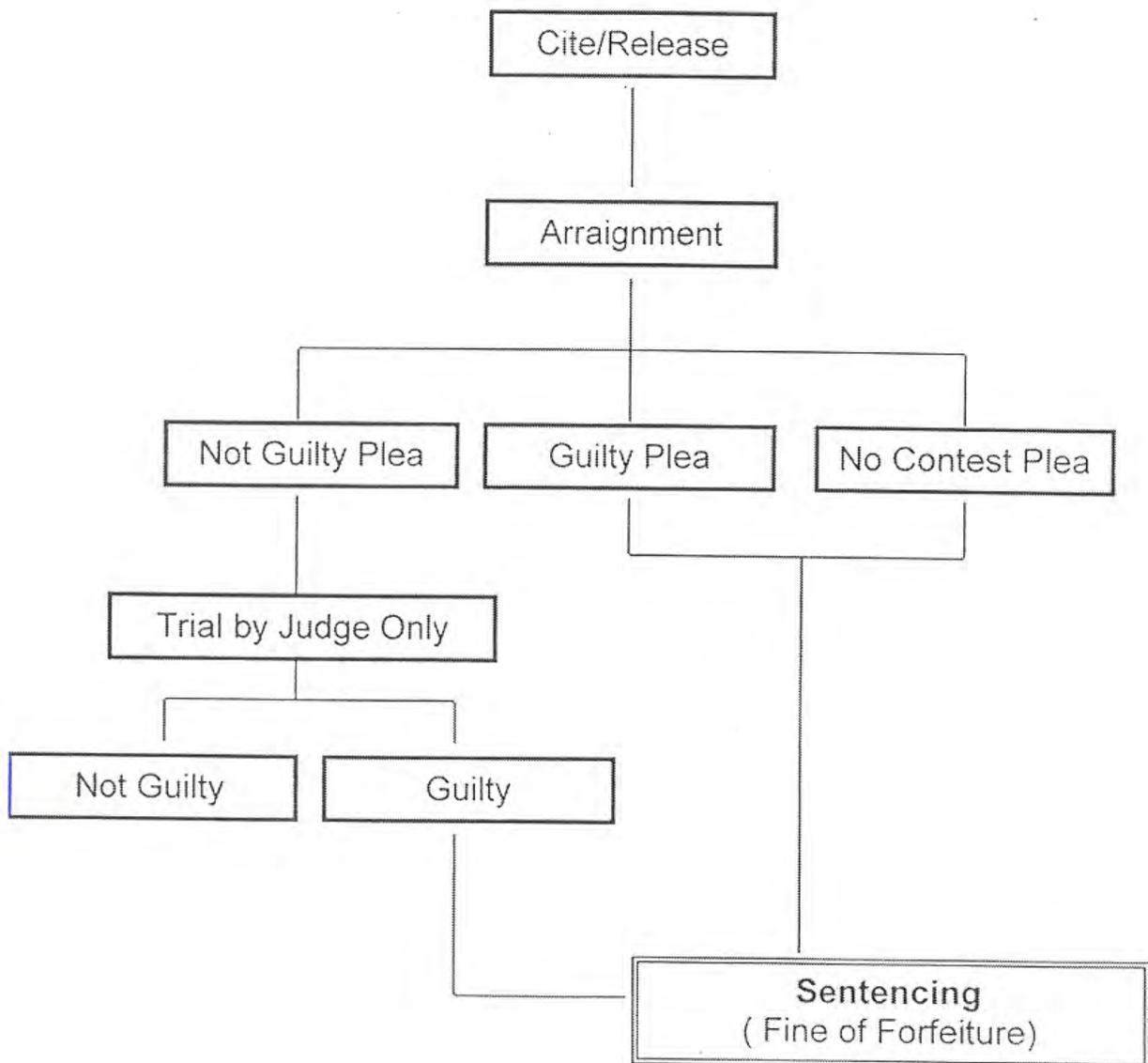
Corrections

Keep separate from the public; Assist with changing the behavior



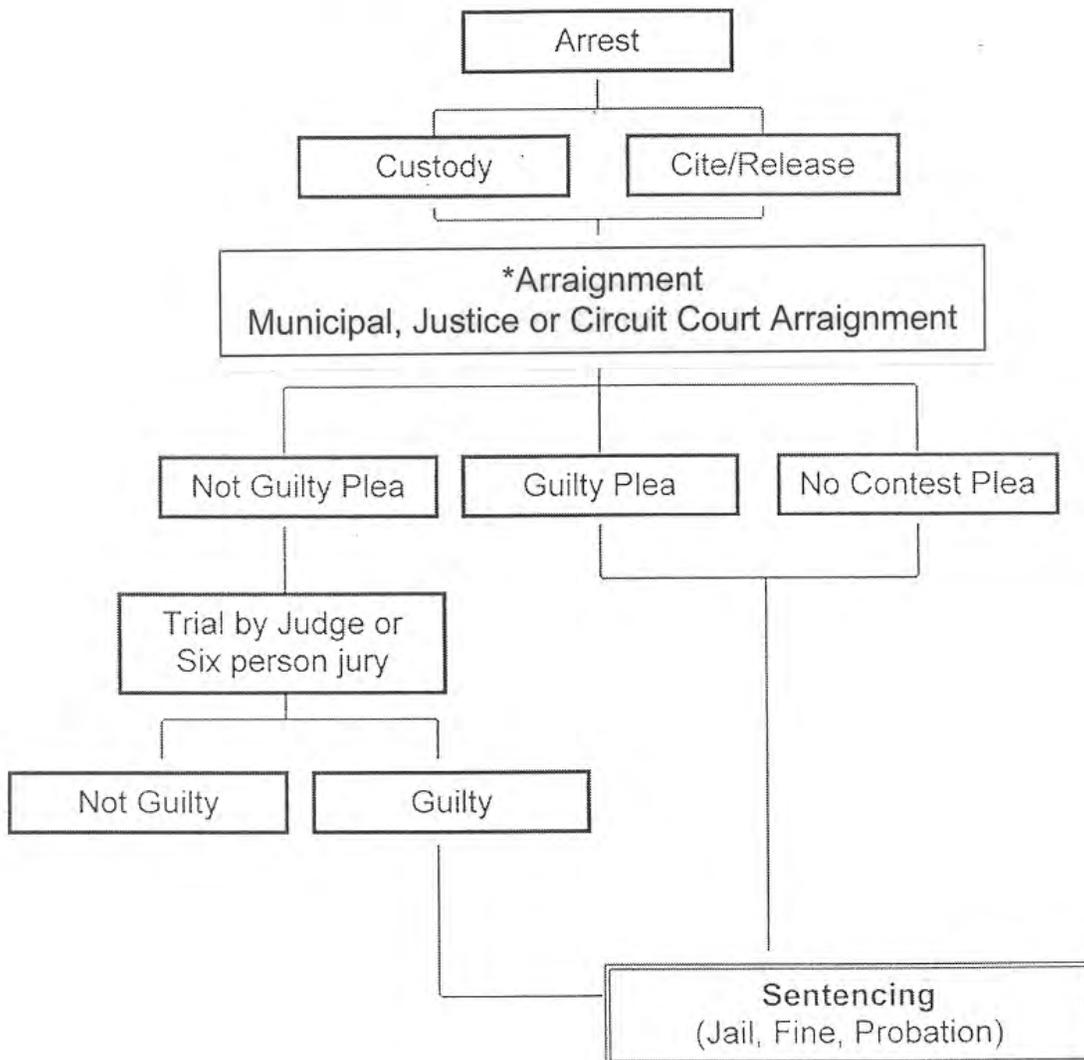


Critical Stages of a Violation or Traffic Violation through Oregon's Justice System





Critical Stages of a Misdemeanor Prosecution through Oregon's Justice System

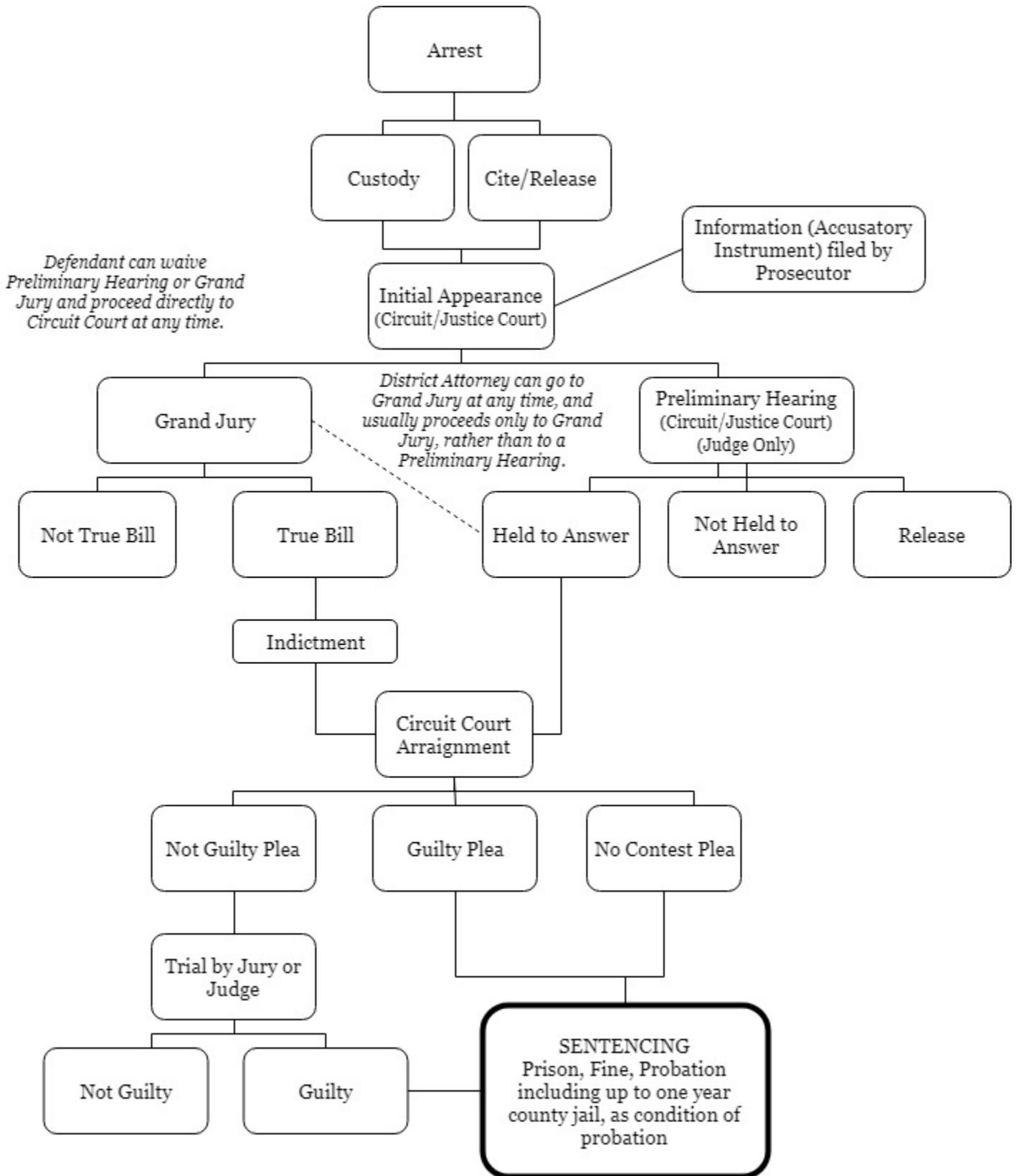


*Arraignment is the reading of the accusatory instrument to the defendant, causing delivery to him/her of a copy thereof and endorsements thereon, including the list of witnesses endorsed on it or appended thereto if the accusatory instrument is an indictment, asking the defendant how he/she pleads to the charge(s). ORS 135.020

NOTE: Municipal and Justice Courts may hear only misdemeanors as assigned by Circuit Court.



Critical Stages of a Felony Prosecution through Oregon's Justice System





Oregon Revised Statutes and the Criminal Code Book

The Oregon Revised Statutes (ORS) are divided into several volumes containing the statutory law for Oregon in numerous chapters within each volume. An additional four volumes contain an alphabetical index, annotation, and comparative section tables. Each chapter covers a different topic area of the law in Oregon. For example, Chapter 132 is titled “Grand Jury and Indictments.” Within Chapter 132, you will find subtopics related to Grand Jury proceedings. Each subsection has a number assigned to it for quick reference, e.g., ORS 132.005. This subsection within Chapter 132 covers the definitions of terms used within that chapter. Each ORS chapter begins with a list of the topic headings for each subsection contained within the chapter. The ORS is updated after the State Legislature meets and enacts laws.

The Criminal Code Book (Criminal Code of Oregon) is updated and published by the Legislative Counsel Committee every two years. It is compiled from several chapters of the ORS and is only a small portion of all laws. It is designed for the criminal justice practitioner as a quick reference source.

The Criminal Code Book includes:

- Arrest and related procedures
- Search and Seizure (including warrants)
- Offenses and sentencing
- Sex offender reporting
- Juvenile code/Oregon Youth Authority
- Alcoholic liquors
- Controlled substances
- Parts of the Oregon Constitution

The Criminal Code Book also contains an alphabetical topical index in the back of the book, making it easier to find the ORS citation number associated with a particular topic. The index also contains a “Words and Phrases” listing. For example, you can alphabetically locate the term “peace officer” in the “Words and Phrases” index to find the ORS number.



Criminal Liability

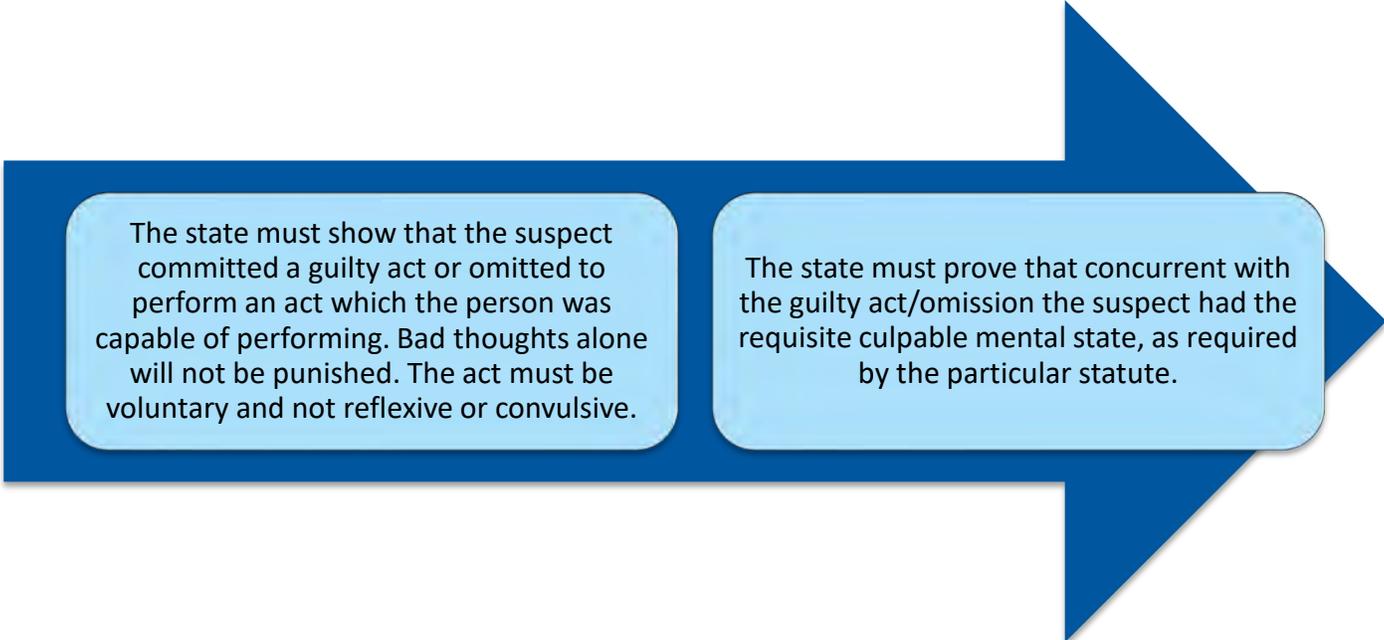
In upcoming classes, you will focus on legal definitions related to specific crimes, as well as some techniques to investigate offenses. This section will focus on the basics to help you understand the terminology and core concepts of criminal law. These concepts will include identifying elements of crimes and discussing sentencing principles.

Elements of a Crime

To make a lawful arrest, you must have probable cause that the arrested person committed a crime. All crimes have elements that establish the offense. In general, most crimes (except for some traffic offenses like DUII) have two components: a mental state (*mens rea*) and conduct (*actus reus*). The culpability of the mental state and egregiousness of the conduct generally correlates with the severity of the level of punishment.

Requirements for Criminal Culpability (ORS 161.095)

To have criminal liability in Oregon, the state must establish two preliminary elements:



The state must show that the suspect committed a guilty act or omitted to perform an act which the person was capable of performing. Bad thoughts alone will not be punished. The act must be voluntary and not reflexive or convulsive.

The state must prove that concurrent with the guilty act/omission the suspect had the requisite culpable mental state, as required by the particular statute.



Culpable mental states (ORS 161.085 (6))

Intentionally ORS 161.085 (7)	Knowingly ORS 161.085 (8)	Recklessly ORS 161.085 (9)	Criminal Negligence ORS 161.085 (10)
<ul style="list-style-type: none">Means that a person acts with a conscious objective to cause the result or to engage in the conduct so described.	<ul style="list-style-type: none">Means that a person acts with an awareness that the conduct of the person is of a nature so described or that a circumstance so described exists.	<ul style="list-style-type: none">Means that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists.	<ul style="list-style-type: none">Means that a person fails to be aware of a substantial and unjustifiable risk that the result will occur or that the circumstance exists.

Recklessly under circumstances manifesting extreme indifference to the value of human life – This phrase is used in the assault and manslaughter statutes. Oregon courts have held this additional language does not create an additional culpable mental state. Instead, “it imputes a heightened degree of blameworthiness to the defendant’s conduct by reference to the attendant circumstances.” State v. Cook, 163 Or. App. 578, (1999). The statute does not define the language, but case law has made clear that it refers to a “state of mind where an individual cares little about the risk of death of a human being.” State v. Forrester, 203 Or. App.15 (2005).

Example:

163.160 Assault in the fourth degree.

(1) A person commits the crime of assault in the fourth degree if the person:

(a) Intentionally, knowingly or recklessly causes physical injury to another.

For this statute, we can see that to make an arrest; you must believe that the suspect:

- (Mental State) Acted intentionally, knowingly, or recklessly; and
- (Conduct) Caused another person's physical injury.



Intoxication as a defense (ORS 161.125)

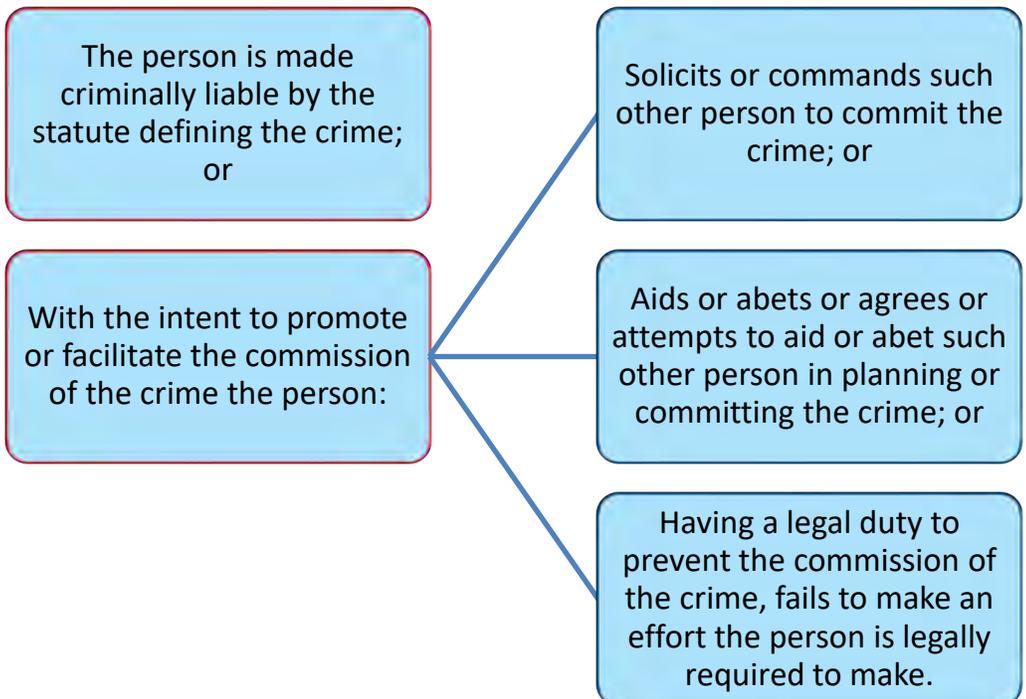
The use of drugs, dependence, or voluntary intoxication shall not constitute a defense to a criminal charge.

However, in any prosecution, the defendant may offer evidence he used drugs, was dependent on drugs, or was intoxicated whenever relevant to negate an element of the crime charged. If the mental state alleged is “recklessness,” and the defendant was “unaware of a risk...” due to his use of drugs, voluntary intoxication, etc. such unawareness is immaterial.

In short, this means that a person who is intoxicated when the person commits a reckless act, that person is still culpable for the crime. However, a person who is so intoxicated that the person does not know what they are doing cannot be held responsible for a criminal act that requires the mental state of a knowing or intentional act. In practice, this defense is often disproved by evidence of the officer’s interactions with the suspect at the time of the investigation. Therefore, it is essential to ensure thorough documentation of the suspect’s behavior during the investigation related to mental and physical signs of impairment.

Parties to Crime (ORS 161.150 – 161.155)

A person is guilty of a crime if committed by a person’s own conduct or by the conduct of another for which a person is criminally liable or both. A person is criminally liable for the conduct of another person constituting a crime if:





Inchoate Crimes

Attempt (ORS 161.405)	Solicitation (ORS 161.435)	Conspiracy (ORS 161.450)
A person is guilty of an attempt to commit a crime when the person intentionally engages in conduct which constitutes a substantial step toward commission of the crime.	A person commits the crime of solicitation if with the intent of causing another to engage in specific conduct constituting a crime punishable as a felony or as a Class A misdemeanor or an attempt to commit such felony or Class A misdemeanor the person commands or solicits such other person to engage in that conduct.	A person is guilty of criminal conspiracy if, with the intent that conduct constituting a crime punishable as a felony or a Class A misdemeanor be performed, the person agrees with one or more persons to engage in or cause the performance of such conduct.

 **Check Your Understanding**

Theft in the second degree

A person commits the crime of theft in the second degree if:	To analyze this statute, we also need to know the definition of theft: 164.015 Theft described.	Therefore, to arrest theft II, you must believe the suspect:
		Mental State:
		Conduct:



Sentencing

There are maximum penalties that can be imposed upon conviction of most offenses.

Violations	Crimes	
	Misdemeanor	Felony
<p>Violations defined (ORS 153.008)</p> <p>Maximum fines for violations:</p> <p>Class A = \$2000 Class B = \$1000 Class C = \$500 Class D = \$250</p> <p>Traffic violations defined (ORS 801.557) Classification</p> <p>Maximum fines for traffic violations</p> <p>Class A = \$2000 Class B = \$1000 Class C = \$500 Class D = \$250</p> <p>Presumptive (formerly "base") fines for violations</p> <p>Class A = \$435 Class B = \$260 Class C = \$160 Class D = \$110</p>	<p>The misdemeanor classification and the maximum penalties for each (ORS 161.615 - .635)</p> <p>Class A misdemeanor – 1 year jail, \$6,250 fine</p> <p>Class B misdemeanor – 6 months jail, \$2,500 fine</p> <p>Class C misdemeanor – 30 days in jail, \$1,250 fine</p> <p>The minimum fine for misdemeanors, unless a specific minimum fine is provided by law, is \$100</p>	<p>The felony classifications and the maximum penalties for each (ORS 161.605 - .625)</p> <p>Class A felony – 20 years imprisonment, \$375,000 fine</p> <p>Class B felony – 10 years imprisonment, \$250,000 fine</p> <p>Class C felony – 5 years imprisonment, \$125,000 fine</p> <p>The minimum fine for felonies, unless a specific minimum fine is provided by law, is \$200</p>



Violations and Misdemeanors

When a person is convicted of one of these offenses, the judge can sentence the person anywhere within the penalty range. For example, on a class A misdemeanor, the person could be sentenced from only a \$100 fine, up to a \$6,250 fine and 364 days in jail.

Felony crimes

Unlike violations and misdemeanors, felony sentencing is much more complicated. This topic is one in which many criminal law attorneys also have difficulty. Therefore, this section will simply provide some basics to guide your understanding of the issues. This is intended to help your overall knowledge of the criminal justice system, as well as to give a little insight into prosecutorial decisions.

While the statutory maximums described above are accurate, most felony sentences are determined by the presumptive sentence according to the sentencing guidelines grid:



The Oregon Sentencing Guidelines Grid

Crime Seriousness	A	B	C	D	E	F	G	H	I	Prob Term	Max Depart	PPS
11	225-269	196-224	178-194	164-177	149-163	135-148	129-134	122-128	120-121	5 Years		3 Years
10	121-130	116-120	111-115	91-110	81-90	71-80	66-70	61-65	58-60			
9	66-72	61-65	56-60	51-55	46-50	41-45	39-40	37-38	34-36			
8	41-45	35-40	29-34	27-28	25-26	23-24	21-22	19-20	16-18	3 Years	18 Mos.	
7	31-36	25-30	21-24	19-20	16-18	180-90	180-90	180-90	180-90			
6	25-30	19-24	15-18	13-14	10-12	180-90	180-90	180-90	180-90	2 Years	12 Mos.	2 Years
5	15-16	13-14	11-12	9-10	6-8	180-90	120-60	120-60	120-60			
4	10-11	8-9	120-60	120-60	120-60	120-60	120-60	120-60	120-60	2 Years		
3	120-60	120-60	120-60	120-60	120-60	120-60	90-30	90-30	90-30			
2	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	1 ½ Years	6 Mos.	1 Year
1	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30	90-30			

The presumptive grid block for any felony conviction is the intersection where the crime seriousness ranking and the criminal history classification meet. Grid blocks in the shaded area represent the range of presumptive imprisonment and post-prison supervision (PPS). Non-shaded grid blocks are presumptive sentences of probation (Prob. Term) with local custodial sanctions in days (upper number) and maximum jail days without a departure (lower number).

In grid blocks 4-C and 4-D, for offenders sentenced under 2011 Oregon Laws ch 598 (SB 395), the upper number of sanction units shall be 180, and the lower number of sanction units shall be 90. Offenders sentenced under 2011 Oregon Laws ch 598 shall serve a mandatory minimum term of incarceration of 90 days without reduction for any reason.

The probation term of 5 years applies to levels 9-11, the term of 3 years applies to levels 6-8, 2 years applies to levels 3-5, and 1 ½ years applies to levels 1-2.

The upward dispositional departure maximum sentence (Max Dispositional Depart) for a presumptive probation sentence shall be:

- (a) Up to six months for offenses classified in Crime Categories 1 and 2, or grid blocks 3-G, 3-H and 3-I;
- (b) Up to twelve months for offenses classified in grid blocks 3-A through 3-F, 4-C through 4-I and 5-G through 5-I; and
- (c) Up to eighteen months for offenses classified in grid blocks 5-F, 6-F through 6-I, and 7-F through 7-I.

Under certain conditions a probation sentence may be imposed in grid blocks 8-G, 8-H and 8-I without a departure.



Criminal History Categories

Oregon Administrative Rule 213-004-0007 defines criminal history categories.

A	The criminal history includes three or more person felonies in any combination of adult convictions or juvenile adjudications.
B	The criminal history includes two person felonies in any combination of adult convictions or juvenile adjudications.
C	The criminal history includes one adult conviction or juvenile adjudication for a person felony; and one or more adult conviction or juvenile adjudication for a non-person felony.
D	The criminal history includes one adult conviction or juvenile adjudication for a person felony but no adult conviction or juvenile adjudications for a non-person felony.
E	The criminal history includes four or more adult convictions for non-person felonies but no adult conviction or juvenile adjudication for a person felony.
F	The criminal history includes two or three adult convictions for non-person felonies but no adult conviction or juvenile adjudication for a person felony.
G	The criminal history includes four or more adult convictions for Class A misdemeanors; one adult conviction for a non-person felony; or three or more juvenile adjudications for non-person felonies, but no adult conviction or juvenile adjudication for a person felony.
H	The criminal history includes no adult felony conviction or juvenile adjudication for a person felony; no more than two juvenile adjudications for non-person felonies; and no more than three adult convictions for Class A misdemeanors.
I	The criminal history does not include any juvenile adjudication for a felony or any adult conviction for a felony or Class A misdemeanor.



Presumptive Sentences

The severity of the offense (listed as 1-11 on the left) and severity of the suspect's criminal history (letters A – I at the top) intersect at the presumptive sentence. For example, a person who assaults a public safety officer (level 6), who has three prior assault felonies (level A) would be presumed to be sentenced to 25-30 months in the Dept. of Corrections (DOC).

Departure Sentences

If the state can prove aggravating factors, the person can be sentenced to a greater sentence than is listed as the presumptive sentence. For example, a person presumed to be placed on probation can be sent to a jail or prison sentence. Additionally, a person presumed to be sent to prison could be sent to a longer prison term.

Conversely, if the defendant proves mitigating factors, the person can be sentenced to a lesser sentence than the presumed sentence. So, a person presumed to be sent to prison could be placed on probation. This could be a concern during an investigation if you learn the suspect is on a "downward departure" from a lengthy prison sentence.

Determinate Sentences

Some statutes prescribe the sentence if the person is convicted. The most common set of crimes with determinate sentences are commonly referred to as "Measure 11" offenses. These sentences were enacted by a voter initiative of the same number and can be found in ORS 137.700 – 712. Most of these offenses are major person crimes (e.g., manslaughter, rape, and sodomy). When convicted, the person must be sentenced to the mandatory minimum (day-for-day) in DOC.



Reference Material: The Bill of Rights

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment II

A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

Amendment III

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.



Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.



Reference Material: Oregon Constitution Article 1

Section 1

Natural rights inherent in people. We declare that all men, when they form a social compact are equal in right: that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper.

Section 2

Freedom of worship. All men shall be secure in the Natural right, to worship Almighty God according to the dictates of their own consciences.

Section 3

Freedom of religious opinion. No law shall in any case whatever control the free exercise, and enjoyment of religious [sic] opinions, or interfere with the rights of conscience.

Section 4

No religious qualification for office. No religious test shall be required as a qualification for any office of trust or profit.

Section 5

No money to be appropriated for religion. No money shall be drawn from the Treasury for the benefit of any religious [sic], or theological institution, nor shall any money be appropriated for the payment of any religious [sic] services in either house of the Legislative Assembly.

Section 6

No religious test for witnesses or jurors. No person shall be rendered incompetent as a witness, or juror in consequence of his opinions on matters of religion [sic]; nor be questioned in any Court of Justice touching his religious [sic] belief to affect the weight of his testimony.

Section 7

Manner of administering oath or affirmation. The mode of administering an oath, or affirmation shall be such as may be most consistent with, and binding upon the conscience of the person to whom such oath or affirmation may be administered.



Section 8

Freedom of speech and press. No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right.

Section 9

Unreasonable searches or seizures. No law shall violate the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search, or seizure; and no warrant shall issue but upon probable cause, supported by oath, or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

Section 10

Administration of justice. No court shall be secret, but justice shall be administered, openly and without purchase, completely and without delay, and every man shall have remedy by due course of law for injury done him in his person, property, or reputation.

Section 11

Rights of Accused in Criminal Prosecution. In all criminal prosecutions, the accused shall have the right to public trial by an impartial jury in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor; provided, however, that any accused person, in other than capital cases, and with the consent of the trial judge, may elect to waive trial by jury and consent to be tried by the judge of the court alone, such election to be in writing; provided, however, that in the circuit court ten members of the jury may render a verdict of guilty or not guilty, save and except a verdict of guilty of first degree murder, which shall be found only by a unanimous verdict, and not otherwise; provided further, that the existing laws and constitutional provisions relative to criminal prosecutions shall be continued and remain in effect as to all prosecutions for crimes committed before the taking effect of this amendment.

Section 12

Double jeopardy; compulsory self-incrimination. No person shall be put in jeopardy twice for the same offence [sic], nor be compelled in any criminal prosecution to testify against himself.

Section 13

Treatment of arrested or confined persons. No person arrested, or confined in jail, shall be treated with unnecessary rigor.



Section 14

Bailable offenses. Offences [sic], except murder, and treason, shall be bailable by sufficient sureties. Murder or treason, shall not be bailable, when the proof is evident, or the presumption strong.

Section 15

Foundation principles of criminal law. Laws for the punishment of crime shall be founded on these principles: protection of society, personal responsibility, accountability for one's actions and reformation.

Section 16

Excessive bail and fines; cruel and unusual punishments; power of jury in criminal case. Excessive bail shall not be required, nor excessive fines imposed. Cruel and unusual punishments shall not be inflicted, but all penalties shall be proportioned to the offense.—In all criminal cases whatever, the jury shall have the right to determine the law, and the facts under the direction of the Court as to the law, and the right of new trial, as in civil cases.

Section 17

Jury trial in civil cases. In all civil cases the right of Trial by Jury shall remain inviolate.

Section 18

Private property or services taken for public use. Private property shall not be taken for public use, nor the particular services of any man be demanded, without just compensation; nor except in the case of the state, without such compensation first assessed and tendered; provided, that the use of all roads, ways and waterways necessary to promote the transportation of the raw products of mine or farm or forest or water for beneficial use or drainage is necessary to the development and welfare of the state and is declared a public use.

Section 19

Imprisonment for debt. There shall be no imprisonment for debt, except in case of fraud or absconding debtors.

Section 20

Equality of privileges and immunities of citizens. No law shall be passed granting to any citizen or class of citizens privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens.



Section 21

Ex-post facto laws; laws impairing contracts; laws depending on authorization in order to take effect; laws submitted to electors. No ex-post facto law, or law impairing the obligation of contracts shall ever be passed, nor shall any law be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this Constitution; provided, that laws locating the Capitol of the State, locating County Seats, and submitting town, and corporate acts, and other local, and Special laws may take effect, or not, upon a vote of the electors interested.

Section 22

Suspension of operation of laws. The operation of the laws shall never be suspended, except by the Authority of the Legislative Assembly.

Section 23

Habeas corpus. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion, or invasion the public safety require it.

Section 24

Treason. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid or comfort.—No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open Court.

Section 25

Corruption of blood or forfeiture of estate. No conviction shall work corruption of blood, or forfeiture of estate.

Section 26

Assemblages of people; instruction of representatives; application to legislature. No law shall be passed restraining any of the inhabitants of the State from assembling together in a peaceable manner to consult for their common good; nor from instructing their Representatives; nor from applying to the Legislature for redress of greviances [sic].

Section 27

Right to bear arms; military subordinate to civil power. The people shall have the right to bear arms for the defence [sic] of themselves, and the State, but the Military shall be kept in strict subordination to the civil power[.]

Juveniles: Adolescent Development and the Juvenile Code

BASIC POLICE ACADEMY





Juveniles: Adolescent Development and the Juvenile Code

Instructional Goal:

This course is designed to introduce a new officer to basic factors related to interactions and investigations involving juveniles.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Describe police officer duties in the response and investigation of juvenile-involved calls.
2. Articulate the difference between a dependency and a delinquency matter.
3. Recognize and articulate the risks of juvenile investigations.
4. Analyze a situation and determine if there is an applicable ORS offense represented.

Content Outline:

Dependency

- Mandatory Reports
- Karly's Law
- Juvenile Court
- Protective Custody
- Dependency Terminology
- Resources

Delinquency

- Juvenile Court
- Terminology Differences
- Custody
- Juvenile Justice Delinquency Prevention Act
- Detention
- Resources
- Status Offenses

Investigations Involving Juveniles

- Interview/Interrogation Best Practices



The role of the police is varied when it comes to juveniles. This course will introduce different types of police/juvenile interactions, including the different sources of law, potential responses, limitations, external resources, and recommendations for effective interactions.

Adolescent Development and Creation of the Juvenile Court

The criminal court system initially made no distinction between children and adults. Eventually people figured out that children and adolescents are different from adults and a separate system was developed. The first juvenile court was established in 1899, with the primary motive of rehabilitation and protective supervision.

Oregon Youth Authority

Young people are different than adults, and the justice system should treat them differently. Experts tell us that the human brain gets built in an ongoing construction project that continues into at least our mid-20s. Youth are works-in-progress with tremendous capacity for growth and change. Thus, we should take a different approach with youth who commit crimes than what we do with adults.

Despite this creation of a separate system, the system has experienced criticism. Concerns about effectiveness and disparities in sentences led to greater formalization by the Supreme Court in the 1960's. Due process protections were put into place.

Over the years, juvenile courts have experienced wide shifts from more punitive practices to increased services. Changes in laws in 2020 aimed to make the juvenile system in Oregon fairer, help reduce victimization, and increase positive outcomes for youth.



The Juvenile Code

Chapters 419A-C in the Oregon Criminal Code are titled the Juvenile Code. These chapters outline two significantly different types of police/juvenile interactions.

ORS 419B- Dependency

A juvenile dependency case happens when there are allegations of a child being the victim of abuse.

ORS 419C- Delinquency

A juvenile delinquency case happens when a person who is under 18 years of age violates a law in which an adult could be charged with a crime in the state of Oregon.

Juvenile Code: Dependency

ORS 419B.005 provides definitions related to child abuse. Abuse is defined as any assault (defined in ORS Chapter 163) of a child and any physical injury to a child that has been caused by other than accidental means, including any injury, which appears to be a variation with the explanation given of the injury.

You will cover this extensively in your Child Abuse Investigations class. This course serves as an introduction to statutes and terminology as well as to distinguish between the types of juvenile cases.

A child is defined as an unmarried person who:

- Is under 18 years of age, or
- Is under 21 years of age and residing in or receiving care or services at a child-caring agency (defined in ORS 418.205)



Mandatory Reports and Investigations

ORS 419B.010 requires certain persons with reasonable cause to report child abuse. Mandatory reporters include physicians and other medical providers, school employees, state and county health, mental health and juvenile employees, social workers, clergy, attorneys, and others. Mandatory reports must be made to either the Department of Human Services or law enforcement. Reports made to either entity are then cross-reported to the other. These cross reports may have a time limit for notification ranging from within 24 hours to within 10-days. The Department of Human Services sets time limits, and officers should become familiar with their jurisdictions' timelines and practices.

ORS 419B.020 requires that upon receipt of a report of child abuse, the department or agency shall immediately cause an investigation to be made. Roles and responsibilities are jointly determined by jurisdiction, and again you should familiarize yourself with your jurisdiction's practices.

Karly's Law

ORS 419B.023 outlines the duties of the person conducting the investigation. These duties are commonly referred to as Karly's Law, and they will be covered extensively in your Child Abuse Investigations course.



The Juvenile Court

The Juvenile Court is part of the county court system. ORS 419B.100 defines the jurisdiction of the juvenile court as having exclusive jurisdiction in any case involving a person who is under 18 years of age and:

- Who is beyond the control of the person's parent, guardian, or custodian.
- Whose behavior may endanger the welfare of the person or others.
- Whose conditions or circumstances may endanger the welfare of the person or others.
- Who is dependent on the care and support of a public or private child-caring agency.
- Whose parents or any person or persons having custody have:
 - Abandoned the person; or
 - Failed to provide the person with the care or education required by law; or
 - Subjected the person to cruelty, depravity, or unexplained physical injury; or
 - Failed to provide the person with necessary care, guidance, and protection; or
- Who has run away from the home of the person; or
- Who has filed a petition for emancipation.

Note- An Indian tribe has exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of the tribe, except where the jurisdiction is otherwise vested in the state by existing federal law.



Protective Custody

ORS 419B.150 outlines when a child may be taken into protective custody without a court order, specifically, when a peace officer, counselor, or a DHS employee has reasonable cause to believe that one of the following circumstances exists:

- There is an imminent threat of severe harm to the child;
- The child poses an imminent threat of severe harm to self or others; or
- There is an imminent threat that the child's parent or guardian will cause the child to be beyond the juvenile court's reach before the court can order that the child be taken into protective custody.
- If there is reason to know that the child is an Indian child, the child may be taken into protective custody without a court order only when it is necessary to prevent imminent physical damage or harm to the child.

Concerning the conditions of protective custody, as listed above, the following definitions apply:

- "Reasonable cause" means a subjectively and objectively reasonable belief, given all of the circumstances and based on specific and articulable facts.
- "Severe harm" means:
 - (A) Life-threatening damage; or
 - (B) Significant or acute injury to a person's physical, sexual or psychological functioning.

When a child has been taken into protective custody, the court will require written findings as to whether the Indian Child Welfare Act (ICWA) applies.

ORS 419B.155 states that protective custody is not an arrest; however, an officer taking a child into protective custody has all of the privileges and immunities of an officer making an arrest.

When a child is taken into protective custody, the person who takes the child into custody shall release the child without unnecessary delay to the custody of the parent, guardian, or shelter facility unless there is a court order directing the child to be taken into protective custody or there is reasonable cause to believe the release may immediately endanger the welfare of the child or others. A child who is not immediately released must be taken before the court or a designation directed by the court.



Except when a child is taken into custody pursuant to a court order, the person taking the child into custody must promptly file a report with the court, including the following:

- The child's name, age, and address;
- The name and address of the person having legal or physical custody of the child;
- Efforts to notify the above-mentioned person;
- Reasons and circumstances under which the child was taken into protective custody;
- Placement of the child and why such placement was chosen;
- If not released, provide the reasons why;
- Determine and report inquiry of Indian heritage.

Dependency Terminology

Best Interests of the Child	In deciding custody, the court must consider those facts that directly affect the well-being of the child.
Emancipation	A legal process that gives a person 16-years-old or older legal independence from his or her parents or guardians.
Guardian	A person appointed by the court to protect a child or incapacitated person. A guardian does not have a duty to support the child or incapacitated person in care.
Indian Child Welfare Act (ICWA)	A federal statute that includes special rules courts must follow if a Native American child is involved in a custody proceeding (including adoptions, guardianships, and foster care).



Dependency Resources

Officers working dependency cases will likely find themselves working with the local branch of the Oregon Department of Human Services (ODHS) Office of Child Welfare Programs.

According to the Oregon Child and Family Services report, the Office of Child Welfare Programs is embedded in the Department of Human Services. It is the entity responsible for providing child welfare services to Oregon's children and families. Oregon is a state-administered, state-delivered Child Welfare system and works in partnership with the other program areas within the Department in the transformation of service delivery. The Child Welfare Program within the Department is administered through 16 Districts, composed of one or more Child Welfare branch offices. There are 39 local offices throughout the state.

ODHS Caseworkers oversee foster care and the Independent Living Program for youths transitioning out of foster care; self-sufficiency programs for runaway and homeless youth; treatment services such as specialized foster care for children with behavioral needs; community-based shelter care; out-of-state treatment programs and other services for vulnerable children.

Other local resources will vary by jurisdiction. Some communities have locally operated youth shelters that provide basic needs and other services for youth.

Research- Where is the local Office of Child Welfare Programs that you will access in your community? What other dependency-related services exist in your community?



Juvenile Code: Delinquency

A separate juvenile system has been in existence since the early 1900s. This system has been based on the premise that children and young adolescents are developmentally different from adults. Therefore, they are more amenable to treatment and are not criminally responsible for their actions.

ORS 419C.001 identifies the juvenile system's purpose in delinquency cases: to protect the public, reduce juvenile delinquency, and provide fair and impartial procedures for the initiation, adjudication, and disposition of allegations of delinquent conduct.

The Juvenile Court

ORS 419C.005 states that the juvenile court has exclusive original jurisdiction over any case involving a person who is under 18 years of age and who has committed an act that is a violation, or if done by an adult would constitute a violation of a law or ordinance of the United States, or a state, county, or city.

There are exceptions to juvenile court jurisdiction as seen below:

Emancipated
Minors

Transfers to
Another County
or Tribal Court

Adult Court
Waiver

Motor Vehicle,
Boating, Game
Offenses

ORS 419B.550
to 419B.558

ORS 419C.056
& 419C.058

ORS 419C.340
to 419C.352

ORS 419C.370



In 2019, the Oregon legislature made several significant changes to how juvenile offenders were treated, rolling back several changes that had been made in the '80s and '90s, the two most significant of which were:

- Youth who are 15, 16, or 17 years of age who commit "Measure 11" offenses are no longer subject to "automatic" prosecution in adult court; and
- It is more difficult to meet the requirements listed in 419C.349 to waive youth into adult court for prosecution.

Additionally, the legislature tightened up government actors' requirements to take youth out of homes/away from parents or guardians without a warrant.

Youth who are 15, 16, Or 17 years of age who commit any of the "Measure 11" offenses listed in 137.707 may now be prosecuted in Juvenile Court for such offenses but are subject to the limits and conditions of Juvenile Court disposition as listed in 419C.440 to 419C.510 and are not subject to adult sentencing.

Terminology Differences	
Juvenile System	Adult System
Custody	Arrest
Referral	Arrest Report
Petition	Information/Indictment
Hearing or Contested Fact-Finding Hearing	Trial
Found within the Jurisdiction of the Court	Found Guilty
Adjudicated	Convicted
Disposition/ Dispositional Hearing	Sentence/ Sentencing Hearing
Detention	Jail
Youth Correctional Facility (Close Custody)	Prison



Custody

ORS 419C.080 states that a peace officer (or other person authorized by the juvenile court) may take a youth into custody in the following circumstances:

- When, if the youth were an adult, the youth could be arrested without a warrant, or
- When the juvenile court has ordered that the youth be taken into custody.

Additionally, a peace officer **shall** take a youth into custody if there is probable cause to believe that within the last 120 days, the youth possessed a firearm or destructive device in a public building or court facility.

In place of taking a youth into custody, the officer may issue a citation to the youth, under ORS 419C.085, for the same offenses, and under the same circumstances that a citation may be issued to an adult.

Custody under ORS 419C.080 and 419C.088 shall not be considered an arrest as far as the youth is concerned. Just as in dependency cases, police taking a youth into custody have all the privileges and immunities of an officer making an arrest.

As soon as practicable, a youth's parent(s), guardian(s), or other person(s) responsible for the youth shall be notified of the custody.

A youth taken into custody should be released to a parent, guardian, or other person responsible for the youth except in the following circumstances:

- When the court has issued a warrant of arrest against the youth.
- When there is probable cause that to believe the release of the youth may endanger the welfare of the youth, victim, or others.
- When there is probable cause that the youth possessed a firearm or destructive device in a public building or court facility within the last 120 days.



In circumstances where a youth is not released from custody, the youth must be taken before the court, or taken to detention, shelter care, or taken to an agency designated by the court. The court must be notified as soon as possible of the custody.

Most Juvenile Court jurisdictions in Oregon have established alternative procedures under 419C.103(5) in which officers will communicate with a person appointed by the court to effect disposition (typically an on-call Juvenile PO or juvenile detention staff). After obtaining necessary information from the officer, this person will provide direction to the officer as to releasing the youth or delivering the youth to detention or another placement.

Similar to dependency cases, the officer must file a report to include:

- The youth's name, age, and address.
- The name and address of the person having legal or physical custody of the youth.
- Efforts to notify the above-mentioned person.
- Reasons and circumstances under which the youth was taken into protective custody.
- If the youth was not taken to court, the placement of the youth.
- If the youth was not released, the reason why the youth was not released.
- If the youth was not taken to court, why the type of placement was chosen.

While it is not required, it is beneficial if victim information (name, age, address, contact information) is included in an officer's report. A copy of the report must then be sent to the district attorney.



Juvenile Justice and Delinquency Prevention Act (JJDP)

The Federal Juvenile Justice and Delinquency Prevention Act (JJDP) is based on a broad consensus that children, youth, and families involved with the juvenile and criminal courts should be guarded by federal standards for care and custody while also upholding the interests of community safety and the prevention of victimization.

The JJDP has four core requirements:

1. Deinstitutionalization of Status Offenders (DSO)

A status offender is a juvenile charged with, or adjudicated for, conduct that would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult. The most common examples of status offenses are chronic or persistent truancy, running away, violating curfew laws, or possessing alcohol or tobacco.

Curfew
ORS 419C.680

Purchase or Possession of
Alcoholic Beverages by
Person Under 21
ORS 471.430

Possession of Tobacco
Products or Inhalent
Delivery Systems by Persons
Under 18 Years of Age
ORS 167.400

Under the JJDP, status offenders may not be held in secure detention or confinement. There are, however, several exceptions to this rule. The DSO provision seeks to ensure those status offenders who have not committed a criminal offense are not held in secure juvenile facilities for extended periods or in secure adult facilities for any length of time. Instead, these children should receive community-based services, such as day treatment or residential home treatment, counseling, mentoring, family support, and alternative education.



2. Adult Jail and Lock-up Removal

Under the JJDP, youth may not be detained in adult jails and lock-ups except for limited times. This provision is designed to protect children from psychological abuse, physical assault, and isolation. Children housed in adult jails and lock-ups are eight times more likely to commit suicide, two times more likely to be assaulted by staff, and 50 percent more likely to be attacked with a weapon than children housed in juvenile facilities.

A juvenile who **perceives** that they are not permitted to leave the arresting officer's custody while within a law enforcement facility, office or building is considered to be "detained." The term "secure" infers that the juvenile is detained within a locked room or cell or upon a stationary cuffing apparatus or other secure feature designed to restrict the physical movement of the juvenile in custody. Conversely, the term "nonsecure" refers to the lack of a "secure" feature utilized for the purpose of custody.

- Juveniles being held by law enforcement personnel pursuant to ORS 419B.150-175 -- for their own safety and pending reunification with a parent or guardian or pending transfer to the custody of a child welfare service agency -- are not considered "detained" for purposes of the JJDP.
- Status and non-offender type juveniles are still prohibited from being held in "secure custody" within any law enforcement facility, office, or building.

3. Sight and Sound Separation

When children are placed in an adult jail or lock-up, "sight and sound" contact with adults is prohibited under the JJDP.



Sight



Sound

This provision seeks to prevent children from threats, intimidation, or other forms of psychological abuse and physical assault. Under "sight and sound," children cannot be housed next to adult cells, share dining halls, recreation areas, or any other common spaces with adults, or be placed in any circumstance that could expose them to threats or abuse from adult offenders.



4. Racial and Ethnic Disparities

Under the JJDP, states are required to assess and address racial and ethnic disparities at key points in the juvenile justice system – from arrest to detention to confinement. Studies indicate that youth of color receive tougher sentences and are more likely to be incarcerated than white youth for the same offenses. With youth of color comprising one-third of the youth population but two-thirds of youth in contact with the juvenile justice system, this provision requires states and local jurisdictions to create action plans to address disparities within their systems.

Detention

Placement in detention settings varies based on age and offense. A general rule is that youths may not be detained in the same facility as an adult. As just covered under the JJDP, federal (and state law) requires sight and sound separation.

Exceptions to this include:

- A youth or youth offender may be detained in a police station for up to five hours when necessary to obtain their name, age, residence, and other identifying information.
- Youth waived to adult court, if:
 - They are at least 16 years of age, and
 - The director of the county juvenile department and sheriff agree to detain the youth in a jail or other place where adults are detained.



ORS 410C.133 states that no youth under 12 years of age may be placed in a detention facility without a court order. A judge must determine whether the youth is eligible for detention and if alternative methods of controlling the youth's behavior are unavailable.

ORS 419C.145 identifies criteria for holding youth in detention pre-adjudication (conviction) and ORS 419C.150 outlines time limits on detention. ORS 419C.153 provides that youths shall have a review hearing every ten days that they are held in detention.

Delinquency Resources

Officers working with a juvenile delinquency case may be coordinating with the County Juvenile Department or the Oregon Youth Authority. In Oregon, there is a tiered response for supervising juvenile offenders.

County Juvenile Departments	Oregon Youth Authority (OYA)
<p>At the local level, county juvenile departments provide sanctions and services to youth ages 12-17, who are referred primarily for law violations by law enforcement agencies.</p> <p>Youth offenders on county-level probation are subject to formal sanctions and requirements designed to prevent further penetration into the juvenile justice system and include a range of supervision, accountability, and reformation services.</p> <p>Sanction Examples: Community service, work crew, curfews, counseling, inpatient or outpatient substance abuse treatment, sexual offender treatment, electronic monitoring, urinalysis testing, home and school visits, restitution, placement in county detention, etc.</p>	<p>Youth offenders who are unsuccessful in meeting conditions of county probation and/or who commit very serious offenses and/or are found to be a serious risk to community safety may be committed by a juvenile court to the custody of the OYA, a state agency.</p> <p>Youth offenders on state-level probation or parole are subject to formal sanctions and services directed toward preventing further criminal activity as well as accountability and reformation.</p> <p>In addition to the sanctions provided by County Juvenile Departments, OYA sanctions also may include placement in a youth correctional facility, placement in a residential treatment facility, transition programs, or foster homes.</p>



Status Offenses and Exceptions

Curfew (ORS 419C.680)	Purchase/Possession of Alcohol (ORS 471.430)
<p>Curfew hours established by state law are midnight to 4:00 a.m. Minors are not to be in or upon public places, including streets or alleys between these hours.</p>	<p>A person under 21 years of age may not attempt to purchase, purchase, or acquire alcoholic beverages.</p>
<p>Exceptions:</p> <p>Accompanied by a parent, guardian, or other person 18 years of age or over and authorized by the parent.</p> <p>Engaged in a lawful pursuit or activity that requires the presence in such public places during the hours of midnight to 4:00 a.m.</p> <p>Emancipated minor.</p> <p>Parents and legal guardians cannot give permission to a minor to violate the curfew law.</p> <p>Cities and counties are allowed to establish ordinances, which restrict curfew more than the state law. Check your local ordinances.</p>	<p>Exception:</p> <p>Minors in a private residence accompanied by THEIR parent and with THEIR parents' consent.</p>



Investigations Involving Juveniles

According to the International Association of Chiefs of Police, the U.S. Supreme Court has recognized the emotional and developmental differences between adults and juveniles and its implications on the conduct of juvenile interviews in general and interrogations in particular. These differences must be taken into account when an officer conducts an interview or interrogation of a juvenile. Officers must observe juveniles' legal rights and protect against charges of police coercion or intimidation during interviews and interrogations of juveniles.

According to the Office of Juvenile Justice Delinquency Prevention and the International Association of Chiefs of Police publication titled *The Effects of Adolescent Development on Policing*:

Youth have a lower capacity for self-regulation in emotionally charged contexts, such as interviews or interrogations, and are more susceptible to manipulation and coercion than adults. Adolescents under the age of 18 are three times more likely to confess falsely than adults, creating a severe legal consideration for law enforcement. Law enforcement can reduce the likelihood of juvenile false confessions using a variety of age-appropriate techniques. A 2013 University of Virginia study suggests conducting specialized juvenile interrogation training, limiting lengthy and manipulative techniques, and exploring alternative methods of questioning juveniles.

The following material is from a publication titled "Reducing Risks: An Executive's Guide to Effective Juvenile Interview and Interrogation" (OJJDP, IACP)

Juvenile interrogations and confessions have captured the United States Supreme Court's attention more than any other issue in juvenile justice. The court first tackled these issues more than 60 years ago, when it issued its first foundational decision advising law enforcement to question children with special care. After retreating from this position during the 1970s, 1980s, and 1990s, the court reasserted in *J.D.B. v. North Carolina* (2011) that adolescents under 18 need to be treated differently than adults during questioning. This decision has changed the legal landscape to require police officers to change how juvenile suspects are questioned.



Recommended Best Practices: Juvenile Interrogations

Child-Sensitive Behavioral Analysis

During initial interviews, many interrogation trainers suggest that experienced police interviewers can tell whether a subject is being truthful or deceptive by observing the subject's behavior and choice of words. Behaviors that are thought to indicate lying include fidgeting, slouching, and lack of eye contact. Often, interviewers are encouraged to proceed to a full-blown interrogation if behavioral cues indicate that the subject is lying.

However, children and teens may commonly slouch, avoid eye contact, and exhibit similar behaviors regardless of whether they are telling the truth – particularly in the presence of authority figures. Officers should not interpret these everyday teenage mannerisms as indicators of deception. Rather, officers should decide to interrogate juveniles based on concrete evidence such as witness statements and forensics.

Care with Miranda Warnings

Even intelligent children and teenagers often do not fully understand their Miranda rights, which can require a tenth-grade level of comprehension. This reality has been reflected around the country, as courts have been increasingly willing to throw out a child's confession even after they appear to validly waive their Miranda rights. To ensure that a juvenile's statement is admissible in court, officers should read each warning slowly, stopping to ask the child, after each individual warning, to explain it back in his or her own words. Further, officers should read juveniles simplified Miranda warnings that require only a third-grade comprehension level:

1. You have the right to remain silent. That means you do not have to say anything.
2. Anything you say can be used against you in court.
3. You have the right to get help from a lawyer right now.
4. If you cannot pay a lawyer, we will get you one here for free.
5. You have the right to stop this interview at any time.
6. Do you want to talk to me?
7. Do you want to have a lawyer with you while you talk to me?



When appropriate, law enforcement should also inform young suspects that speaking to police may subject the child to adult criminal consequences. Importantly, police should make sure that the child understands the concept of "adult criminal consequences" – along with any other concepts that the child may not grasp – before proceeding with questioning.

Presence of a Friendly Adult

It is essential to involve a "friendly adult" in the juvenile interrogation process and to allow him or her meaningful opportunities to consult with the juvenile throughout the interrogation privately. Traditionally, the friendly adult is a parent or a youth officer, although each presents different challenges.

- **Parent or Guardian.** Many states require police to attempt to notify parents before beginning an interrogation. Even states without this requirement still view the absence of a parent negatively. However, some parents can make the situation worse. If a parent pressures her child to confess, her influence can increase the child's risk of giving a false or involuntary statement. If this happens, the officer should call for a break in the interrogation so the parent can calm down.
- **Youth Officer.** Youth officers are usually police officers who are asked to suddenly switch roles from law enforcement to juvenile advocate – a difficult thing to ask anyone to do. Some youth officers struggle to fulfill this duty. For instance, an Illinois court threw out a confession after a youth officer advised the child to make admissions during a break in the interrogation. (*People v. Sanchez*, 2011 Ill. App. Unpub. LEXIS 872 (Ill. App. Ct. 2011).) A federal court has also disapproved of youth officers who remain silent during interrogation, calling one such officer a "potted plant." (*Hardaway v. Young*, 302 F.3d 757 (7th Cir. 2002).)

Police should involve other "friendly adults" – like parents or attorneys – rather than youth officers whenever possible



Length of Questioning

Juveniles can tolerate only about an hour of questioning before a substantial break should occur. A juvenile interrogation should never last longer than four hours. If a child or adolescent is questioned for a prolonged period, the risk that any statement will be either involuntary or unreliable increases substantially with each passing hour.

Time of Questioning

Officers should be wary of questioning juvenile suspects, especially younger teens and children, in the middle of the night. Even a few hours of sleep deprivation, combined with the stress of interrogation, can increase the risk of false confession. And courts tend to disapprove of late-night interrogations, particularly when children are involved.

Avoid Use of Deception

Currently, the use of deception during an interrogation – such as a false claim that police possess evidence incriminating the suspect – is permissible. However, the legal landscape's changing nature should make officers think twice before using this technique during juvenile interrogations. The presentation of false evidence may cause a young person to think that the interrogator is so firmly convinced of his guilt that he will never be able to persuade him otherwise.

In that event, the young person may think that he has no choice but to confess – whether guilty or innocent – to cut his losses. For this reason, one of the nation's most well-known interrogation training programs has discouraged the use of false evidence during juvenile interrogations, advising interrogators to avoid such tactics with young children and individuals who have significant mental limitations.

Avoid Promises of Leniency and Threats of Harm

Many officers are trained to suggest during interrogation that the suspect will avoid trouble or get help if he confesses. Even these indirect promises of leniency and threats of harm can be inappropriate when the suspect is a juvenile. They can trigger involuntary or false confessions by presenting the juvenile with an offer he can't refuse: Say what the police want to hear or face negative consequences. A well-known interrogation training firm expressly advises investigators to avoid interrogations in which a suspect is offered help.



In expressing sympathy and understanding toward a suspect during an interrogation, it is tempting for an investigator to state that he desires to "help" the suspect somehow. This may be in the form of an ambiguous statement, such as, "I want to help you out of this thing," or "I can't help you unless you help me first." In other instances, the reference to help may be quite specific, such as, "If you tell me what happened, I can get you psychological help," or "I can get you help for your addiction if you work with me on this." Some courts have ruled that such statements represent an implied promise of leniency, and therefore, investigators should refrain from any references to "helping a suspect out."

In particular, many juvenile false confessors have explained that they confessed under the mistaken belief that they would be able to end the interrogation and immediately go home. To that end, interrogators must take special care to ensure that nothing they say could be interpreted as suggesting that the juvenile could go home if he confesses. An innocent youth might jump at such a chance and falsely confess out of a desire to return home, believing that his innocence will be straightened out later.

Investigators should also never use the suspect's juvenile status to persuade him to confess under the pretense that he or she won't be punished as severely as an adult. Some courts have found this tactic unduly coercive. (E.g., *Commonwealth v. Truong*, 2011 Mass. Super. LEXIS 61 (Mass.Super. Ct. 2011).)

When interrogating youth, officers should follow these guidelines:

- Avoid communicating that the suspect will avert or face reduced charges if he confesses.
 - An Iowa court recently threw out a confession as involuntary when police told the suspect that prosecutors "are much more likely to work with an individual that is cooperating with police than somebody who sits here and says I didn't do it." (*State v. Polk*, 2012, Iowa Sup. LEXIS 33 (Iowa Supr. Ct. Apr 6, 2012).)
- Stay away from unclear or technical language that a young person could interpret as a promise of leniency.
 - A federal court threw out a young man's confession as involuntary when a state police officer indicated that he would not pursue charges if the suspect confessed but failed to explain that the federal government could still press charges. The court called it "utterly unreasonable" to expect the suspect to "parse" the officer's words. (*U.S. v. Lall*, 607 F.3d 1277 (11th Cir. 2010).)



- Ensure that the suspect understands the consequences of confessing. Many juvenile false confessors have explained that they made false statements because they misunderstood the consequences of confessing: they believed they would go home.
 - Similarly, a Massachusetts court recently threw out a 16-year-old's murder confession as involuntary when the suspect was led to believe she would be placed in foster care instead of prison as a result of confessing. The court found that she "never understood the implications of her statements." (*Commonwealth v. Truong, 2011 Mass. Super. LEXIS 61 (Mass. Super. Ct. 2011).*)
- Refrain from suggesting that you can help the suspect if he confesses.
 - One Florida court threw out a confession as involuntary when the interrogator told the suspect that he would help him if he confessed but failed to explain the limits of his ability to do so. (*Ramirez v. State, 15 So.3d 852 (Fla. App. Ct. 2009).*) Other courts have gone even further, ruling that any suggestion of "help" in exchange for a confession may constitute an impermissible implied promise of leniency. Therefore, an investigator should avoid suggesting that he or she could help a suspect, even when trying to express sympathy or understanding.

Electronic Recording

When an interview or interrogation is electronically recorded from start to finish, police have a complete record that can be used to convict the guilty and ensure that every statement is reliable and voluntary.

A recording can also provide officers with invaluable protections against frivolous allegations of abuse. And most electronic recording systems pay for themselves by significantly reducing the need for and duration of costly pretrial hearings about what happened inside the interrogation room.

For these reasons, it is imperative that departments around the country videotape interviews and interrogations from the reading of Miranda rights until the end.



A recording is particularly essential when the person being interrogated is a juvenile. The Wisconsin Supreme Court, for instance, has required all juvenile interrogations to be recorded in their entirety, when feasible, because of the particular vulnerabilities of juveniles during interrogations. (In the Interest of Jerrell C.J., 2005.) The same reasoning holds true in every jurisdiction.

Rules mandating the electronic recording of interrogations exist in 16 states, and the District of Columbia and nearly every other state is currently considering legislation. In addition, with the proliferation of reality crime television, the public and juries expect to see electronic recording at every trial.

Oregon Note: The 2019 Oregon Legislature amended ORS 133.400 by separating the recording of custodial interviews of juveniles into its stand-alone statute (133.402). Effective Jan. 1, 2020, electronic recording is now required:

- Whenever an officer conducts a custodial interview of a juvenile **while inside** a law enforcement facility in connection to an investigation into a misdemeanor or a felony.
- Whenever an officer conducts a custodial interview of a juvenile **anywhere outside** of a law enforcement facility, if:
 - The interview is in connection to an investigation into a misdemeanor or a felony, and
 - A video camera is worn upon the officer's person.
- Exceptions for agencies employing five (5) or fewer officers and good cause for not recording are also listed in this statute.

Recommended Best Practices: Investigative Follow-Up

- Confirm the confession indicates first-hand knowledge of guilt.
- All juvenile interrogations should meet the gold standard.
- Ensure the confession is corroborated by objective, physical evidence – not just by statements from other juveniles.
- Don't be fooled by a detailed confession.
 - The vast majority of proven false confessions contained a surprising number of accurate details, but the suspect's knowledge of that information was later shown to be the result of interrogators' disclosure of those details during questioning.

Legitimacy & Procedural Justice

BASIC POLICE ACADEMY





Legitimacy and Procedural Justice

Instructional Goals:

This course is designed to:

1. Introduce a new officer to the concepts of police legitimacy and procedural justice.
2. Develop a new officer's understanding of why legitimacy is a critical component of trust and confidence in the police.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Summarize the concept of police legitimacy.
2. Identify the four pillars of procedural justice.
3. Explain the importance of procedural justice in attaining legitimacy.

Content Outline:

- Legitimacy
 - Legitimate vs. Legal
- Procedural Justice
 - Respect
 - Voice
 - Neutrality
 - Trustworthy
- Perception versus outcome
- The Bank Account



In-Class Activity- A Fair Wage Exercise

You are a farmer in a local community. It is near the end of your apple harvest, and you are struggling to find workers to finish your harvest. You come across three workers who offer to work for you. You tell the three you will pay them a “fair wage” at the end of the day for their work.

At the end of the day, you take your harvested apples, 40 bushels, to the market, and are able to sell them netting \$1500 (after you pay yourself, cover expenses, etc.). You are left with \$1500 to disperse amongst the three workers as you see fit.

Read the below work descriptions and then indicate how much you would pay each worker. Be prepared to discuss and support your answer.

John Smith: John showed up for work on time and ready. John worked really hard throughout the morning, picking 18 bushels of apples. At lunch, John went to eat with some friends nearby. When John returned from lunch, he was noticeably drunk. John spent the afternoon wandering the orchard and barely managed to pick two more bushels of apples. John also lost the keys to the truck, causing the entire work crew almost to be late to the market with the apples.

Bob Jones: Bob is your brother-in-law. You have not always seen eye to eye as Bob can be lazy at times. Bob worked moderately throughout the day, picking 15 bushels of apples. Bob found plenty of time to stop work and play on his cell phone. At the end of the day, Bob notices there are still apples to be picked and offers to help out another day if the wages for today’s work are “fair enough.”

Mark Anderson: Mark shows up with his hand in a bandage. Mark tells you he recently broke his hand at his other job and was laid off because of the injury. Mark works as hard as he can, but his injury has obviously held him back as he only picked 5 bushels of apples. On the ride to the market, Mark tells you about his family and how they are currently staying at the local church due to losing their home. Mark says he intends on taking half of his wages and donating it to the church as the pastor has so far refused to take any money in compensation for him staying there. Mark thanks you profusely for giving him the chance to earn some money to help support his family and give back to those who have helped him.

Wage Disbursement:

John Smith: \$ _____

Bob Jones: \$ _____

Mark Anderson: \$ _____



People obey the law when they believe it is fair. People accept police authority when they believe police are fair. For the police to do their job, the public must perceive the police as a legitimate authority.

Legitimacy

Reflects the belief that the police ought to be allowed to exercise their authority to maintain social order, manage conflicts, and solve problems in their communities. Legitimacy is reflected in three ways:

- 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) **The 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 morals, principles, and values or at least being able to be justified as appropriate with support regarding the circumstance.



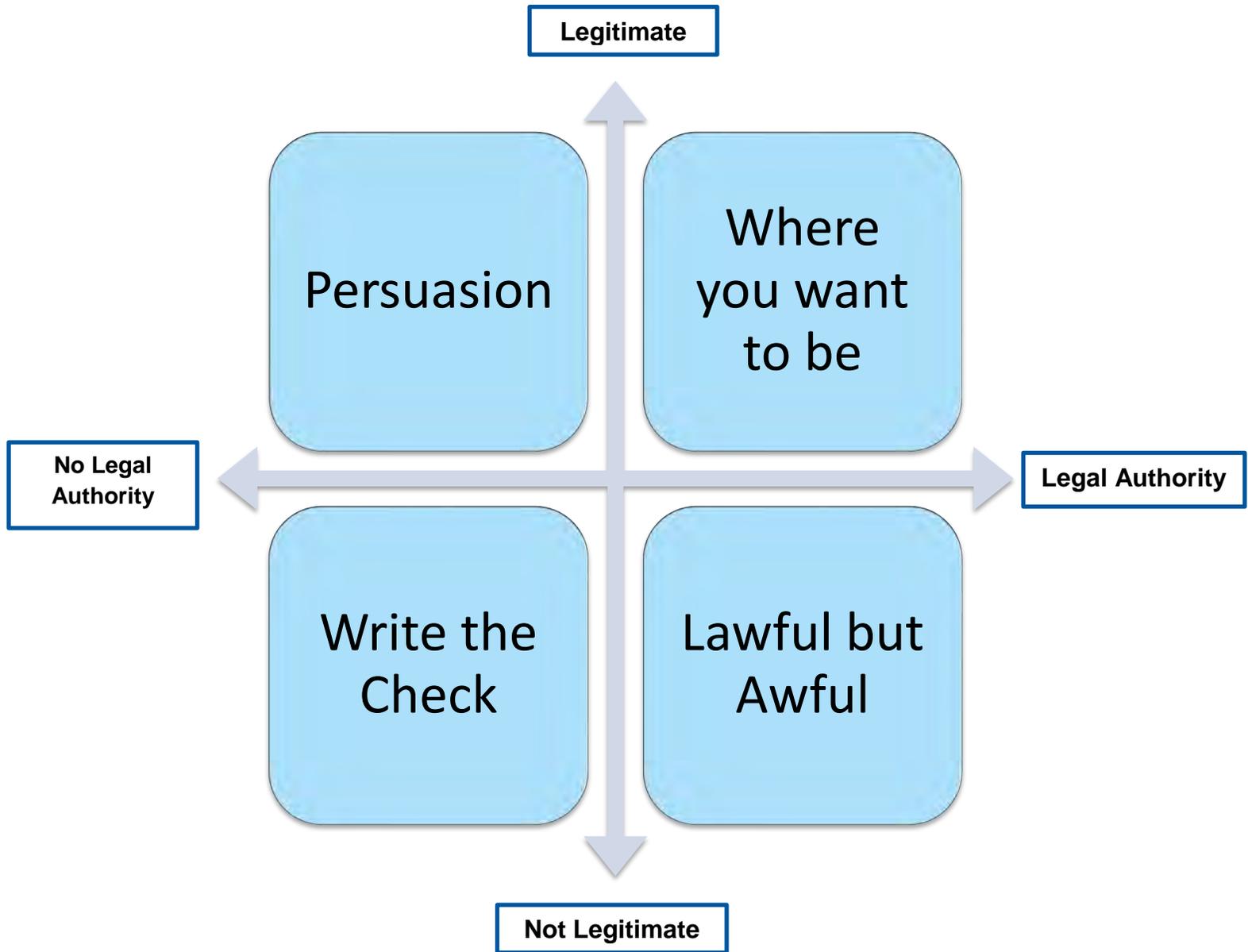
Legitimate vs. Legal

The concepts of “legitimacy” and “legality” may be confused or even considered interchangeable by some people, but they are not the same thing.

Lawful is compliance with laws/ordinances, rules and regulations, and court rulings and decisions. Determining if a police behavior is lawful is generally easier – we have been taught to look at behavior and determine if it falls within any prohibited behavior. These decisions are more objective, but not entirely so.

Legitimacy is a little more complicated because it is based on a belief – a belief that the police acted fairly (decision making) and treated them fairly (quality of treatment). Legitimacy refers to the judgments that ordinary residents make about the authority of the police to make decisions about how to enforce the law and maintain social order.

Legitimacy	Legality
Legitimacy lies within the perceptions of the public.	Lawfulness is complying with laws, rules, regulations, court rulings, and decisions.



See the following table for a description of each box.



<p>The upper left quadrant, these are actions by the police that reinforce community norms, or community wants, even if they are not lawful.</p> <p>This is the area where police use their authority to gain compliance even when there may be no legal prohibition against the activity (for example, juveniles gathering and loitering in a park). The starting question may be, “did the police even have a right to be where they were?”</p>	<p>The upper right quadrant reflects where the police can be most effective – where their actions comply with the law and are also seen as legitimate by the people because the decisions made are reasonable, and people are treated with respect.</p> <p>Not only are the police actions lawful, but they are making good impartial decisions and treating people with respect.</p>
<p>The lower left quadrant “Write the Check” are the police actions that lead to civil rights suits and damage awards against police officers and police agencies</p>	<p>The lower right quadrant, these are actions where the police behavior may be justified, but in the context, they lose legitimacy, usually through neglecting one or more of the concepts of procedural justice</p>

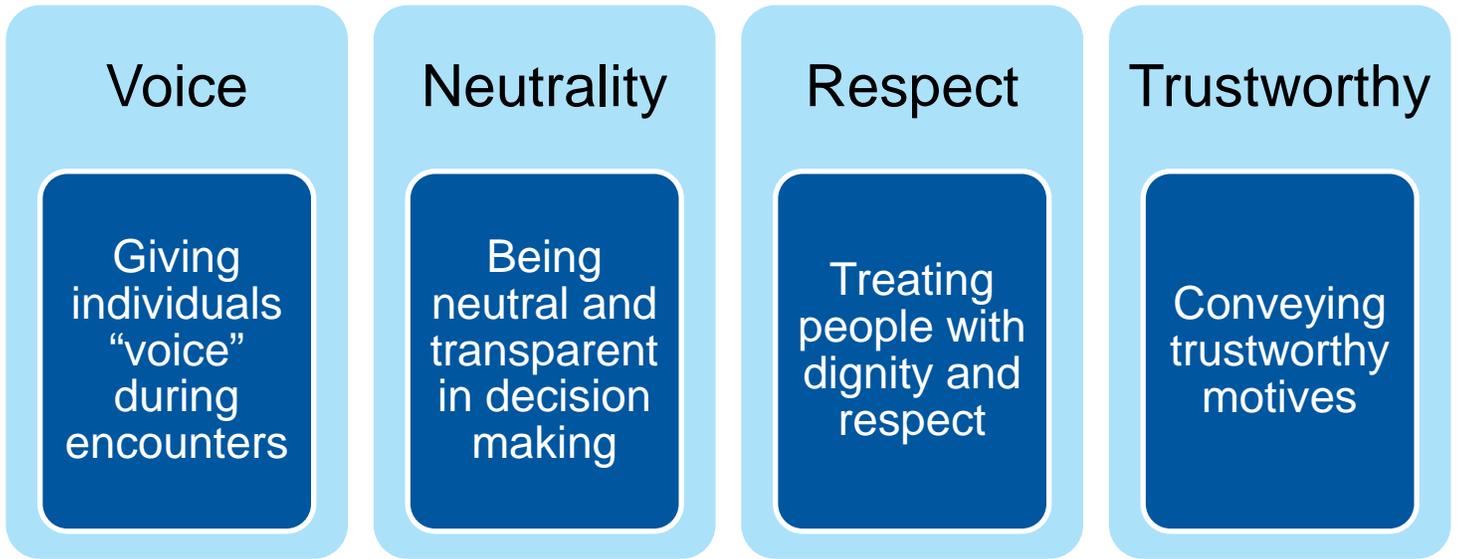
What is justice? Justice is the use of authority and power to uphold what is right, fair, or lawful. So, what is procedural justice? It is the procedures used by police officers where citizens are treated fairly and with proper respect as human beings



Procedural Justice

Can be viewed as a means to attaining legitimacy and can be defined in terms of four components:

- 1) People want to have an opportunity to explain (voice) their situation or tell their side of the story to a police officer. This opportunity to make arguments and present evidence should occur before the police make decisions about what to do.
- 2) People react to evidence that the authorities with whom they are dealing are neutral. This involves officers making decisions based upon consistently applied legal principles and the facts of an incident, not an officer's personal opinions and biases. Transparency and openness about what the rules and procedures are and how decisions are being made facilitate the belief that decision-making procedures are neutral. This helps the police to be seen to be acting neutrally.
- 3) People are sensitive to whether they are treated with dignity and politeness, and to whether their rights are respected. The issue of interpersonal treatment consistently emerges as a critical factor in reactions to dealings with legal authorities. People believe that they are entitled to treatment with respect and react very negatively to a dismissive or demeaning interpersonal treatment.
- 4) People focus on cues that communicate information about the intentions and character of the legal authorities with whom they are dealing (their "trustworthiness"). People react favorably when they believe that the authorities with whom they are interacting are benevolent and caring, and are sincerely trying to do what is best for the people with whom they are dealing. Authorities communicate this type of concern when they listen to people's accounts and explain or justify their actions in ways that show an awareness of and sensitivity to people's needs and concerns.



A citizen's assessment of their police interaction is influenced by both the outcome AND their perception of the process (how they were treated).

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

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

$$O + P = A$$

Research has shown that when the public believes that the police exercise their authority in these procedurally just ways, they accept the legitimacy of the police and defer to police authority, both in particular situations and through a generally increased level of compliance with the law and cooperation with the police. The use of fair procedures encourages voluntary acceptance of police and legal authority, as well as respect for the broader justice system.



Studies suggest that the public is not generally knowledgeable about the law and the legalities of police practices. Hence, the public is not likely to be able to assess the legality of some police practices correctly. Instead, the public evaluates police legality by reacting to how they and others are treated.

A key indicator that police are acting in reasonable and appropriate ways is that they behave professionally. Meaning they make decisions in rule-based, factual ways; they listen to people and obtain necessary information from those involved so that they can make informed and intelligent decisions; and they treat people with dignity and respect. When the police act in these ways, they find the public more deferential to and supportive of their actions and more willing to infer that the police are acting within their authority and to trust that their motives are sincere and caring.

Legitimacy in policing is not a police program, initiative, or set of policies. The concept of legitimacy applies to all police departments. Every department can be said to have a certain degree of legitimacy in the eyes of its residents. That level of legitimacy can be measured, for example, by conducting surveys of the public. Community members decide whether to willingly defer to and accept police decisions and policies, and make their judgments about the extent to which they are willing to work with the police to help them maintain order in the community.

The idea that legitimacy within the community is the basis for a general policing philosophy is not, of course, a novel one in the history of policing. Sir Robert Peel famously argued that “the police are the public and the public are the police.” Peel’s model emphasized the need for the police to have legitimacy within the community they police, recognizing that “the ability of the police to perform their duties is dependent upon the public approval of police actions.”



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. Consider what it means to police in a community where there is an over-abundance of withdrawals.



Develop the mindset that every contact is an opportunity to increase our legitimacy. Are you making a deposit or withdrawal with the way you police?



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Missing Persons Investigations

BASIC POLICE ACADEMY





Missing Persons Investigations

Instructional Goal:

This course is designed to introduce a new police officer to types of missing persons and the different approaches to investigations.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify investigation considerations for various types of missing person cases.
2. List criteria required to initiate an AMBER Alert.

Content Outline:

- Missing Persons
- Missing Vulnerable Adults
- Missing Children
 - Family Abductions
 - Non-family Abductions
 - Runaway
 - Lost, Injured, or Otherwise Missing
 - Missing Children with Special Needs
 - Critically Missing Young Adults
- AMBER Alert
- Additional Resources



This course is intended to be an introduction to the response and investigation of missing persons cases, emphasizing missing/abducted children. While this class provides some investigative steps, the class and this document do not include all the steps that an officer would need to follow.

Missing Persons

The International Association of Chiefs of Police (IACP) provides the following guidance on missing persons: Many missing person reports involve individuals who have voluntarily left home for personal reasons, while other reports are often unfounded or quickly resolved. However, there are many instances in which persons disappear for unexplained reasons and under circumstances where they may be considered at risk. The complaint taker and initial responding officer's roles are critical in identifying the circumstances surrounding missing persons and identifying those persons at risk.

Therefore, agencies should ensure that:

- 1) All reports of missing persons are given full consideration and attention to include careful recording and investigation of factual circumstances surrounding the disappearance, and
- 2) That particular care is exercised in instances involving missing children and those who may be mentally or physically impaired or others who are insufficiently prepared to take care of themselves.

To initiate a successful missing person investigation, the first responder must quickly gather factual information and safeguard potential evidence. This is particularly the case with regard to missing children, whether they be abducted, runaway, or lost. This may also be true of some elderly persons or others who are not fully capable of taking care of themselves because of physical or mental disability or reduced functioning. The elderly, particularly those who have Alzheimer's disease or similar problems, present specific concerns as the subjects of missing persons' reports. Open terrain searches for missing persons in general also require adherence to professionally-accepted search management principles.



Missing Vulnerable Adults

The Oregon Legislature addresses the critical importance of investigating reports of missing vulnerable adults. Finding that:

- The number of people in Oregon with Alzheimer's disease and related dementia is growing. Alzheimer's is a devastating disease that slowly destroys memory and thinking skills and, eventually, even the ability to carry out the simplest daily living tasks.
- Sixty percent of people with Alzheimer's will wander from their homes. Sixty percent of people with Alzheimer's who wander, if not found within 24 hours, die as a consequence of wandering. Eighty percent die if not found within 72 hours.
- Other adults in Oregon, including those with intellectual or developmental disabilities or other conditions, are vulnerable if they go missing as well.

Additionally, the legislature provides for all law enforcement in Oregon to be fully prepared to protect the safety of some of our most vulnerable citizens while providing each police department or sheriff's office with the flexibility to determine what works best in the local jurisdiction.

State Laws Related to Missing Persons Procedures

ORS 181A.300- Establishment and Maintenance of Missing Persons Clearinghouse

- The Oregon State Police shall establish and maintain a missing children and adults clearinghouse that receives from and distributes to local law enforcement agencies, school districts, state and federal agencies, and the general public information regarding missing children and adults.
- The information shall include technical and logistical assistance, pictures, bulletins, training sessions, reports, and biographical materials to help local efforts locate missing children and adults.
- The Oregon State Police shall maintain a regularly updated computerized link with national and other statewide missing person reporting systems or clearinghouses.



ORS 181A.305- Duties of Administrator of Clearinghouse

- Provide information and training to local law enforcement agencies and child welfare agencies, and other state agencies with child welfare duties.
- Appoint an advisory committee consisting of persons with interest and training related to missing children and adults to advise the administrator on the clearinghouse's operation and serve without compensation or expense reimbursement.
- Seek public and private grants and gifts for purposes of the clearinghouse and the duties required by this section.
- Maintain a 24-hour hotline to receive and provide information on missing children and adults.

ORS 181A.310 When Notification of Missing Children Clearinghouse Required

- A member of a law enforcement agency who has probable cause to believe that custodial interference in the first or second degree, or kidnapping in the first or second degree, with respect to a child, has occurred shall notify the Oregon State Police missing children clearinghouse within 24 hours.

ORS 181A.320- Written Policies Relating to Missing Vulnerable Adults Required

- For purposes of this section, a missing vulnerable adult includes, but is not limited to, a missing adult who has:
 - (a) An impaired mental condition, such as dementia;
 - (b) An intellectual or developmental disability; or
 - (c) A brain injury.
- The Department of State Police and each sheriff's office and municipal police department shall adopt written policies relating to missing vulnerable adults that conform to this section's requirements.
- Written policies adopted pursuant to this section shall specify the procedures for investigating reports of missing vulnerable adults to ensure that such cases are investigated as soon as possible, utilizing all available resources.



Missing Children

The following is excerpted from Missing and Abducted Children: A Law Enforcement Guide to Case Investigation and Program Management, available from the National Center for Missing & Exploited Children

It is important for law enforcement officers to understand that all missing children, regardless of the reason they are missing, maybe at risk for violence, victimization, and exploitation.

IACP recommends that law enforcement agencies respond to every report of a missing child as if the child is in immediate danger.

The key to any officer's on-scene initial response is risk assessment, especially when a child is involved. Regardless of the alleged circumstances of a child's taking or retention, it is essential to confirm the child's location and welfare as quickly as possible. The primary responsibility for this task lies with the agency to which the child is reported missing. Once contacted, officers must first ask key questions to determine the level of endangerment facing the child, with the necessary identifying information for both the child and taking party.

When a law enforcement agency receives a missing child's report, there is seldom a clear indication as to whether the child has wandered off or been delayed and will be found in a short time or is instead the victim of foul play. According to a study titled "Law Enforcement Policies and Practices Regarding Missing Children and Homeless Youth," initial information is often insufficient for accurate and unambiguous risk assessment. The absence of sufficient information for clear decision-making requires officers to exercise discretion in their choice of response. The assessment and approach an agency and its officers take during the initial response have profound implications for whether the child is recovered and returned home safely or remains missing for months, years, or worse yet, is never located.



Categories of Missing Children

The National Center for Missing and Exploited Children (NCMEC) uses five categories for missing children, each with different considerations and investigative approaches.

Family
Abductions

Non-Family
Abductions

Runaway
Children

Lost, Injured, or
Otherwise
Missing Children

Critically Missing
Young Adults

Family Abductions

A family abduction involves the taking or keeping of a child by a family member or someone acting on his or her behalf, in violation of one's custodial rights.

Calls for service concerning these cases can appear to be particularly complicated, but, at their core, they involve familiar territory for law enforcement.

- Is a child in danger?
- Is a crime being committed?

They can also vary in their degree of severity, which means officers must know how to sort through often-confusing circumstances efficiently and effectively.

Most importantly, the focus must remain on the real victims, the children at the center of these scenes. They may often live within an environment of domestic discord, in which their parents feel compelled to use them for retaliation, out of desperation, or as a tool of control and manipulation against each other. It is law enforcement's responsibility to ensure, within this context, children are not harmed at the hands of their parents, and criminal action is not taken in relation to their custody.



Confirm as quickly as possible:

**Child's
Location**

**Child's
Welfare**

Key Considerations:

- Physical or mental health conditions
- Potential for violence by abductor such as criminal history, unreported incidents
- Precipitating events such as on-going custody issues, arguments, previous abductions
- Potential for interstate or international flight such as articles taken/left behind, travel tickets

Family abduction involves the violation of a legal right to the care or control of a child by a family member. To determine whether a criminal abduction, illegal taking, or retention of the child has occurred, the investigator must clarify exactly the legal custody situation.

Some State Laws Related to Family Abduction	
<p>ORS 163.245 Custodial Interference in the Second Degree</p>	<p>A person commits the crime of custodial interference in the second degree if, knowing or having reason to know that the person has no legal right to do so, the person takes, entices, or keeps another person from the other person's lawful custodian or in violation of a valid joint custody order with intent to hold the other person permanently or for a protracted period.</p> <p>Class C felony</p>
<p>ORS 163.257 Custodial Interference in the First Degree</p>	<p>A person commits the crime of custodial interference in the first degree if the person violates ORS 163.245 (Custodial interference in the second degree) and:</p> <ul style="list-style-type: none"> (a) Causes the person taken, enticed, or kept from the lawful custodian or in violation of a valid joint custody order to be removed from the state; or (b) Exposes that person to a substantial risk of illness or physical injury. <p>Class B felony</p>



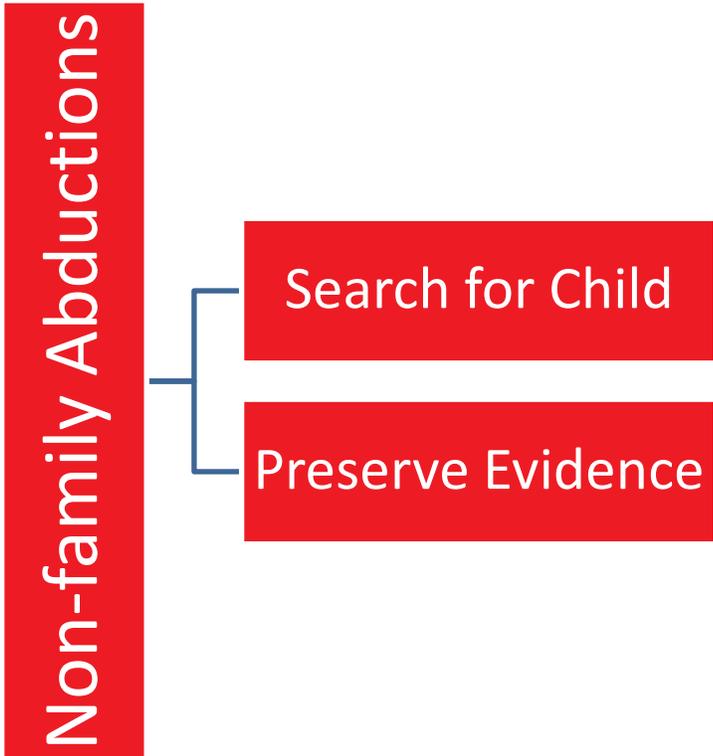
Non-Family Abductions

A non-family abduction involves a child who has been wrongfully taken by a non-family perpetrator through the use of physical force, persuasion, or threat of bodily harm. These cases were previously called stranger abductions; however, abductors of children are sometimes known to the child or family somehow, so that term is no longer used.

According to the U.S. Department of Justice AMBER Alert Best Practices Guide, in nearly 60 percent of the missing children homicide cases studied, more than two hours passed between the time someone realized the child was missing and the time police were notified. In 76 percent of the cases studied, the child was dead within three hours of the abduction, and in 88.5 percent of the cases, the child was dead within 24 hours.

“Time is the enemy”.
-US Department of Justice

These types of calls are the least common, but often children in these cases are in great danger. Investigations may have sparse evidence, few leads, no witnesses, and intense public pressure. A comprehensive tactical plan is essential. Your agency likely has a policy related to these types of calls. If not, NCMEC has a model policy and procedure available at www.missingkids.com.



Unique from other investigations, child-abduction cases require a two-prong approach of searching for the child while also preserving evidence for prosecution. The primary focus should be on safely recovering the child. Consider what outside resources may be needed: K-9, search and rescue, volunteers, etc.



Risk Factors:

- The child is 13 years of age or younger.
- The child is out of what is believed to be the zone of safety for his or her age and developmental stage.
- The child has mental or behavioral disabilities.
- The child is drug dependent, including prescribed medication and/or illegal substances, and the dependency is potentially life-threatening.
- The child has been absent from home for more than 24 hours before being reported to law enforcement.
- The child is determined to be in a life-threatening situation based on available information.
- The child is believed to be in the company of an individual who could endanger his or her welfare based on available information.
- The child is absent in a way inconsistent with his or her established patterns of behavior, and the deviation cannot be readily explained.
- The child is determined to be "at-risk" based on other circumstances involved causing a reasonable person to conclude the child should be considered as such.

NCMEC recommends all non-family abduction investigations include an immediate neighborhood canvas, managing and coordinating information in an information management system, consider the use of polygraphs, establish a command post, set up a hotline, and assign a family liaison.



Some State Laws Related to Nonfamily Abduction	
ORS 163.225 Kidnapping in the Second Degree	<p>A person commits the crime of kidnapping in the second degree if, with intent to interfere substantially with another's personal liberty, and without consent or legal authority, the person:</p> <ul style="list-style-type: none">(a) Takes the person from one place to another; or(b) Secretly confines the person in a place where the person is not likely to be found. <p>Class B felony</p>
ORS 163.235 Kidnapping in the First Degree	<p>A person commits the crime of kidnapping in the first degree if the person violates ORS 163.225 (Kidnapping in the second degree) with any of the following purposes:</p> <ul style="list-style-type: none">(a) To compel any person to pay or deliver money or property as ransom;(b) To hold the victim as a shield or hostage;(c) To cause physical injury to the victim;(d) To terrorize the victim or another person; or(e) To further the commission or attempted commission of any of the following crimes against the victim:<ul style="list-style-type: none">• Rape in the first degree• Sodomy in the first degree• Unlawful sexual penetration in the first degree <p>Class A felony</p>



Runaway Children

A runaway child, often a teenager, leaves home voluntarily for a variety of reasons. This would include any child 17 years of age or younger.

As with other reports of missing children, an initial task is to verify if the child is actually missing. Help ensure nothing is overlooked. For example, have voice and email been checked? Find out if there have been previous instances of running away. Gather additional information from the missing child's friends.

Questions to Consider:

- Has the child been sneaking out at night?
- Has the child been skipping school?
- Have the child's grades fallen?
- Has the child been increasingly tardy?
- Has the child used, or does the child continue to use, prescription medications, over-the-counter medications, alcohol, and/or illegal substances?
- Is the child often tired?
- Is the child suicidal?
- Have the child's friends changed?
- Has the child's personality changed?
- Is the child a cellphone user, and which carrier provides that service?
- Does the child access the Internet, where and when does access occur?
- Has the child received unaccounted for funds or gifts?
- Has the child purchased expensive items with no known or vague funding sources?
- Has the child started dating an older boy or girlfriend?



Lost, Injured, or Otherwise Missing Children

A lost, injured, or otherwise missing child is defined as a child who has disappeared under unknown circumstances or a child who is too young to be considered a runaway appropriately. This ranges from a child wandering off and becoming lost to a child who may have been abducted, but no one saw it happen. These circumstances sometimes involve "foul play," or those reporting the incident may attempt to cover up a crime involving the child.

In addition to the general risk factors as previously listed, consider the following factors:

Physical Risk Factors	Psychological and Behavioral Factors	Physiological Factors	Environmental Factors	Situational Factors
Child's stature Sensory perception (hearing, sight, etc.) Overall health from any short/long term illnesses to injuries, pregnancy, etc.	Mental conditions, including bipolar or depression Drug dependency	Availability of food, nourishment, adequate clothing, transportation, money, other forms of financial support, other caretakers	Weather conditions Terrain or nearby landscape (woods, lakes, streams, rivers) Population density in the community Criminal activity in or near the home or place last seen	Fluency level with primary and other languages used Socio-economic level Exposure to others involved in high-risk behavior Use, manufacture, sale of narcotics Prostitution in the home or other areas of life Sex offenders in the home or other areas of life Exposure to non-family members living in the home Victims of physical or sexual abuse Victim of violence Witness to criminal activity



What, How, and Where to Search

After assessing risk factors and identifying the targeted search/containment area, it should be determined what exactly will be searched. Search any place a child may hide or be hidden by an abductor. Consider the following:

- Dumpsters
- Dryers/washers
- Freezers
- Vehicles/trunks
- Boxes, crates, under tarps
- Ponds, pools, septic tanks, bodies of water
- Attics, crawl spaces, basements, roofs, closets
- Ground disturbances, mounds, depressions, leaves, branches, in and under logs and trees, and the areas immediately above those ground disturbances
- Any location where a person could hide a child and not necessarily where a child can hide
- Any location where there are safety hazards
- Any location in which the child likes to play or hang out with friends



Missing Children with Special Needs

The following information is from NCMEC's special needs addendum, located at <http://www.missingkids.org/theissues/autism#overview>

Finding and safely recovering a missing child with special needs often presents a unique and difficult challenge for families, law enforcement, first responders, and search teams. The behaviors and actions of a missing child with special needs are often much different than those of a missing non-affected child.

While the behaviors will differ from child-to-child, missing children with certain special needs may:

- Wander away, run away, or bolt from a safe environment.
- Exhibit a diminished sense of fear causing them to engage in high-risk behavior
- Elude or hide from search teams
- Seek small or tightly enclosed spaces concealing themselves from search teams
- Be unable to respond to rescuers

A special-needs condition may be characterized by debilitating physical impairments, social impairments, cognitive impairments, or communication challenges.

One such cause for these types of impairments and challenges is Autism Spectrum Disorder (ASD). Generally speaking, no two children with ASD are alike. It is also important to note that the chronological age of individuals with ASD is often irrelevant to their functioning level. For example, a 15-year-old may have the cognitive function of a much younger child.

According to a pediatrics study, 49% of children with ASD tend to wander or bolt from safe settings (Anderson et al., 2012). Individuals with ASD are often attracted to water yet have little to no sense of danger. Drowning is a leading cause of death in children with ASD. Children with ASD may also exhibit other interests or fascinations posing similar dangers, such as active roadways/highways, trains, heavy equipment, fire trucks, roadway signs, bright lights, and traffic signals. Because of this tendency, it is vitally important to quickly identify the child's unique interests and create a list of their favorite places. It is imperative first responders talk to the parents, siblings, relatives, caregivers, and others who know the child well to ask for information about interests, fascinations, stimulations, or obsessions when developing search plans and determining where the child may go. This information could provide critical clues leading to a speedy recovery.



Critically Missing Young Adults (Section 5779)

Federal law includes a provision for missing young adults, ages 18, 19, and 20, especially those whose disappearance is out of keeping with their usual behavior pattern. This provision is known as Suzanne's Law. It provides that there shall be no waiting period before a law enforcement agency initiates an investigation of a missing person under the age of twenty-one and reports the missing person to the Department of Justice's National Crime Information Center.

Federal Laws Related to Missing Persons (National Child Search Assistance Act (42 USC § 5779 and 5780))	
<p style="text-align: center;">Sec 5779 Reporting Requirement</p> <p>Each Federal, State, and local law enforcement agency shall report each case of a missing child under the age of 21 to the National Crime Information Center of the Department of Justice.</p>	<p style="text-align: center;">Sec 5780 State Requirements</p> <p>Forbids LEA to establish waiting periods before accepting a missing persons report. Requires immediate entry into LEDS and NCIC within two hours.</p>
State Laws Related to Missing Persons Investigations	
<p style="text-align: center;">ORS 146.177- Procedures for Investigating Missing Persons</p> <p>Requires written policies identifying the procedure for investigating missing persons cases, particularly those involving children, to ensure reports are investigated as soon as possible and utilize all available resources.</p>	<p style="text-align: center;">ORS 146.187 DNA</p> <p>The Law Enforcement Agency shall attempt to obtain a DNA sample when the person has been missing for longer than 30 days.</p>
<p style="text-align: center;">ORS 146.181- Missing Persons</p> <p style="text-align: center;">Requires entry in LEDS and NCIC within 12 hours</p> <p style="text-align: center;">May request from the person making the report, information or material likely to be useful in identifying the missing person or the human remains of the missing person</p> <p style="text-align: center;">May request in writing from any dentist, denturist, physician, optometrist, medical practitioner possessing it such as medical, dental, or other likely physically descriptive information as is likely to be useful in identifying the missing person or the human remains of the missing person.</p>	



America's Missing: Broadcast Emergency Response (AMBER) Alert

AMBER Alerts are activated in the most serious child-abduction cases. An AMBER Alert's goal is to instantly galvanize the community to assist in the search for and safe recovery of a missing child. These alerts are broadcast through radio, T.V., road signs, cellphones, and other data-enabled devices. The AMBER Alert system is being used in all 50 states, the District of Columbia, Indian country, Puerto Rico, the U.S. Virgin Islands, and 27 other countries.

The Oregon State Police Northern Command Center (OSP NCC) is responsible for providing statewide coordination of Oregon's AMBER Alert program. OSP is the designated law enforcement agency that local law enforcement agencies contact to initiate and activate an AMBER Alert based upon the following criteria:

- Law enforcement officials reasonably believe that an abduction has occurred; and
- The child is 17 years or younger; and
- Law enforcement officials believe that the child is in imminent danger of serious bodily harm or death; and
- There is adequate descriptive information available to believe that its dissemination to the public could help locate the child, suspect, and/or suspect's vehicle; and
- The child's name and other critical data elements - including the child abduction (C.A.) and AMBER Alert (A.A.) flags must be entered into the National Crime Information Center (NCIC) system.

To request assistance, agencies should call the OSP NCC at **(503) 375-3555**, which is staffed 24 hours a day, seven days a week. The OSP Southern Command Center (SCC) is the backup center to NCC for AMBER Alert notifications. If NCC is not available, law enforcement agencies can request an AMBER Alert by contacting OSP SCC at **(541) 776-6111**. SCC is also staffed 24 hours a day, seven days a week.

During the initial call intake, patrol officers' first response, and preliminary field investigation, law enforcement is working to obtain, verify, and build the following information about the missing child.



Primary Identifiers

- Name, including nicknames
- Date of birth
- Race
- Gender
- Physical description (height, weight, hair color, eye color, scars/marks/tattoos, clothing last seen wearing)
- Physical anomalies or recognizable physical attributes such as a limp, tick, or physical behavior
- Notable items the child may be carrying, such as a backpack, purse, or comfort item such as a special blanket, doll, or stuffed animal
- Current and realistic photographs, digital images, and videos of the child as he/she looks every day

Caution/Medical Information

- Blood type, if known
- Medical conditions (such as diabetes, asthma, epilepsy)
- Neurological/behavioral conditions (autism, attention deficit hyperactivity disorder, attention deficit disorder)
- Medications the missing child is taking or needs to take (name, type, such as pill, injection, or inhaler) and time last taken, if known
- Known or suspected weapons involved with the child's disappearance or abduction

Additional Information

- Social Security number
- Child's cell phone number and description/location of any other computer or mobile devices the child has or uses
- Email address(es)
- Facebook, Twitter, Instagram, Snapchat, or other social media accounts/screen names; also ask about any online gaming platforms/sites the child uses
- Reasons why the reporting person believes the child is missing
- The child's normal routines and any history of running away
- Any circumstances that may indicate the disappearance was not voluntary, and the child may be in imminent danger
- Name and location of the child's school
- Name and location of the child's dentist and primary care physician, if known
- Name and location/address of any friends the child could be with or could have spoken to at/around the time of the disappearance or abduction



Suspect Information

- Name, including any aliases or nicknames
- Relationship to the missing child (e.g., family member, friend/associate, acquaintance, stranger to the child)
- Race
- Gender
- Physical description (height, weight, hair color, eye color, scars/marks/ tattoos, clothing last seen wearing)
- Physical anomalies or other recognizable physical attributes
- Date of birth
- Vehicle information if one is known or suspected to be used in the crime: color, year, make, model, body (rust, dents, stickers), license/tag, state of tag
- Any known or suspected weapons used/in possession of the suspect
- Criminal history
- Companions or associates the suspect may be with or going to see
- The possible direction of or routes of travel – including any public transit the suspect may be likely to use
- Places the suspect may be going
- Cell phone number
- Email address(es)
- Facebook, Twitter, Instagram, Snapchat, or other social media accounts/screen names
- Any online gaming platforms/sites the suspect is known to use or suspected of using

AMBER Alert should not be used for cases involving runaways, missing children, or child custodial disputes in which there is no evidence of imminent danger of serious bodily injury or death. Additionally, AMBER Alert is also not designed to be used in case of missing adults. Still, it may be appropriate in cases where all other AMBER Alert criteria have been met, and because of disability, the adult's mental functioning is that of a child.



Activating an AMBER Alert

Step 1- Investigation

- A preliminary investigation must be done before requesting AMBER Alert activation. Once the investigation determines that abduction has occurred, activation should be viewed as just one investigation component. Other actions should be taken simultaneously, in accordance with agency child abduction response plans.

Step 2- Request AMBER Alert

- Once it is confirmed that all AMBER Alert criteria have been met, the law enforcement agency will contact the Oregon State Police Northern Command Center (503) 375-3555 to request initiation and approval for AMBER Alert activation.

Step 3- Stand Up Tip Center

- The Tip Center staffing needs to be in process to expedite the transfer of the AMBER telephone Tip-Line number to the activated Tip Center.

Step 4- LEDS BOLO

- Send a statewide Be-On-the-Look-Out (BOLO) Administrative Message (AM) via LEDS to all law enforcement agencies statewide. The text must start with the words "OREGON AMBER ALERT." Include the following information in the message, if available:
 - Name, age, sex, and physical description of the victim
 - Description of clothing
 - Location and time last seen
 - Description of possible suspect(s) and vehicle
 - Last known direction of travel and possible destination
 - Investigating law enforcement agency, investigating officer, and telephone number
- Following is an example of a LEDS BOLO:



AM: ALX
SUBJECT: OREGON AMBER ALERT
ATTN: BROADCAST IMMEDIATELY

THE (LAW ENFORCEMENT AGENCY) IS INITIATING AN AMBER ALERT. THE VICTIM IS JANIE DOE, A 9-YEAR OLD FEMALE JUVENILE. SHE HAS BLONDE HAIR, BLUE EYES, I.S. 4' TALL AND WEIGHS 85 POUNDS. SHE WAS LAST SEEN WEARING A S/SLEEVE RED TOP AND BLACK PANTS. POLICE BELIEVE SHE WAS ABDUCTED THIS DATE AT APPROXIMATELY 2:00 PM, BY A WHITE MALE, APPROXIMATELY 25-35 YEARS OLD, APPROXIMATELY 6'-2"/230 POUNDS, BROWN HAIR WITH A SHORT BEARD AND MOUSTACHE. SUSPECT IS DRIVING A SILVER SUV, LAST SEEN HEADING NORTHBOUND ON ALPHA STREET FROM THE (ABDUCTION LOCATION/CITY) AREA. IF YOU HAVE ANY INFORMATION, PLEASE CONTACT EITHER DETECTIVE SERGEANT JOHN DOE OR DETECTIVE JIM DOE, (LAW ENFORCEMENT AGENCY) AT (503) XXX-XXXX. THIS NUMBER IS FOR INVESTIGATIVE LEADS/INFO ONLY, AND NOT FOR MEDIA INQUIRIES.

Step 5- LEDS/NCIC Entry

- The agency requesting/initiating the amber alert is to enter the suspect information and victim information into LEDS/NCIC.
- If known, enter the suspect's name in the "AKA" moniker field if possible. This will allow cross-reference to the Child Abduction entry before any arrest warrant(s) is entered into LEDS.

Step 6- Obtain Photo of Victim/Suspect

- If possible, obtain a photo of the victim and suspect (and suspect vehicle if applicable) as soon as possible and forward it to the OSP NCC via electronic means (email) as an attachment. The photos may be used for dissemination to the public. The AMBER alert does not require photos, but they have obvious potential for aiding positive identification once disseminated.



SAMPLE AMBER ALERT FIELD CHECKLIST

INCIDENT DATE	INCIDENT TIME	INCIDENT NUMBER	SUPERVISOR APPROVAL BY
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ALL FIVE OF THE FOLLOWING CRITERIA MUST APPLY:

1. Reasonable belief that an abduction has occurred; and
2. The child is 17 years or younger; and
3. Law enforcement officials believe that the child is in imminent danger of serious bodily harm or death; and
4. There is adequate descriptive information available to believe that its dissemination to the public could help locate the child, suspect, and/or suspect vehicle; and
5. The child's name and other critical data elements-including the child abduction (C.A.) and AMBER Alert (A.A.) flags must be entered into the National Crime Information Center (NCIC) system.

Do not use Amber Alert for runaways or parental/custodial abductions unless the child is in danger of imminent bodily harm or death. Consideration should be given not to activate the plan if there is no immediate, specific information for the public to use to assist in the recovery, or there has been an extended period since the disappearance.

- Obtain information to complete the AMBER ALERT EAS Message Form. The alert must contain a description of the child and suspect, the suspect's vehicle, and the abduction details.
- Obtain sworn supervisor approval for initiation request. Supervisor to contact OSP NCC @ (503) 375-3555
- Notify agency PIO or establish immediate media contact person.
- Obtain a recent photo of child/suspect for media and law enforcement broadcast.
- Send LEDS Administrative BOLO Message titled "AMBER ALERT."
- Enter Victim/Suspect into LEDS/NCIC.

Reporting Officer	DPSST #
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Additional Resources

A Child is Missing

- www.achildsmissing.org
- 888-875-2246
- A Child Is Missing, Inc. (ACIM) is a non-profit 501(c)(3) organization. A Child Is Missing Alert Program and Recovery Center assists Law Enforcement Agencies nationwide in the early search and recovery of missing children (often with Autism, Down syndrome), the elderly (often with Alzheimer's disease, dementia), disabled persons, on-campus college students, and other vulnerable populations, in the first hours of their disappearance. ACIM has no jurisdictional restraints. The Alert Program is available to law enforcement 24/7, 365 days a year.

National Center for Missing and Exploited Children (NCMEC)

- 1-800-843-5678
- www.missingkids.org
- The National Center for Missing & Exploited Children is a private, non-profit 501(c)(3) corporation whose mission is to help find missing children, reduce child sexual exploitation, and prevent child victimization. NCMEC works with families, victims, private industry, law enforcement, and the public to assist with preventing child abductions, recovering missing children, and providing services to deter and combat child sexual exploitation.
- Publications:
 - A Child is Missing: Providing Support for Families of Missing Children
 - Investigative Checklist for First Responders
 - Investigative Checklist for Law Enforcement When Helping Unsupervised and Runaway Children
 - Investigative Checklist for Law Enforcement When Responding to Missing Children With Special Needs
 - Long-Term Missing Child Guide for Law Enforcement
 - Missing and Abducted Children: A Law Enforcement Guide to Case Investigation and Program Management



Oregon State Police

- OSP Northern Command Center 503-375-3555
- www.Oregon.gov/osp
- Publication:
 - AMBER Alert Plan Manual

US Department of Justice

- www.amberalert.ojp.gov
- Publications:
 - AMBER Alert Best Practices
 - Amber Alert Field Guide for Law Enforcement Officers
 - Report to Congress on AMBER Alert in Indian Country



INVESTIGATIVE CHECKLIST FOR FIRST RESPONDERS



This Checklist is meant to provide a framework of actions, considerations, and activities that may assist in performing competent, productive, and thorough missing/abducted-children investigations.

First Responder

- Activate patrol-vehicle-mounted video camera, if circumstances warrant, when approaching the scene to record vehicles, people, and anything else of note for later investigative review.
- Interview parent(s)/guardian(s)/person who made the initial report.
- Confirm the child is in fact missing.
- Attempt to verify the child's custody status.
- Identify the circumstances of the missing episode.
- Determine when, where, and by whom the missing child was last seen.
- Interview the individuals who last had contact with the child.
- Identify the child's zone of safety for his or her age and developmental stage.
- Make an **initial assessment**, based on the available information, of the type of incident whether nonfamily abduction; family abduction; runaway; or lost, injured, or otherwise missing.
- Obtain a **detailed** description of the missing child, abductor, and any vehicles used.
- Secure photos/videos of the missing child/abductor, and don't forget photos that may be available on cell phones.
- Evaluate whether the circumstances meet **AMBER Alert™ criteria** and/or other immediate community-notification protocol if not already activated. Discuss plan activation with supervisor.
- Evaluate whether the circumstances warrant requesting the National Center for Missing & Exploited Children®'s (NCMEC) Team Adam. If a Child Abduction Response Team (CART) is in the area, does the child's case meet their activation criteria?
- Relay detailed descriptive information to communications unit for broadcast updates.
- Determine need for additional personnel including investigative and supervisory staff.
- Brief and bring up-to-date all additional responding personnel.
- Identify and separately interview everyone at the scene. Make sure their interview and identifying information is properly recorded. To aid in this process, if possible, take pictures or record video images of everyone present. Video cameras affixed to patrol vehicles may be helpful with this task.
 - Note name, address, home/business phone numbers of each person.
 - Determine each person's relationship to the missing child.
 - Note information each person may have about the circumstances surrounding the missing episode.
 - Determine when/where each person last saw the child.
 - Ask each one, "What do you think happened to the child?"
 - Obtain names/addresses/phone numbers of the child's friends/associates and other relatives and friends of the family.
 - Determine if any suspicious activity or people were seen in the area.
 - Determine if any people were seen who seemed unusual, strange, or out-of-place.
- Continue to keep communications unit apprised of all appropriate developing information for broadcast updates.
- Obtain and note permission to search home or building where incident took place **even if the premises have been previously searched by family members or others**
- Conduct an immediate, thorough search of the missing child's home **even if the child was reported missing from a different location**.
- Seal/protect scene and area of the child's home, including the child's personal articles such as hairbrush, diary, photos, and items with the child's fingerprints/footprints/teeth impressions, so evidence is not destroyed during or after the initial search and to help ensure items that could help in the search for and/or to identify the child are preserved. Determine if any of the child's personal items are missing. If possible, photograph/take videos of these areas.
- Evaluate the contents and appearance of the child's room/residence.
- Inquire if the child has access to the Internet and evaluate its role. Do not overlook activity on social-networking websites and teen chatlines.
- Ascertain if the child has a cell phone or other electronic communication device and obtain the most recent records of their use.
- Extend search to surrounding areas and vehicles, including those that are abandoned, and other places of concealment such as abandoned appliances, pools, wells, sheds, or other areas considered "attractive nuisances."
- Treat areas of interest as potential crime scenes including all areas where the child may have been or was going to be located.
- Determine if surveillance or security cameras in the vicinity may have captured relevant information. This information may be used to help locate the child and/or corroborate or refute witness statements.
- Interview other family members, friends/associates of the child, and friends of the family to determine
 - When each last saw the child.
 - What they think happened to the child.
 - If the child had complained about being approached by anyone.



Motor Vehicle Code

BASIC POLICE ACADEMY





Motor Vehicle Code

Instructional Goals:

This course is designed to introduce the new police officer to statutes in the Oregon Vehicle Code and other special considerations that are relevant to the daily enforcement activities of the patrol officer.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Apply the associated statutes to overall traffic enforcement efforts in a given situation.
2. Identify the three special zones and how they relate to traffic safety.
3. Identify when these special considerations should be used in traffic enforcement

Content Outline:

- Common Traffic Violations
- Citations
- Six Traffic Crimes
- Other Violations



Part 1- Common Traffic Violations

The purpose of this section is to introduce some common traffic violations that will be seen while out on patrol. The list includes the most commonly seen violations while patrolling in both an urban and rural area.

ORS 811.265 Failure to obey a traffic control device

A person commits the offense of driver failure to obey a traffic control device if the person drives a vehicle and the person does any of the following:

- (a) Fails to obey the directions of any traffic control device.
- (b) Fails to obey any specific traffic control device described in ORS 811.260 (Appropriate driver responses to traffic control devices) in the manner required by that section.

A person is not subject to this section if the person is doing any of the following:

- (a) Following the directions of a police officer.
- (b) Driving an emergency vehicle or ambulance in accordance with the privileges granted those vehicles under ORS 820.300 (Exemptions from traffic laws).
- (c) Properly proceeding on a red light as authorized under ORS 811.360 (Vehicle turns permitted at stop light).
- (d) Driving in a funeral procession led by a funeral lead vehicle or under the direction of the driver of a funeral escort vehicle.



ORS 811.111 Violating a speed limit

A person commits the offense of violating a speed limit if the person:

- (a) Drives a vehicle on an interstate highway, except for the portions of interstate highway described in subsection (2) of this section, at a speed greater than 65 miles per hour or, if a different speed is posted under ORS 810.180 (Designation of maximum speeds), at a speed greater than the posted speed.
- (b) Notwithstanding paragraph (a) of this subsection, drives any of the following vehicles at a speed greater than 55 miles per hour on any highway, except for the portions of highway described in subsections (2) to (12) of this section, or, if a different speed is posted under ORS 810.180 (Designation of maximum speeds), at a speed greater than the posted speed:
 - (A) A motor truck with a gross vehicle weight rating of more than 10,000 pounds or a truck tractor with a gross vehicle weight rating of more than 8,000 pounds.
 - (B) A school bus.
 - (C) A school activity vehicle.
 - (D) A worker transport bus.
 - (E) A bus operated for transporting children to and from church or an activity or function authorized by a church.
 - (F) Any vehicle used in the transportation of persons for hire by a nonprofit entity.
- (c) Drives a vehicle or conveyance on any part of the ocean shore in this state at a speed greater than any of the following:
 - (A) Any designated speed for ocean shores that is established and posted under ORS 810.180 (Designation of maximum speeds).
 - (B) If no designated speed is posted under ORS 810.180 (Designation of maximum speeds), 25 miles per hour.



- (d) Drives a vehicle upon a highway in any city at a speed greater than a speed posted by authority granted under ORS 810.180 (Designation of maximum speeds) or, if no designated speed is posted, the following:
- (A) Fifteen miles per hour when driving on an alley or a narrow residential roadway.
 - (B) Twenty miles per hour in a business district.
 - (C) Twenty-five miles per hour in a public park.
 - (D) Twenty-five miles per hour on a highway in a residence district if the highway is not an arterial highway.
 - (E) Sixty-five miles per hour on an interstate highway.
 - (F) Fifty-five miles per hour in locations not otherwise described in this paragraph.
- (e) Drives a vehicle in a school zone at a speed greater than 20 miles per hour if the school zone is:
- (A) A segment of highway described in ORS 801.462 (“School zone”) (1)(a) and:
 - (i) The school zone has a flashing light used as a traffic control device and operated as provided under ORS 810.243 (Operation of flashing light indicating children in school zone); or
 - (ii) If the school zone does not have a flashing light used as a traffic control device, the person drives in the school zone between 7 a.m. and 5 p.m. on a day when school is in session.
 - (B) A crosswalk described in ORS 801.462 (“School zone”) (1)(b) and:
 - (i) A flashing light is used as a traffic control device and operated as provided under ORS 810.243 (Operation of flashing light indicating children in school zone); or
 - (ii) Children are present, as described in ORS 811.124 (Meaning of “children are present” in ORS 811.111).

See subsections 2-12 for specific highway designations.



ORS 811.210 Failure to properly use safety belts

Except as provided in ORS 811.215 (Exemptions from safety belt requirements), a person commits the offense of failure to properly use safety belts if the person:

- (A) Operates a motor vehicle on the highways of this state and is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.
- (B) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while operating on public lands a Class I, Class II or Class IV all-terrain vehicle that is not registered under ORS 803.420 (Registration fees), is not properly secured with a safety belt or safety harness.
- (C) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while operating on public lands a Class II all-terrain vehicle registered under ORS 803.420 (Registration fees), is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.
- (D) Operates a motor vehicle on the highways of this state with a passenger who is under 16 years of age and the passenger is not properly secured with a child safety system, safety belt or safety harness as required by subsection (2) of this section.
- (E) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while riding on public lands in or on a Class I, Class II or Class IV all-terrain vehicle that is not registered under ORS 803.420 (Registration fees), is not properly secured with a safety belt or safety harness.
- (F) Is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child who is under 16 years of age and the child, while riding on public lands in or on a Class II all-terrain vehicle registered under ORS 803.420 (Registration fees), is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.



- (G) Is a passenger in a privately owned commercial vehicle, as defined in ORS 801.210 (“Commercial vehicle”), that is designed and used for the transportation of 15 or fewer persons, including the driver, and the person is 16 years of age or older and is responsible for another passenger who is not properly secured with a child safety system as required under subsection (2)(a), (b) or (c) of this section.
- (H) Is a passenger in a motor vehicle being operated on the highways of this state who is 16 years of age or older and who is not properly secured with a safety belt or safety harness as required by subsection (2) of this section.

As used in this subsection, “public lands” includes privately owned land that is open to the general public for the use of all-terrain vehicles as the result of funding from the All-Terrain Vehicle Account under ORS 390.560 (Uses of All-Terrain Vehicle Account).

To comply with this section:

- (a) A person who is under two years of age must be properly secured with a child safety system in a rear-facing position.
- (b) A person who weighs 40 pounds or less must be properly secured with a child safety system that meets the minimum standards and specifications established by the Department of Transportation under ORS 815.055 (Rules establishing standards for safety belts, harnesses and child safety systems) for child safety systems designed for children weighing 40 pounds or less.
- (c) Except as provided in subsection (3) of this section, a person who weighs more than 40 pounds and who is four feet nine inches or shorter must be properly secured with a child safety system that elevates the person so that a safety belt or safety harness properly fits the person. As used in this paragraph, “properly fits” means the lap belt of the safety belt or safety harness is positioned low across the thighs and the shoulder belt is positioned over the collarbone and away from the neck. The child safety system shall meet the minimum standards and specifications established by the department under ORS 815.055 (Rules establishing standards



for safety belts, harnesses and child safety systems) for child safety systems designed for children who are four feet nine inches or shorter.

- (d) A person who is taller than four feet nine inches must be properly secured with a safety belt or safety harness that meets requirements under ORS 815.055 (Rules establishing standards for safety belts, harnesses and child safety systems).
- (e) Notwithstanding paragraphs (b) and (c) of this subsection, a person who is eight years of age or older need not be secured with a child safety system but must be properly secured with a safety belt or safety harness that meets requirements under ORS 815.055 (Rules establishing standards for safety belts, harnesses and child safety systems).

Lane Departure

ORS 811.370 Failure to drive within lane

Except as provided in subsection (2) of this section, a person commits the offense of failure to drive within a lane if the person is operating a vehicle upon a roadway that is divided into two or more clearly marked lanes for traffic and the driver does not:

- (a) Operate the vehicle as nearly as practicable entirely within a single lane; and
- (b) Refrain from moving from that lane until the driver has first made certain that the movement can be made with safety.

ORS 811.380 Improper use of center lane

A person commits the offense of improper use of the center lane on a three-lane road if the person is operating a vehicle upon a roadway divided into three clearly marked lanes for traffic with two-way movement of traffic permitted on the roadway and the person operates the vehicle in the center lane under any circumstances other than as permitted under the following:

- (a) The driver may drive in the center lane when the center lane is allocated exclusively to traffic moving in the same direction that the driver is proceeding by a traffic control device directing the lane allocation.



- (b) The driver may drive in the center lane when the driver is overtaking and passing a vehicle proceeding in the same direction and the center lane is clear of traffic within a safe distance.
- (c) The driver may drive in the center lane when making a left turn.

ORS 811.350 Dangerous left turn

A person commits the offense of making a dangerous left turn if the person:

- (a) Is operating a vehicle;
- (b) Intends to turn the vehicle to the left within an intersection or into an alley, private road, driveway or place from a highway; and
- (c) Does not yield the right of way to a vehicle approaching from the opposite direction that is within the intersection or so close as to constitute an immediate hazard.

ORS 811.340 Improper left turn

A person commits the offense of making an improperly executed left turn if the person operates a vehicle and is intending to turn the vehicle to the left and the person does not:

- (a) Approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the turning vehicle;
- (b) Make the left turn to the left of the center of the intersection whenever practicable; and
- (c) Except as otherwise allowed by ORS 811.346 (Misuse of special left turn lane), leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

Registration Requirements

ORS 803.455 Failure to renew

A person commits the offense of failure to renew vehicle registration if the registration period for a vehicle registered in the person's name expires and the person does not pay the fee required for renewal of registration.

This section does not apply if the vehicle is no longer required or qualified to be registered in this state when the registration period expires.



ORS 803.560 Improper display of sticker

A person commits the offense of improper display of validating stickers if the person owns or drives a vehicle on which the display of registration stickers provides proof of valid registration and:

- (a) The stickers are not displayed in a manner required by the Department of Transportation; or
- (b) The stickers are displayed on the vehicle after the registration period shown on the stickers.

A person does not commit the offense of improper display of validating stickers if, at the time the conduct described in subsection (1) of this section occurs, the person has proof of registration of the vehicle but has not yet received new registration stickers from the department. The proof of vehicle registration is valid 30 days from the date of issuance. The department shall adopt rules regarding what constitutes proof of vehicle registration under this subsection.

The court shall dismiss any charge under this section if, prior to the court appearance date listed on the citation, the person charged delivers to the clerk of the court named on the citation proof of registration of the vehicle at the time of the violation.

ORS 803.540 Failure to display plates

A person commits the offense of failure to display registration plates if the person operates, on the highways of this state, any vehicle or camper that has been assigned registration plates by this state and the registration plates assigned to the vehicle or camper are displayed in a manner that violates any of the following:

- (a) The plate must be displayed on the rear of the vehicle, if only one plate is required.
- (b) Plates must be displayed on the front and rear of the vehicle if two plates are required.
- (c) The plates must be in plain view and so as to be read easily by the public.
- (d) The plate must not be any plate that does not entitle the holder thereof to operate the vehicle upon the highways.



Lighting Requirements

ORS 816.300 Operation of non-standard lighting equipment

A person commits the offense of operation with nonstandard lighting equipment if the person does any of the following:

- (a) Drives or moves on any highway any vehicle equipped with lighting equipment described under ORS 816.040 (Lighting equipment standards) to 816.290 (End load lights) that does not meet the standards required for the equipment under ORS 816.040 (Lighting equipment standards) to 816.290 (End load lights).
- (b) Owns a vehicle or combination of vehicles and causes or knowingly permits the vehicle or combination of vehicles to be driven or moved on any highway when the vehicle or combination is equipped with lighting equipment described under ORS 816.040 (Lighting equipment standards) to 816.290 (End load lights) that does not meet the standards required for the equipment under ORS 816.040 (Lighting equipment standards) to 816.290 (End load lights).

ORS 816.330 Operation without required lighting equipment

A person commits the offense of operation without required lighting equipment if the person does any of the following:

- (a) Drives or moves on any highway any vehicle that is not equipped with lighting equipment that is required for the vehicle under ORS 816.320 (Lighting equipment required for motor vehicles).
- (b) Owns a vehicle or combination of vehicles and causes or knowingly permits the vehicle or combination of vehicles to be driven or moved on any highway when the vehicle or combination is not equipped with lighting equipment that is required for the vehicle under ORS 816.320 (Lighting equipment required for motor vehicles).



ORS 811.507 Operating motor vehicle while using mobile electronic device

Driving	Hands Free Accessory	Mobile Electronic Device	Using a Mobile Electronic Device
<p>Driving means operating a motor vehicle on a highway or premises open to the public, and while temporarily stationary because of traffic, a traffic control device or other momentary delays.</p> <p>Driving does not include when the motor vehicle has stopped in a location where it can safely remain stationary.</p>	<p>Hands-free accessory means an attachment or built-in feature for or an addition to a mobile electronic device that when used gives a person the ability to keep both hands on the steering wheel.</p>	<p>Mobile electronic device means an electronic device that is not permanently installed in a motor vehicle.</p> <p>Mobile electronic device includes but is not limited to a device capable of text messaging, voice communication, entertainment, navigation, accessing the Internet or producing electronic mail.</p>	<p>Using a mobile electronic device includes but is not limited to using a mobile electronic device for text messaging, voice communication, entertainment, navigation, accessing the Internet or producing electronic mail.</p>

A person commits the offense of driving a motor vehicle while using a mobile electronic device if the person, while driving a motor vehicle on a highway or premises open to the public:

- (a) Holds a mobile electronic device in the person’s hand; or
- (b) Uses a mobile electronic device for any purpose.

This section does not apply to a person:

- (a) Who activates or deactivates a mobile electronic device or a function of the device;
- (b) Who is employed as a commercial motor vehicle driver, or as a school bus driver, and is using a mobile electronic device within the scope of the person’s employment if the use is permitted under regulations promulgated pursuant to 49 U.S.C. 31136;
- (c) Who is operating a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the citizens’ or family radio service bands in accordance with rules of the Federal Communications Commission while transporting forest



products, or while operating a vehicle to assist in logging operations, within the scope of the person's employment;

- (d) Who is using a two-way radio device while operating a school bus or school activity vehicle within the scope of the person's employment; or
- (e) Who is using a two-way radio device or operating a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the citizens' or family radio service bands in accordance with rules of the Federal Communications Commission while operating a vehicle owned or contracted by a utility for the purpose of installing, repairing, maintaining, operating or upgrading utility service, including but not limited to natural gas, electricity, water or telecommunications, within the scope of the person's employment.

It is an affirmative defense to a prosecution of a person under this section that the person:

- (a) Used the mobile electronic device to communicate if the person was summoning or providing medical or other emergency help if no other person in the vehicle was capable of summoning help;
- (b) Was 18 years of age or older and was using a hands-free accessory;
- (c) Was driving an ambulance or emergency vehicle while acting within the scope of the person's employment;
- (d) Was a police officer, firefighter or emergency medical services provider and was acting within the scope of the person's employment;
- (e) Was 18 years of age or older, held a valid amateur radio operator license issued or any other license issued by the Federal Communications Commission and was operating an amateur radio;



- (f) Was operating a two-way radio device that transmits radio communication transmitted by a station operating on an authorized frequency within the citizens' or family radio service bands in accordance with rules of the Federal Communications Commission to summon medical or other emergency help; or

- (g) Was using a medical device.

Signaling Violations

ORS 811.375 Unlawful or unsignaled lane change

A person commits the offense of unlawful or unsignaled change of lanes if the person is operating a vehicle upon a highway and the person changes lanes by moving to the right or left upon the highway when:

- (a) The movement cannot be made with reasonable safety; or
- (b) The driver fails to give an appropriate signal continuously during not less than the last 100 feet traveled by the vehicle before changing lanes.

ORS 811.145 Failure to yield to emergency vehicle or ambulance

A person commits the offense of failure to yield to an emergency vehicle or ambulance if an ambulance or emergency vehicle that is using a visual or audible signal in a manner described under ORS 820.300 (Exemptions from traffic laws) and 820.320 (Illegal operation of emergency vehicle or ambulance) approaches the vehicle the person is operating and the person does not do all of the following:

- (a) Yield the right of way to the ambulance or emergency vehicle.
- (b) Immediately drive to a position as near as possible and parallel to the right-hand edge or curb of the roadway clear of any intersection.
- (c) Stop and remain in such position until the emergency vehicle or ambulance has passed.

This section does not relieve the driver of an emergency vehicle or ambulance from the duty to drive with due regard for the safety of all persons using the highway, nor does this section protect the driver of any such vehicle from the consequence of an arbitrary exercise of the right of way granted under this section.



Part 2- Six Traffic Crimes

ORS 811.700 Failure to perform duties of driver when property is damaged

This law is commonly called "Hit and Run." It is always charged as an A Misdemeanor. This law is violated when a driver of a vehicle causes property damage, on any premises open to the public, and refuses to talk to the owner of the damaged property. It also applies to bicycles, skateboards and other conveyances which are not propelled by a motor. This law has three sections, all of which apply to the driver of a vehicle who causes property damage. The first section applies to all crashes involving damage to two or more attended vehicles. The drivers of each damaged vehicles must stay at the scene and exchange their name, address, registration of their vehicle, and insurance information. Insurance exchange is only required if the vehicles involved are "motor vehicles." The second section applies to the driver of a vehicle who damages an un-attended vehicle. This would apply in situations where someone struck a vehicle parked next to the curb or in a parking lot open to the public. These drivers must comply with the same requirements listed above but also provide the absent owner both the driver's and the vehicle owner's name, and a written statement of the "circumstances thereof." This statement must be placed in a "conspicuous place" on the un-attended vehicle. The third section refers to damage caused to stationary property "legally upon or adjacent" to the roadway. In this case the driver must take "reasonable steps" to notify the owner of the stationary property and comply with the same requirements listed above. Additionally, if the driver of the vehicle receives a request to provide their license in all three of these sections, the driver must comply with the request "if" the requested "document" is "available." This law does not require a witness or a driver to report the crash to the police. The law uses the inaccurate word "accident" to describe a vehicular crash. It is inaccurate because an "accident" suggests no one is at fault while a "crash" makes no such suggestion.



ORS 811.705 Failure to perform duties of driver when injury occurs

This law is commonly called "Hit and Run" but differs from ORS 811.700 in that injury is required. It is either charged as a C felony or a B felony. This law is violated when a driver of a vehicle injures someone not in their own vehicle and the at-fault driver flees the scene. It applies on any premises open to the public. There is a defense built into the statute. An at-fault driver may legally leave the scene for three reasons: to receive medical care, to "secure medical care" for someone they injured or to file a police report. If the driver flees for some other reason they violated this statute. The injured person may be a passenger in another vehicle, a driver of another vehicle or any pedestrian. The driver who causes injury must stay at the scene and provide their name, address, registration of their vehicle, and insurance information to either the injured driver or, if the other driver is dead, to a surviving passenger. The same information must be provided to an injured pedestrian. Insurance exchange is only required if the vehicle is a "motor vehicle." This kind of crash must be reported to the police as well. This statute also uses the inaccurate word "accident" to describe a vehicular crash. Again, the inaccuracy is because an "accident" suggests no one is at fault while a "crash" makes no such suggestion.



ORS 813.010 Driving Under the Influence of Intoxicants

This law is commonly called "DUII" in Oregon and "DWI" in many other states. You will cover a substantial amount of information on DUII and DWI later in the academy. This course simply serves as an introduction to this topic.

This law applies on any premises open to the public. Additionally, a driver of a boat or an airplane may be charged with DUII. It is charged either as an A Misdemeanor or a C felony. This law is violated one of two ways. The first is if a driver operates a vehicle "under the influence" of cannabis, a controlled substance or an inhalant. ORS 801.317 lists twenty-three specific inhalants and separately lists any "toxic vapors or fumes" as an inhalant. An impaired driver may be in violation of this statute after consuming these impairing substances alone or in combination. A police officer may consider a driver "under the influence" if the driver's behavior is "adversely affected to a noticeable or perceptible degree." This phrase is from an Oregon Supreme Court Case in 1995 (State v. O'Key). The second way a driver may violate this statute is if a "chemical analysis" shows the driver has .08 percent or more by weight of alcohol in their blood. Since the statute allows only one test for this .08 percent analysis, a police officer should expect to find a driver "under the influence" prior to receiving the confirmation of the arrest decision. Either the driver's blood or breath may be used for this single analysis. Oregon Administrative Rule (OAR) [257-025-0010](#) lists sixteen possible signs of "intoxicant impairment" but does not eliminate other signs. OAR [257-025-0012](#) lists approved Field Sobriety Tests. This second OAR lists both the National Highway Traffic Safety Administration (NHTSA) standardized list of three tests, dating back to 1984, plus another six available to all "sworn police officers." Police officers with additional training may use several more tests. Three more tests may only be used after the officer completes the eight hour, Drugs that Impair Driving (DID) class and another group of tests may only be used after completion of the seventy-two hour Drug Recognition Evaluator (DRE) class. Upon conviction, a driver will be subject to certain mandatory fees, jail time or community service which are required by ORS 813.020. Additionally, plea agreements prior to the conviction are prohibited. Diversion is the only exception to the plea agreement exclusion. The first time a person is charged with DUII, the court may allow diversion, if the driver's behavior does not fall into one of the numerous exclusions. A convicted driver who accepts diversion must first enter a "guilty" or "no contest" plea before a judge but once the driver completes diversion, the criminal conviction for a DUII will not appear on the driver's criminal record. Their driving record will still show the charge but it will be listed as a diversion instead of a conviction.



ORS 811.182 Driving While Suspended or Revoked

This law is usually referred to by its acronym "DWS." It is the criminal version of 811.175. It applies on any premises open to the public. It is charged either as an A Misdemeanor or a B felony. It applies to any driver whose "driving privileges" or their right to apply for "driving privileges" are criminally suspended or revoked. This includes criminal driving outside of the restrictions of a temporary permit or a hardship permit. The suspension or revocation must have been ordered by a judge or by Oregon's Department of Transportation (ODOT). The law only allows a police officer to enforce another state's suspension or revocation if the offense involved "commercial driving privileges." The Department of Motor Vehicles (DMV) is part of ODOT and DMV provides twenty-four hour, electronic access to their driving records. A suspended driver's record will list the level of suspension of "driving privileges." A criminal conviction will not occur if DMV did not first mail notice of suspension to the driver. This is called a suspension packet and must be offered to the court during a trial before a judge can convict a driver for violating this law. ORS 811.180 allows any suspended driver to legally drive if they are doing so to mitigate an actual or threatened injury to either a person or an animal.

ORS 811.540 Fleeing or attempting to elude police officer

Eluding the police under this statute only applies to the driver of a "Motor vehicle." It applies on any premises open to the public. The police officer must be in "uniform," "prominently displaying" a badge and be driving an "official" police vehicle. The police officer may indicate their intent to stop a driver using either a "visual" or "audible" signal. This law specifically lists the officer's hand as a valid "visual" signal. Siren, "emergency light" and voice are also valid indicators of the police officer's intent to stop a driver. The law lists a single defense. A police officer in an un-marked, police vehicle must allow the driver to pick a stop location the driver "reasonably believed was necessary to reach." If the driver flees in their motor vehicle the crime level is a C felony but if the driver chooses to exit their vehicle and flee the crime is merely an A misdemeanor.



ORS 811.140 Reckless Driving

Reckless Driving is always an A misdemeanor and is applicable on any premises open to the public. It refers to any driving behavior that "endangers the safety" of either "persons" or "property." Animals are not listed but are also not excluded. This law refers to ORS 161.085 for the definition of "Recklessly." A person behaves "recklessly" when despite an awareness of a "substantial and unjustifiable risk that the result will occur or that the circumstance exists," the person "consciously disregards the risk." Further, "the risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation." No actual harm or damage must occur for the crime to apply.



Part 3- Other Common Violations

ORS 811.147 Failure to maintain safe distance from motor vehicle

The learning goal is understanding the “move over” law applies to any motorist (EMS or otherwise) that is stopped and is displaying required warning lights or hazard lights, or is indicating distress by emergency flares or emergency signs. The required response is to make a lane change to an adjacent lane or reduce speed from the speed limit / posted speed by at least 5 mph on a highway with two or more lanes in the same direction, and reduce speed by at least 5 mph from the speed limit / posted speed on a two-directional, two-lane highway.

ORS 811.135 Careless Driving

The learning goal of understanding the statute covers operating a motor vehicle in a manner that endangers persons OR property, or that would be **LIKELY** to endanger same. And, the substantial increased penalty for careless driving that results in the serious injury or death of a vulnerable user of a public way defined under ORS 801.608 (pedestrian, highway worker, animal rider, skateboarder, skater, scooter, bicycle, farm tractor/implement of husbandry).

Also, the learning goal of **NOT** citing the operator of a motor vehicle for careless driving if there may be criminal charges pending if the driving resulted in the death of another. There is a legal argument that, although there is no culpable mental state for this traffic violation, an association can be made toward criminal negligence, which is. The District Attorney’s office should be contacted prior to any citations being issued in this case.

ORS 811.365 Illegal U Turn

The learning goal is understanding the locations and distances where U-turns are prohibited.

- intersection with electric signal, unless posted otherwise
- between intersections on a highway within an incorporated city
- any place without visibility within 500 feet in an incorporated city
- any place without visibility within 1000 feet visibility outside a city



ORS 811.193 Smoking, aerosolizing or vaporizing in motor vehicle when child is present

The learning goal is to understand the overall statute with emphasis that enforcement is secondary to a primary stop for a traffic violation or other offense. This is a secondary violation and not a probable cause for a vehicle stop.

ORS 811.315 Failure of slow driver to drive on right

The learning goal is to understand and practically apply this statute when a vehicle is operated at less than the normal speed of traffic at a particular time, place, and conditions when a right hand lane is available for traffic, or as close as practicable to the right-hand curb or edge of roadway. Note that the statute does not mention a speed limit or posted speed.

ORS 811.170 Violation of open container law

The learning goal is to understand the violation generally, and the exceptions to include a vehicle's trunk or other area not normally occupied by the driver or passengers if no trunk is present, and that this statute does not apply to the living quarters of a camper or motor home or to passengers in a common carrier for hire used primarily to carry passengers.

ORS 811.485 Following too closely

The learning goal is to understand the violation generally, and the practical application considering traffic flow, stopping distances, congestion, etc. This statute *may* be applied differently by various jurisdictions through enforcement practices and/or court resultant determinations; check with your agency. The relevance of this statute to collision events should be weighed against the application of Oregon Revised Statute 811.135 / Careless driving.

(For a non-Oregon Revised guidance refer to the Oregon DMV manual. Refer to the 2018-2019 Oregon Driver Manual, Pages 21 – 23 for text and pictures, and instructions to drivers.)

ORS 811.155 Failure to stop for bus safety lights

The learning goal is to understand the violation generally, to include operator overtaking or meeting the school bus operating red bus safety lights from *either* direction, and must remain stopped until the lights are no longer operating.



ORS 815.270 Operating vehicle that is loaded or equipped to obstruct driver

The learning goal is to understand the violation generally, with an emphasis on a pet on the lap of the operator or on the operator's floorboard falling into the category of interfering with the control of the driving mechanism and/or the free, unhampered operation of the vehicle.

Special Considerations

Work Zone - as defined in ORS 811.230

A "highway work zone" means an area identified by advance warning where road construction, repair or maintenance work is being done by highway workers on or adjacent to a highway, regardless of whether or not highway workers are actually present. As used in this paragraph, "road construction, repair or maintenance work" includes, but is not limited to, the setting up and dismantling of advance warning systems.

Work zones are regulated by the Manual on Uniform Traffic Control Devices (MUTCD) which states "The needs and control of all road users (motorists, bicyclists, and pedestrians within the highway, or on private roads open to public travel (see definition in Section 1A.13), including persons with disabilities in accordance with the Americans with Disabilities Act of 1990 (ADA), Title II, Paragraph 35.130) through a TTC zone shall be an essential part of highway construction, utility work, maintenance operations, and the management of traffic incidents."

The MUTCD is approved by the Federal Highway Administration and recognized as the national standard for traffic control on all public roads. It is incorporated by reference into the Code of Federal Regulations at 23 CFR part 655.



Penalty

As established by ORS 811.230 (2) (a) The presumptive fine for a person convicted of an offense that is listed in subsection (3) (a) or (b) of this section and that is committed in a highway work zone is the presumptive fine for the offense established under ORS 153.020 (Presumptive fines).

(b) The minimum fine for a person convicted of a misdemeanor offense that is listed in subsection (3) (c) to (g) of this section and that is committed in a highway work zone is 20 percent of the maximum fine established for the offense.

(c) The minimum fine for a person convicted of a felony offense that is listed in subsection (3) (c) to (g) of this section and that is committed in a highway work zone is two percent of the maximum fine established for the offense.

This section applies to the following offenses if committed in a highway work zone:

- a) Class A or Class B traffic violations.
- b) Class C or Class D traffic violations related to exceeding a legal speed.
- c) Reckless driving, as defined in ORS 811.140 (Reckless driving).
- d) Driving while under the influence of intoxicants, as defined in ORS 813.010 (Driving under the influence of intoxicants).
- e) Failure to perform the duties of a driver involved in an accident or collision, as described in ORS 811.700 (Failure to perform duties of driver when property is damaged) or 811.705 (Failure to perform duties of driver to injured persons).
- f) Criminal driving while suspended or revoked, as defined in ORS 811.182 (Criminal driving while suspended or revoked).
- g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540 (Fleeing or attempting to elude police officer).

When a highway work zone is created, the agency, contractor or company responsible for the work may post signs designed to give motorists notice of the provisions of this section.



STATE OF OREGON
 DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
 Basic Police

(a)	(b)	(c)	(d)	(e)
2018 Schedule of Fines on Violations (SOF-18)	Presumptive Fine	Minimum Fine [153.021]	Maximum Fine (Individuals) [153.018(2)]	Maximum Fine (Corporations) [153.018(3)]
Standard [153.019]				
(1) Class A violation	\$440	\$225	\$2,000	\$4,000
(2) Class B violation	\$265	\$135	\$1,000	\$2,000
(3) Class C violation	\$165	\$85	\$500	\$1,000
(4) Class D violation	\$115	\$65	\$250	\$500
<i>*Local Surcharge Counties (example: Multnomah, Jefferson) add \$5 to fine amounts in each column (traffic offenses and parking only).</i>				
Traffic Violation in Special Zone [153.020]				
(5) Class A violation	\$875	\$225	\$2,000	\$4,000
(6) Class B violation	\$525	\$135	\$1,000	\$2,000
(7) Class C violation, speed only	\$325	\$85	\$500	\$1,000
(8) Class D violation, speed only	\$225	\$65	\$250	\$500
<i>*Local Surcharge Counties (example: Multnomah, Jefferson) add \$5 to fine amounts in each column (traffic offenses and parking only).</i>				

Officer in Court & Mock Trial

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATKINS 1960-1966
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY NEED



Officer in Court

Instructional Goal:

This course is designed to:

1. Introduce a new officer to courtroom basics, including types of proceedings, and the role of the officer and other parties in proceedings.
2. Develop a new officer's ability to provide courtroom testimony.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Articulate the role of the officer in various court proceedings.
2. Demonstrate basic courtroom testimony skills.

Content Outline:

- Court System Review
- Court Participants: Judge, District Attorney, Defense Attorney, Juries
- Criminal Proceedings
- Law Enforcement Testimony: Knowledge of the Facts of the Case; Knowledge of Laws, Policies, and Procedures; Your Character
- Preparing for Court
- Presenting in Court

Remember back to your Introduction to the Justice System class? There you covered the various types of courts. This course will introduce some of the key participants and their various roles, including yours. Before completing academy training, you will have several opportunities to practice testifying in a mock court.



The American Bar Association describes courts as divided into three layers on both the state and federal system.

1. Trial courts- Where cases start
2. Intermediate (appellate) courts- Where most appeals are first heard
3. Courts of last resort (usually called supreme courts) - Which hear further appeals and have final authority in the cases they hear.

Layer	Federal Courts	State Courts
1	Federal District Courts	Circuit Courts County Courts Justice Courts Municipal Courts Specialty Courts: Drug Court, Mental Health Court, etc.
2	U.S. Court of Appeals	Oregon Court of Appeals
3	U.S. Supreme Court	Oregon Supreme Court

This course will focus on circuit and municipal court proceedings, which are likely where you will spend most of your court time.



Court Participants

In a criminal proceeding, there are several primary participants in addition to other professionals working in the court system.



This section will introduce the role of the first five participants: judge, prosecutor, defense attorney, law enforcement (witness), and jurors. Unless otherwise noted, the following participant definitions are from the Cornell Law School Legal Information Institute <https://www.law.cornell.edu/wex/>

The Role of Judges

A judge is an appointed or elected official who decides legal disputes in court.

The American Bar Association describes judges in the following way: Even though he or she works for the state, a judge is not a law enforcement officer. A judge is not a prosecutor. Judges don't arrest people or try to prove them guilty. Judges are like umpires in baseball or referees in football or basketball. Their role is to see that both sides follow the rules of court procedures. Like the ump, they call 'em as they see 'em, according to the facts and law—without regard to which side is popular (no home-field advantage), without regard to who is "favored," without regard for what the spectators want, and without regard to whether the judge agrees with the law.



The Role of the District Attorney/Prosecutor

A District Attorney (DA) is a lawyer who is elected or chosen by local government officials to represent the state government in criminal cases brought in a designated county or judicial district. A DA's duties typically include reviewing police arrest reports, deciding whether to bring criminal charges against arrested people and prosecuting criminal cases in court. The DA may also supervise other attorneys, called Deputy District Attorneys or Assistant District Attorneys. In some states, a District Attorney may be called a Prosecuting Attorney, County Attorney, or State's Attorney. In the federal system, the equivalent to the DA is a United States Attorney. The country has many U.S. Attorneys, each appointed by the president, who supervise regional offices staffed with prosecutors called Assistant United States Attorneys.

The Role of the Defense Attorney

A defense attorney is an attorney representing the defendant in a lawsuit or criminal prosecution. Attorneys who regularly represent clients in civil lawsuits are often called "plaintiffs' attorneys."

The Role of Juries

A jury is a group of people empowered to make findings of fact. During a court trial, the jury decides the truth of disputed facts while the judge decides the rules of law, including whether particular evidence will be presented to the jury.



There are generally two types of juries that you will interact with: grand juries and trial juries (formally called Petit Juries).

Grand Jury	Trial Jury
<p>A group of people summoned to sit on a jury that decides whether to return an indictment. An indictment formally charges a person with committing a crime and begins the criminal prosecution process.</p>	<p>A group of people summoned and sworn to decide on the facts in issue at a trial.</p>
<p>Grand juries convene for a period of one month up to one year, hearing multiple cases. Grand juries are usually reserved for felony cases.</p> <p>The grand jury proceedings are held in private; the suspected criminal actor is usually not present at the proceedings.</p> <p>Criminal prosecutors present the case to the grand jury.</p> <p>The grand jury assesses whether there is an adequate basis for bringing a criminal charge against a suspect (aka True Bill).</p> <p>The grand jury may request that the court compel further evidence, including witness testimony and subpoenas of documents. The grand jury is generally free to pursue its investigations unhindered by external influence or supervision.</p>	<p>The United States Constitution guarantees the right to trial by jury for most criminal and many civil matters.</p> <p>The American Bar Association describes trial juries in the following way:</p> <p>The jury is composed of people who represent a cross-section of the community.</p> <p>The jury listens to the evidence during a trial, decides what facts the evidence has established, and draws inferences from those facts to form the basis for their decision. The jury decides whether a defendant is "guilty" or "not guilty" in criminal cases, and "liable" or "not liable" in civil cases.</p> <p>When cases are tried before a jury, the judge still has a major role in determining which evidence may be considered by the jury. The jury is the fact-finder, but it is left to "find" facts only from the legally admissible evidence. The judge instructs the jury on the legal principles or rules that must be followed in weighing the facts. If the jury finds the accused guilty or liable, it is up to the judge to sentence the defendant.</p>



The Role of Law Enforcement as a witness

Police bear an important role in a court proceeding. A criminal case arrives in court following a law enforcement investigation, arrest, and written report. Many criminal cases do not go to trial due to the defendant pleading guilty as a result of a negotiation between the District Attorney and the defense attorney. As cases proceed through the criminal court, police become involved in multiple ways, including providing testimony.

The Criminal Proceeding

In a criminal proceeding, the state (District Attorney/Prosecutor) has the burden of proof. Through the trial, the state must prove beyond a reasonable doubt that the defendant is guilty. The state will present evidence including direct evidence (confessions, weapons, eyewitness accounts), and circumstantial evidence (the appearance of a crime scene, physical evidence which suggests criminal activity, and testimony suggesting a connection with a crime). What evidence can be admitted is governed by strict rules.

The *Brady v. Maryland* decision and subsequent rulings have made it a duty of all law enforcement agencies to (1) identify and provide to the prosecution any exculpatory material that would have a reasonable probability of altering the results in a trial, or any material that could reasonably mitigate the sentencing of a defendant and (2) any material relevant to the credibility of government witnesses, including but not limited to police officers.

Duty to disclose: The affirmative duty of law enforcement to notify the prosecutor of any exculpatory material. Agencies should consult with their legal advisor to determine if there are any additional applicable notification requirements.

Exculpatory evidence: Evidence that is favorable to the accused; is material to the guilt, innocence, or punishment of the accused; and/or may impact the credibility of a government witness, including a law enforcement officer or other agency employee. Impeachment material is included in the disclosure requirements.

-International Association of Chiefs of Police



The District Attorney will present evidence by calling witnesses to provide testimony. Questions asked of witnesses are called direct examination and may include matters of fact, sometimes opinions, or the identification of documents or other items of evidence. During this process, the defense attorney may make objections based on various rules of evidence. The judge will decide whether to sustain (attorney must re-phrase the question or ask a different question) or overrule (the questioning may continue) an objection. After the District Attorney completes their questioning, the defense attorney may cross-examine the witness. Cross-examination is generally limited to matters that were raised during the direct examination. The purpose of cross-examination is to test the credibility of statements made during direct examination. Defense attorneys may try to reduce the credibility of the witness or the evidence.

After the presentation of evidence, the District Attorney will announce that the case rests. During this time, the defense attorney may ask the judge to make a ruling, such as to dismiss the charges due to the state not adequately proving the case. If the judge makes such a ruling, the proceedings are over. If the charges are not dismissed, the defense attorney is allowed to present evidence by calling witnesses to testify. This follows the same process as described above regarding direct and cross-examination and rules of evidence.

Following the defense presenting their evidence, the District Attorney has the opportunity to present rebuttal witnesses or evidence.

After all evidence has been presented, the case is ready to go to the jury. The proceedings will conclude with each attorney presenting closing arguments summarizing the evidence. The judge will provide instructions to the jurors before releasing them to the jury room to deliberate. After reaching a verdict, the parties reconvene in the courtroom for the decision to be announced. Possible verdicts in a criminal case are guilty and not guilty (acquitted).



Law Enforcement Testimony

Being called to testify in court can be stressful due to the fear of public speaking, a lack of control over the process, the burden to prove guilt beyond a reasonable doubt, and even horror stories from fellow officers. In the article, *Overcoming the Terror of Testifying*, Lexipol states the best way to overcome this anxiety is by being prepared.

Preparation begins long before the court date, with a pre-trial meeting with the District Attorney/Prosecutor. This meeting serves to identify and discuss any weaknesses in the case and how to best address them. At this time, you will go over case reports and evidence to make sure all appropriate materials are provided to the defense. Be sure to familiarize yourself with the case report before this meeting.

Lexipol suggests three areas to prepare against defense attorney "attacks":

Knowledge of the facts of the case	Knowledge of laws, policies, and procedures	Your character
------------------------------------------	---------------------------------------------------	----------------

Knowledge of the Facts of the Case

One of the main areas the defense will attack is your knowledge of the facts in the report. Thoroughly investigating and documenting your incident is key. This is like the open book part of a test. If you have ever taken an open-book test without preparing for it, you may have found yourself scrambling for answers. If you had prepared ahead of time, you probably found yourself breezing through the exam. Prepare for the open-book test by studying the report well enough to know where the answers are located. Additionally, review any relevant video and take notes if necessary. Chances are there is a lot in the video that may spur independent recollections not in the written report.

“You must be the smartest person in the courtroom on the facts about which you are testifying.”
Michelle Heldmyer, FLETC

Source: Lexipol *"Overcoming the Terror of Testifying"* (2019)

<https://www.lexipol.com/resources/blog/overcoming-terror-of-law-enforcement-courtroom-testimony/>



Knowledge of Laws, Policies, and Procedures

When factual attacks are not working for the defense lawyer, they may attack your knowledge of laws, policies, and procedures. When preparing for court, study up on any relevant laws or training you have received in the specific issues surrounding your case. If necessary, take a copy of these laws up to the stand. The defense lawyer may want to examine what documents are taken to the stand. If they walk off with your papers, ask for them back. If there are policy issues relevant to the case, study up on your policy. It is not uncommon for a defense lawyer to get a copy of any relevant policies or training manuals on which you relied, such as impaired driving training manuals.

Remember the three levels of police/citizen interaction: mere conversations, stops (detain), and arrests. Depending on the type of case, some defense lawyers will want to attack your assessment of the type of encounter. When reviewing reports, think in terms of where the interactions shifted from one type of encounter to another.

Source: Lexipol "Overcoming the Terror of Testifying" (2019)

<https://www.lexipol.com/resources/blog/overcoming-terror-of-law-enforcement-courtroom-testimony/>

Your Character

Under Brady, evidence affecting the credibility of the police officer as a witness may be exculpatory evidence and should be given to the defense during discovery. Evidence that the officer has in their personnel file, sustaining a finding of untruthfulness, is clearly exculpatory to the defense.

The concern is with improper, intentional, deceptive conduct that affects an officer's credibility, whether that deceptive conduct consists of lying, making material omissions, or engaging in other unacceptable deliberate actions. Know your agencies policy.

-The Police Chief Magazine



The third area of credibility attack is an attack on your character. Defense lawyers often use open records requests and subpoenas to obtain personnel files. If you have even a slight negative mark in your personnel file, let the prosecutor know early. The prosecutor may be able to get a protective order or limiting instruction if there is no relevance to the case. This will prohibit the defense lawyer from dropping a bomb in the middle of the trial. If a protective order isn't a possibility due to relevance,

“Not only can lies end an officer’s testimony, they can also end his career. Lies on almost any subject – told before or during testimony, under oath or during casual conversation, even during previous divorce proceedings or on social media – could be used to impeach an officer and damage her case.”

Michelle Heldmyer, FLETC

you can discuss with the prosecutor how to get out in front of the issue so as to take the wind out of defense counsel's sails. Remember, what you have put out on social media could possibly show up in the courtroom.

Finally, don't argue with the defense lawyer while on the stand. Most questions will be phrased for a

yes or no answer. Listen carefully to the question. If the question is a compound question or not comprehensible, ask for clarification. Safe answers for cross-examination are "Yes," "No," and "I don't recall." The prosecutor will probably revisit

“You must be credible. At the heart of credibility is truth. Law enforcement witnesses must be fair, objective and impartial throughout all their interactions in court.”

Michelle Heldmyer, FLETC

anything that needs clarification, allowing for explanation if a yes or no answer was inadequate. Treat the defense lawyer like you treat the prosecutor. Nothing can destroy credibility to a jury quicker than being rude to a defense attorney from the stand. Also, don't let the defense lawyer control the pace of questioning, a tactic to get you flustered. This is something you can control by pausing before you answer.

Source: Lexipol "Overcoming the Terror of Testifying" (2019)

<https://www.lexipol.com/resources/blog/overcoming-terror-of-law-enforcement-courtroom-testimony/>



Preparing for Court

Timeline

Upon receipt of a subpoena, carefully review the case file and all reports related to the case. Review and locate physical evidence. Make any necessary copies of tapes, photographs and provide to the District Attorney as requested. Contact the District Attorney immediately with any areas of concern. Be honest and candid.

The week before the trial, contact the District Attorney to confirm court date and times, and discuss areas of special concern. Check the status of physical evidence, who will bring it to court? How will it be handled? Check with your agency and the District Attorney regarding the expectations of your attire for court. Should you wear your agency uniform or a business suit? Appropriate attire will vary by jurisdiction and by type of case.

The day of the trial, dress in appropriate attire looking polished and professional. Arrive early and prepared. Bring a copy of your reports and all physical evidence (photos, tapes, and any other related material).

Preparation

Knowledge of the facts of the case- Be very familiar with the case (elements and witnesses). Review demonstrative evidence if needed. Review all reports and records. Be very familiar with the case dates, times, and specifics. Carefully review all related reports. Contact the prosecutor well in advance if there are any issues with the report.

Knowledge of laws, policies, and procedures- Review any relevant case law if necessary. Know your agency policies and any procedures that could arise.



Presenting in Court

Basic courtroom etiquette includes practices such as turning down radios and cell phones (know your agency policy regarding turning off devices). Notify dispatch of your location if you are working. Keep courtroom conversations to a minimum. Additionally, take off your hat and do not use gum or smokeless tobacco.

On the day of testimony, wait right outside the door, so the bailiff can find you when it is your turn. You may not be the only witness waiting in the hallway. Be aware of persons around you when discussing the case outside the courtroom.

Pay attention and listen for directions from the moment you walk into the courtroom. Walk into the courtroom with confidence and poise and walk to the spot where you will be sworn in without being told where to go and what to do. When the judge enters (or exits) the room, stand to show your respect.

While you are testifying, look at whoever asks you the question, but look at the jury or judge to respond. Position your body on the stand when you first sit down, so you are slightly facing the jury box. Slightly pivot your upper body, not just your head, to get questions and give responses. Maintain eye contact with questioner for brief responses. Maintain neutral eye contact with prosecutor and defense attorney, or you will look biased. Also, look at each juror during testimony. Not through them, not glaring, not glazed, but open and friendly eye contact. Consider that you are talking to them, not at them.

Maintain a professional demeanor at all times. The jury is watching you in the lobby, hallways, elevator, cafeterias, nearby coffee shops. This includes making no reaction to the verdict when it is read.

When you have finished testifying, make sure you are excused before you leave and walk out without comments, gestures, or emotions.



The Federal Law Enforcement Training Center (FLETC) offers this advice on maintaining credibility while testifying:

- Appear calm
- Be patient
- Act mature (regardless of the behavior of others)
- Your body language, tone, and temper should remain the same regardless of who is addressing you
- Avoid absolutes such as "always" and "never."
- If you do not know an answer or understand a word, say so directly and confidently (a simple "I don't know" is an excellent answer). Do not try to bluff or guess.
- Watch the use of police jargon.

Your role in testifying as a witness is to be objective. Leave the advocacy to attorneys. Officers should testify impartially and honestly.

Using Reports and Notes

Should you use a report, notes, or file when testifying, and if so, how? It is recommended to refresh your memory with reports and notes. Do not rely on your memory regarding important details. Review these in advance, but also ask to check the report if you have any doubt as to specifics (dates, times, distances). Put the report in a clean, manila folder to bring with you. Carry the report in your left hand as approach the stand, this allows you to easily raise your right hand during swearing in without an awkward shuffling of papers. Leave the report on the witness table during your testimony. Be careful not to read verbatim from the report unless you are quoting. Keep in mind, you may testify to anything which you have an independent recollection, even if it is not included in the report.



Presenting Physical Evidence

Make sure the evidence is retrieved from evidence storage and brought to court, along with all necessary paperwork attached (chain of custody). Give the evidence to the prosecutor per local procedures and be aware of any evidentiary foundation issues. When testifying, refer to items as "Exhibit #X," not by its common name. Do not display exhibit to jury until directed. Always follow established procedures for the safe and secure handling of evidence.

Presenting Visual Aids

Go over the presentation with the prosecutor in advance. During the trial, wait for permission from the judge to go to the flip chart, electronic presentation, or marker board. Always ensure the jury, the opposing side, and the judge can see the display.

Representing the State's Interests (Presenting your Own Cases)

On some occasions, you will be called upon to represent the "State's" interests in adversarial proceedings without the aid of a prosecutor. This may include traffic violation proceedings and criminal violation proceedings.

On these occasions, it is recommended that you follow the same procedures for court preparation and presentation as outlined above. You may also want to walk through the presentation with a prosecutor beforehand to anticipate certain pitfalls.

Trial rules for violations are governed by ORS 153.240, 153.575, and 153.805 through 153.810. See also ORS 153.083, which provides officers with the authority to present evidence, examine witnesses, and make an argument in these types of proceedings.



Responding to a Disturbance During Court Proceedings

If a disturbance of any sort should arise in the courtroom during your testimony, take steps to get the appropriate and immediate help (radio, panic button, phone). Take necessary actions to protect members of the court, keeping in mind the judge comes first. Follow the judge's instructions about what to do with the person causing a disturbance. Use an appropriate level of force to ensure the safety of the court and carry out instructions of the judge.

Post-trial Issues

A trial may end abruptly by several means, including a mistrial, by a disturbance, through a postponement, or being rescheduled. Following the trial, arrange the return of all evidence. Additionally, debrief with the District Attorney.

Grand Jury

The term grand jury was introduced earlier in this course. How do grand jury proceedings differ from trial court proceedings?

Grand jury proceedings are not held in a courtroom; instead, they are often held in a conference room. In a typical grand jury room, the officer sits next to the District Attorney to facilitate communication during the officer's testimony. The foreperson (presiding juror) sits at the opposite end of the table, and the remaining jurors are seated on sides of the table. Before giving any testimony, the foreperson will swear you in. The defense attorney and their client are not present in the grand jury room.

Similar to a criminal trial, the officer needs to be prepared and bring a copy of the report. Additionally, there is no difference in evidence rules which apply to trials and grand juries. If you wouldn't be allowed to talk about it in the trial, you can't talk about it during grand jury. Examples: invocation, probation/parole status, polygraph, etc. Look to the District Attorney for guidance when grand jurors ask questions that would require commenting on the inappropriate subject matter.

Once all testimony has been given by the officer(s), victim, and witnesses, the grand jury meets privately to determine whether there is sufficient evidence to proceed further (true bill/not true bill).



Additional Tips for Improving Courtroom Testimony (FLETC)

Every witness is different, and each brings their unique personality to the stand. Anyone facing the prospect of testimony should honestly and objectively evaluate themselves, their personalities, and their strengths and weaknesses as a presenter. Personalities can and should shine through because jurors want to know you as a person. No one should attempt to be something they are not. Those who are quiet in nature should not attempt to appear aggressive and vice versa. Jurors could translate this behavior as insincerity. Every personality type has value. Accentuate your strengths.

Work on your presentation weaknesses, too. For example, if you are one to use "word whiskers" such as "I guess" or "I think," or insert "ummm..." or "so..." into sentences, work on eliminating such habits in your everyday conversations. Consider your voice and personal way of communicating. Do you speak softly or loudly? Do you use inflection, or are you monotone? Do you have a natural smirk or smile at inappropriate times? Even more important, if you tend to anger or take offense easily, it may be time for that meditation class.

Not all cross-examinations are angry or even unpleasant. If you have information favorable to the defense, they may be downright jovial. Generally speaking, however, the rule is this: the worse you hurt their client, the harder they will be on you. Please remember, it is not personal. They do not hate you, and often they don't believe you performed your job poorly. They simply have a job to do. Remembering that will help you hold your temper, which is crucial to surviving cross-examination with your credibility intact. Feeling anger, frustration, annoyance, impatience, discouragement, or self-condemnation will show on your face and in your body language, and very quickly will shatter your credibility. Control your emotions until you have completed your testimony. Take a quiet, deep breath or a sip of water if you need a moment.

You can help yourself stay in control by treating defense counsel as your peer, not someone to be feared or scorned. They are not better or more important than you are. Greet them politely when they first address you. Also, consciously set your own pace and voice volume in answering the questions – do not let counsel's speed or inflections dictate your own. Taking control of the tempo of cross-examination will help shift the power to you.



Officer in Court- Mock Trial

Instructional Goal:

This course is designed to:

1. Introduce a new officer to courtroom basics, including types of proceedings, and the role of the officer and other parties in proceedings.
2. Develop a new officer's ability to provide courtroom testimony.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Articulate the role of the officer in various court proceedings.
2. Demonstrate basic courtroom testimony skills.



Proving your Traffic Case

Keys to Success

Be Prepared

Know Your
Case

Be Familiar
with Violation
Location

Don't Be Late

Every Court and every Judge is different. You will need to learn the preference of each court that you testify in and prepare your case accordingly. This may mean adjusting your testimony or gathering additional evidence.

Do not argue with the court, the defendant or witnesses!

Traffic Enforcement Requirements

- Shall be in uniform; or
- Shall conspicuously display official ID card showing officer's lawful authority.
- ORS 810.400

Citation Authority

- May issue citation within or outside jurisdictional authority of officer's government unit
- Committed in officer's presence; or
- There is probable cause to believe violation has occurred based on information from officer observing violation
- ORS 810.410



Violation Restrictions

- May not arrest for a violation
- May stop and detain for traffic violation – reasonably related to traffic violation, ID and issuance of citation
- May make inquiry into circumstances arising from reasonable suspicion of criminal activity

Note taking

- Either in notebook or pink officer's copy of citation
- Includes information not entered on face of citation such as passengers, statements, unusual actions, etc.
- Need to develop own shorthand style
- Whatever you do, take good notes...

Role of Police at Violation Trial

- Present evidence
- Examine/cross-examine witnesses
- Make arguments related to application of statutes, literal meaning of statutes, admissibility of evidence and proper procedures
- ORS 153.083

Case Proof Requirement

- Burden of proof required by the state : The preponderance of the evidence
- In other words: Evidence which is of greater weight often determined by opportunity for knowledge, information possessed and manner of testimony

Judicial Individuality

Each Judge utilizes his/her own knowledge and/or interpretation of the law, personal experience coupled with all the evidence presented, from both sides, to render a decision. Each Judge is Different!



Trial Preparation

- Be familiar with your case prior to trial: that means you need to review your notes
- Know the statute pertaining to your case
- Dress professionally
- Be prepared to present your case in chronological order
- Don't argue with the defendant or Judge
- Integrity if you most important asset!

Speed Cases

Basic Testimony

- Name, title and agency (i.e., John Smith, Officer, Salem PD)
- Date and time
- On duty, in uniform
- In marked (agency name) patrol vehicle
- Location and venue (On US Hwy 97, MP 1346 located in Deschutes County)
- What were you doing at the time? Describe it (parked, driving – which direction, etc.)

Radar

- Operating – Name and model of Radar Unit
- Radar training
- Moving mode or stationary mode?
- When was it “checked” for calibration (beginning and end of shift or use) some courts prefer you to describe the “check” using tuning forks.
- What were the results of the “check”?
- What was posted speed and where?
- What did you observe that brought the vehicle's attention to you? (estimated speed above posted, passing other vehicles, several lane changes)
- Any unsafe conditions in the area? (roadway, weather, pedestrians, bicycles, other vehicles, construction, school)
- Any obstruction to view



- Other posted traffic signs
- Vehicle position just prior to Radar reading
- Any obstructions in between you and other vehicles
- Obtain Radar reading of _____
- Tracking history of defendant vehicle
- Location of traffic stop
- Statements made by defendant
- Citation issued to defendant for _____

Unsafe Condition Considerations

- Weather
- Traffic
- Roadway surface
- Visibility
- Type of area
- Intersections
- Driver attention
- Vehicle condition
- Any other conditions

Lidar

- Similar to Radar cases
- Only operated in stationary position
- Accuracy check difference
- Additional distance reading
- Beam width difference
- Tracking history difference

Pace

- Similarities to Radar / Lidar cases
- Use of multiple speed measuring devices (Calibrated Speedometer, Dash Mounted Radar)
- Maintaining consistent distance
- No set pacing distance (6-7 second pace @ 70 MPH = 1/8 mile)
- Pace from behind or adjacent lane



Keep in Mind

- Integrity is everything
- When in doubt, Do Not Stop & Cite
- If you don't know, Say So
- If you don't remember, Say So
- Trying to win a case at all costs is not an option

INTEGRITY IS EVERYTHING!

Problem-Oriented Policing

BASIC POLICE ACADEMY





Problem-Oriented Policing

Instructional Goal:

This course is designed to develop a new officer's problem-solving skills in relation to addressing community problems.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify the steps of the SARA model.
2. Apply problem-oriented policing strategies to a given circumstance.

Content Outline:

- Role of the Police- Service Delivery, Order Maintenance, Law Enforcement
- Problem-Oriented Policing Defined
- History and Development of Problem-Oriented Policing
- Why Problem-Oriented Policing
- Key Elements of POP
- Problem Solving
- The SARA Model



The Role of the Police

In Roles and Responsibilities, you covered the various roles of police: Service Delivery, Order Maintenance, and Law Enforcement. To meet these objectives, you were introduced to reactive versus proactive policing.

Reactive Policing	Proactive Policing
<ul style="list-style-type: none">• Police respond to citizen calls for assistance• Patrol is routine and unstructured• 911 calls drive police activity• Dispatch section dictates police activity• Emphasis on solving crimes	<ul style="list-style-type: none">• Police seek crime solutions before the crimes occur• Patrol is targeted• Crime patterns drive police activity• Records Management/Research dictates police activity• Emphasis on preventing crimes

The focus of this class is a proactive policing strategy called Problem-Oriented Policing or POP.

The terms problem-oriented policing and problem-solving are often used interchangeably, but are actually different. The term problem-oriented policing describes a comprehensive framework for improving the police's capacity to perform its mission. Problem-oriented policing impacts virtually everything the police do, operationally as well as managerially. Problem-oriented policing focuses, one-by-one, on specific problems of crime and disorder to identify and alter the particular factors giving rise to each problem.

The term problem-solving more accurately describes the mental process that is at the core of problem-oriented policing. Problem-solving models like SARA and CAPRA were created to express this mental process.

SOURCE: Scott, Michael (2000). Problem-Oriented Policing: Reflections on the First 20 Years. Washington, DC. U.S. Department of Justice, Office of Community Oriented Policing Services.

<http://www.popcenter.org/Library/RecommendedReadings/Reflections.pdf>



History and Development of Problem-Oriented Policing

In 1979, Herman Goldstein developed and advanced the concept of "problem-oriented policing," which encouraged police to begin thinking differently about their purpose. His idea was that policing should fundamentally be about changing the conditions that give rise to recurring crime problems and should not merely be about responding to incidents as they occur or trying to forestall them through preventive patrols.

Goldstein suggested that problem resolution constituted the true, substantive work of policing and advocated that police identify and address root causes of problems that lead to repeat calls for service. POP required a move from a reactive, incident-oriented stance to one that actively addressed the problems that continually drained police resources.

The core concept for problem-oriented policing was results: the effect of police activity on public safety, including (but not limited to) crime prevention.

SOURCE: Policing for Crime Prevention, Lawrence Sherman

Why Problem-Oriented Policing?

Police deal with a range of community problems, many of which are not criminal. Traditional methods, including arrest and prosecution alone, do not always effectively resolve problems. However, giving officers discretion to design solutions is extremely valuable to solving problems.

Police can use a variety of methods to redress recurrent problems. The problems addressed in POP tend not to be confined to just a few police jurisdictions but are more widely experienced. It is therefore likely that some other agency has tried to solve the kind of problem that you are dealing with now. Or perhaps some researcher has studied a similar problem and learned things that might be useful to your work. You could save yourself a lot of time and effort by finding out what they did and why. In particular, you can learn which responses seemed to be effective and which were not.



Key Elements of POP

According to the Center for Problem-Oriented Policing, there are key elements that make up POP. These elements primarily focus on defining and analyzing problems. In POP, a problem is the basic unit of police work rather than a crime, a case, calls, or incidents. A problem is something that concerns or causes harm to citizens, not just the police. Things that concern only police are important, but they are not problems in this sense of the term.

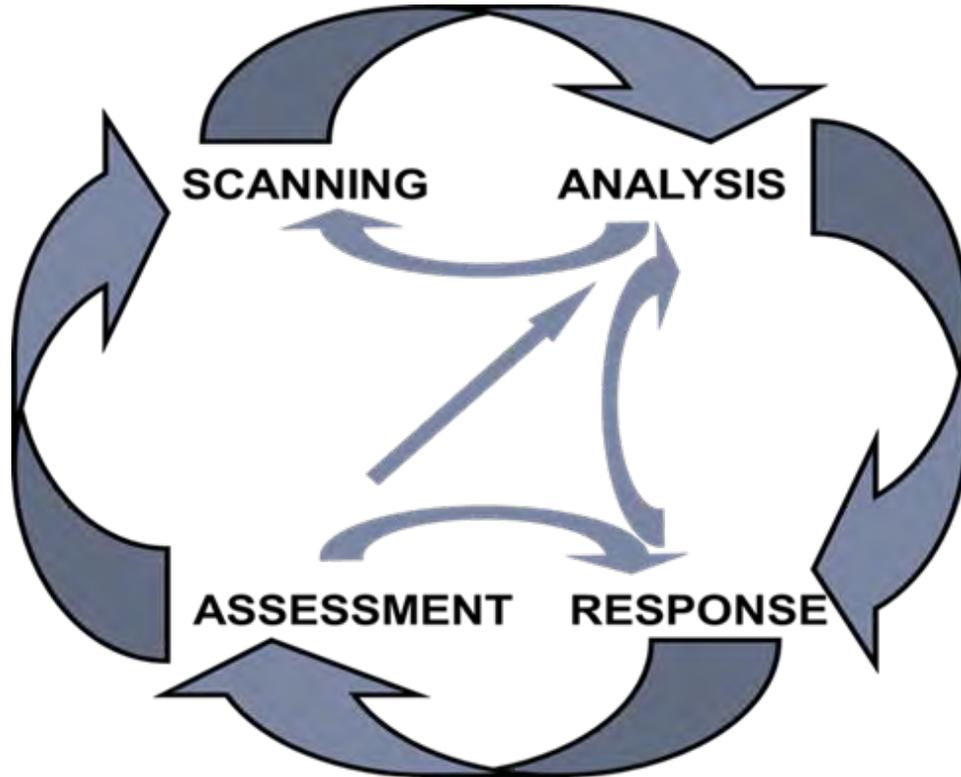
Addressing problems means more than quick fixes: it means dealing with conditions that create problems. Police officers must routinely and systematically analyze problems before trying to solve them. Individual officers and the department must develop routines and systems for analyzing problems. The analysis of problems must be thorough, even though it may not be complicated. Problems must be described precisely and accurately and broken down into specific components. The police must proactively try to solve problems rather than just react to the harmful consequences of problems.

SOURCE: Center for Problem-Oriented Policing, <http://www.popcenter.org/about-keyelements.htm>

Problem Solving- The SARA Model

The SARA acronym refers to the four problem-solving stages of Scanning, Analysis, Response, and Assessment. By dividing the overall project into separate stages, SARA helps to ensure that the necessary steps are undertaken in proper sequence – for example, that solutions are not adopted before an analysis of the problem has been conducted.

Following a model helps prevent the tendency to jump to a solution without first defining the problem.



SOURCE: Clarke, Ronald V., and Eck, John E (2005). Crime Analysis for Problem-Solvers: In 60 Small Steps, U.S. Department of Justice, Office of Community Oriented Policing Services, Washington, DC. <http://www.popcenter.org/Library/RecommendedReadings/60Steps.pdf>

Scanning- Identifying and prioritizing problems

The objectives of scanning are to identify an underlying problem, determine the nature of that problem, determine the scope of the seriousness of the problem, and establish baseline measures. An inclusive list of stakeholders for the selected problem is typically identified in this phase.

Identifying a problem can be difficult in itself. A problem can be thought of as two or more incidents similar in one or more ways, and that is of concern to the police and the community. However, there is nothing magical about the number two. Even a single incident might prompt a broader investigation into an underlying problem if the incident is of sufficient consequence to the community, and there is a high likelihood of future similar incidents. Nor does the mere occurrence of multiple similar incidents automatically constitute a problem. The number of incidents must be both substantial and significant



to warrant defining the pattern as a problem; that is, the number of incidents should exceed some norm or expected occurrence rate.

The common feature among the incidents, moreover, must bear some significance. Exploring the pattern of burglaries committed by males, for example, is not likely to be productive, given that there is nothing remarkable about burglars being male.

SOURCE: Scott, Michael (2000). Problem-Oriented Policing: Reflections on the First 20 Years. Washington, DC. U.S. Department of Justice, Office of Community Oriented Policing Services.

SOURCE: Eck, John E. & Clarke, Ronald V. (2003). Classifying Common Police Problems: A Routine Activity Approach. Crime Prevention Studies; Vol. 16: 7-39.

<http://www.popcenter.org/Library/RecommendedReadings/Reflections.pdf>

Problems can be a type of behavior, a place, a person or persons, a special event or time, or a combination of any of these. The police, with input from the community, should identify and prioritize concerns.

POP is about sharing responsibility for community problems; therefore, appropriate persons must be identified to share in the responsibility. Stakeholders are private and public organizations, types, or groups of people that will benefit if the problem is addressed or may experience negative consequences if the problem is not addressed. These may include:

- Local service/government agencies with jurisdiction or an interest in the problem
- Victims of the problem, or associations representing victims
- Neighbors, coworkers, friends, and relatives of victims or neighborhood residents affected by the problem
- Agencies or people that have some control over offenders
- Commercial establishments adversely impacted by the crime or disorder problem
- National organizations or trade associations with an interest in the problem.



Identify as many stakeholders as possible for the problem selected. Each stakeholder may bring different knowledge and different leverage for impacting the problem to the effort. The more stakeholders that are identified, the more resources you will have to address the problem.

However, some communities have found that the problem-solving effort progresses most efficiently if only two or three stakeholders—a core group—work on the problem throughout the project. Other, more peripheral, stakeholders often have something to contribute at specific stages of the project, but not throughout the entire effort.

SOURCE: U.S. Department of Justice, Office of Community-Oriented Policing Services. (1998). Problem-Solving Tips: A Guide to Reducing Crime and Disorder Through Problem-Solving Partnerships. <http://www.popcenter.org/Library/RecommendedReadings/Tips.pdf>

Scanning consists of:

- Identifying recurring problems
- Prioritizing the problems
- Developing broad goals
- Confirming that the problems exist
- Determining how often the problem occurs and how long it has been a concern
- Selecting problems for closer examination

Analysis

The analysis is the heart of the problem-solving process. The objectives of analysis are to develop an understanding of the dynamics of the problem, develop an understanding of the limits of current responses, establish correlation, and develop an understanding of cause and effect. It is important to find out as much as possible about each aspect of the crime triangle by asking who, what, when, where, how, why, and why not about the victim, offender, and crime location.



Comprehensively analyzing a problem is critical to the success of a problem-solving effort. Effective, tailor-made responses cannot be developed unless you what is causing your problem.

The analysis consists of:

- Identifying and understanding events and conditions that precede and accompany the problem
- Identifying relevant data to collect
- Researching what is known about the problem type
- Taking inventory of how the problem is being addressed and any strengths/limitations of the current response
- Narrowing the scope of the problem
- Identifying resources that may be of assistance in developing a deeper understanding of the problem
- Developing a working hypothesis about why the problem is occurring; is it really occurring?

SOURCE: Slide: <http://www.popcenter.org/about-SARA.htm>

Reasons Why Analysis is Sometimes Overlooked/Skipped:

- The nature of the problem sometimes falsely appears obvious at first glance.
- There may be some tremendous internal and external pressure to solve the problem immediately.
- The pressure of responding to calls does not seem to allow for time for detailed inquiries into the nature of the problem.
- Investigating/researching the problem does not seem like "real" police work
- Supervisors may not value analytical work that takes time but does not produce arrests, citations, or other traditional measures of police work.
- In many communities, a strong commitment to the old ways of handling problems prevents looking at the problem in different ways.

SOURCE: U.S. Department of Justice, Office of Community-Oriented Policing Services. (1998). Problem-Solving Tips: A Guide to Reducing Crime and Disorder Through Problem-Solving Partnerships.



Risky Facilities

Facilities are environments with special functions. Educational facilities involve teaching and study. Industrial facilities produce and process materials. Office facilities process information. Retail facilities include sales and monetary transactions. Some facilities are frequent sites for crime and incivilities. These include taverns, parks, railway stations, payphone booths, convenience stores, and public housing projects. These facilities make a disproportionately large contribution to crime and disorder - they are "risky facilities."

Resources

Although it depends on the problem, the following is a general list of resources for the analysis stage.

- Crime analysts
- Crime analysis/report-writing software
- Mapping/geographic information systems
- Technical assistance
- Resident/business surveys
- Crime environment surveys
- Interviews with victims and offenders
- Systems for tracking repeat victimization

SOURCE: U.S. Department of Justice, Office of Community-Oriented Policing Services. (1998). Problem-Solving Tips: A Guide to Reducing Crime and Disorder Through Problem-Solving Partnerships. <http://www.popcenter.org/Library/RecommendedReadings/Tips.pdf>



Response

The third stage of the SARA model focuses on developing and implementing effective responses to the problem. Before entering this stage, an agency must be sure it has thoroughly analyzed the problem. The temptation to implement a response and "start doing something" before analysis is complete is very strong. But quick fixes are rarely effective in the long-term. Problems will likely persist if solutions are not tailored to the specific cause of the problem.

To develop tailored responses to crime problems, problem-solvers should review their findings of the three sides of the crime triangle—victims, offenders, and the crime location— and develop creative solutions that will address at least two sides of the triangle. They should approach the development of solutions without any preconceived notions about what should be done. Often the results of the analysis phase point police in unexpected directions.

SOURCE: <http://www.popcenter.org/about-SARA.htm>

The goals of the response can range from eliminating the problem, substantially reducing the problem, reducing the amount of harm caused by the problem, or improving the quality of community cohesion.

SOURCE: U.S. Department of Justice, Office of Community-Oriented Policing Services. (1998). Problem-Solving Tips: A Guide to Reducing Crime and Disorder Through Problem-Solving Partnerships.

The response stage includes:

- Brainstorming for new interventions
- Searching for what other communities with similar problems have done
- Choosing among the alternative interventions
- Outlining a response plan and identifying responsible parties
- Stating the specific objectives for the response plan
- Carrying out the planned activities



Remember the list of stakeholders? Try not to limit responses to the police; others may need to be involved and take some responsibility.

Responses should be manageable given the resources, available time, and urgency in solving the problem. A variety of potential responses may be more effective than a single response in some situations.

Assessment- Evaluating the Success of the Response

Assessment attempts to determine if the response strategies were successful by understanding if the problem declined and if the response contributed to the decline. This information not only assists the current effort but also gathers data that build knowledge for the future.

Strategies and programs can be assessed for process, outcomes, or both. If the responses implemented are not effective, the information gathered during the analysis should be reviewed. New information may have to be collected before new solutions can be developed and tested. The entire process should be viewed as circular rather than linear, meaning that additional scanning, analysis, or responses may be required.

The assessment consists of:

- Collecting pre- and post-response qualitative and quantitative data
- Process Evaluation
 - Determining whether the plan was implemented
 - Determining whether broad goals and objectives were attained
 - Identifying any new strategies needed to augment the original plan
 - Better handling of incidents and improved response to the problem
 - Conducting ongoing assessment to ensure continued effectiveness



Positive Impacts on Problems:

- Total elimination of the problem
- Fewer incidents
- Less severe or harmful incidents
- Better handling of the incidents/improved response to the problem
- Removing the problem from police consideration (shifting and sharing responsibilities)
- Diffusion of benefits

Several measures have traditionally been used by police agencies to assess effectiveness. These include numbers of arrests, levels of reported crime, response times, clearance rates, citizen complaints, and various workload indicators such as calls for service and the number of field interviews conducted.

Several of these measures may be helpful to you in assessing the impact of a problem-solving effort, including calls for service related to the problem, changes in the incidence of reported crime, and changes in levels of citizen complaints. Other traditional measures, such as arrests and the number of field interviews conducted, may not be that useful for your problem-solving effort unless these measures can be directly linked to a long-term reduction in the harm associated with the targeted crime problem.

Diffusion of benefits can occur when either the current crime/problem is reduced more widely than expected or when other forms of crimes/problems are reduced even though those crimes/problems were not targeted, to begin with.

SOURCE: U.S. Department of Justice, Office of Community-Oriented Policing Services. (1998). Problem-Solving Tips: A Guide to Reducing Crime and Disorder Through Problem-Solving Partnerships; <http://www.popcenter.org/Library/RecommendedReadings/Tips.pdf>



Problem-solving projects can be complicated. In action research, the team is expected to persist until success is achieved, refining, and improving intervention in the light of what is learned from earlier experiences. The process is not necessarily completed once the assessment has been made. If the problem persists or has changed its form, the team may have to start over. This is represented in the figure where the outer arrows describe the feedback between assessment and scanning.

However, the four problem-solving stages do not always follow one another in a strictly linear fashion. Projects rarely follow a linear path from the initial scanning and analysis stages through the stages of response and assessment.

Instead, the process often has loops so that an unfolding analysis can result in refocusing the project, and questions about possible responses can lead to the need for fresh analyses. The longer and more complicated the project, the more loops of this kind are likely to occur. The set of smaller inner arrows in the figure illustrates this dynamic process.

For example, one might jump from scanning to the implementation of a short-term emergency response to stabilize the problem while further analysis is undertaken. An assessment of the short-term response could add to the analysis and contribute to the formulation of a new response, which is then assessed. This might lead back to scanning as new information forces a revision of the problem definition or the discovery of new problems. The important point is that analysis and evaluation are meaningfully incorporated into the sequence of events, and one does not simply jump from scanning to response and declare victory.

SOURCE: Clarke, Ronald V., and Eck, John E (2005). Crime Analysis for Problem-Solvers: In 60 Small Steps, U.S. Department of Justice, Office of Community Oriented Policing Services, Washington, DC. <http://www.popcenter.org/Library/RecommendedReadings/60Steps.pdf>



Community Policing and Problem-Oriented Policing Together

Historically, many considered these two concepts to be mutually exclusive. Police leaders and academics tend to agree that these concepts overlap in philosophy and practice.

Community policing includes problem-solving as addressed in problem-oriented policing, but it also consists of the development of external partnerships with community members and groups. Additionally, community policing addresses organizational changes that should take place in a police agency designed to support collaborative problem-solving, community partnerships, and a general proactive orientation to crime and social disorder issues. Community policing is, therefore, more focused on police-public interaction than is problem-oriented policing and represents a broader organizational philosophy that incorporates the principles of problem-oriented policing within it.

When done well, community policing provides a strong overarching philosophy in which to engage in POP, but community policing that fails to incorporate the principles of POP within it is unlikely to have a substantial impact on reducing crime.



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Problem-Solving

BASIC POLICE ACADEMY





Problem Solving

Instructional Goal:

This course is designed to enhance a new officer's problem-solving skills.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Describe the stages of the problem-solving process.
2. Analyze a problem and determine the steps necessary to develop a solution.
3. Complete the steps of the problem-solving process to address a police-specific problem.
4. Present solutions to a complex, police-specific problem.

Content Outline:

- Problem Solving Process
- Stages of the Process
 - What is the problem?
 - What do you know?
 - What do you need to know?
 - Use resources & identify possible solutions
 - Act/try the solution
 - Evaluate the solution



Types of Thinking

What is the difference between problem solving and decision making? Both are kinds of complex thinking. Both are part of a law enforcement officer's daily routine. Problem solving can be defined as thinking that results in the solution of problems. It is thinking that moves from the current state to the desired (or goal) state. In contrast, decision making is thinking which results in selecting or choosing one action between alternatives (Nielsen, 2019; Taylor, 2013). You will spend significant time enhancing both skills during academy training.

Problem solving is thinking that results in the solution of problems.	Decision making is thinking which results in a choice between alternative courses of action.
-----------------------------------------------------------------------	----------------------------------------------------------------------------------------------

Both problem-solving and decision-making can be challenging. Problems can vary in complexity, level of abstraction, and how well defined (or not) the current state and the goal state are. Decision making can be complex because one may not have all the information to inform the decision-making process. Additionally, decisions are influenced by our cognitive biases, leading to suboptimal decisions.

Problem-Solving and Policing

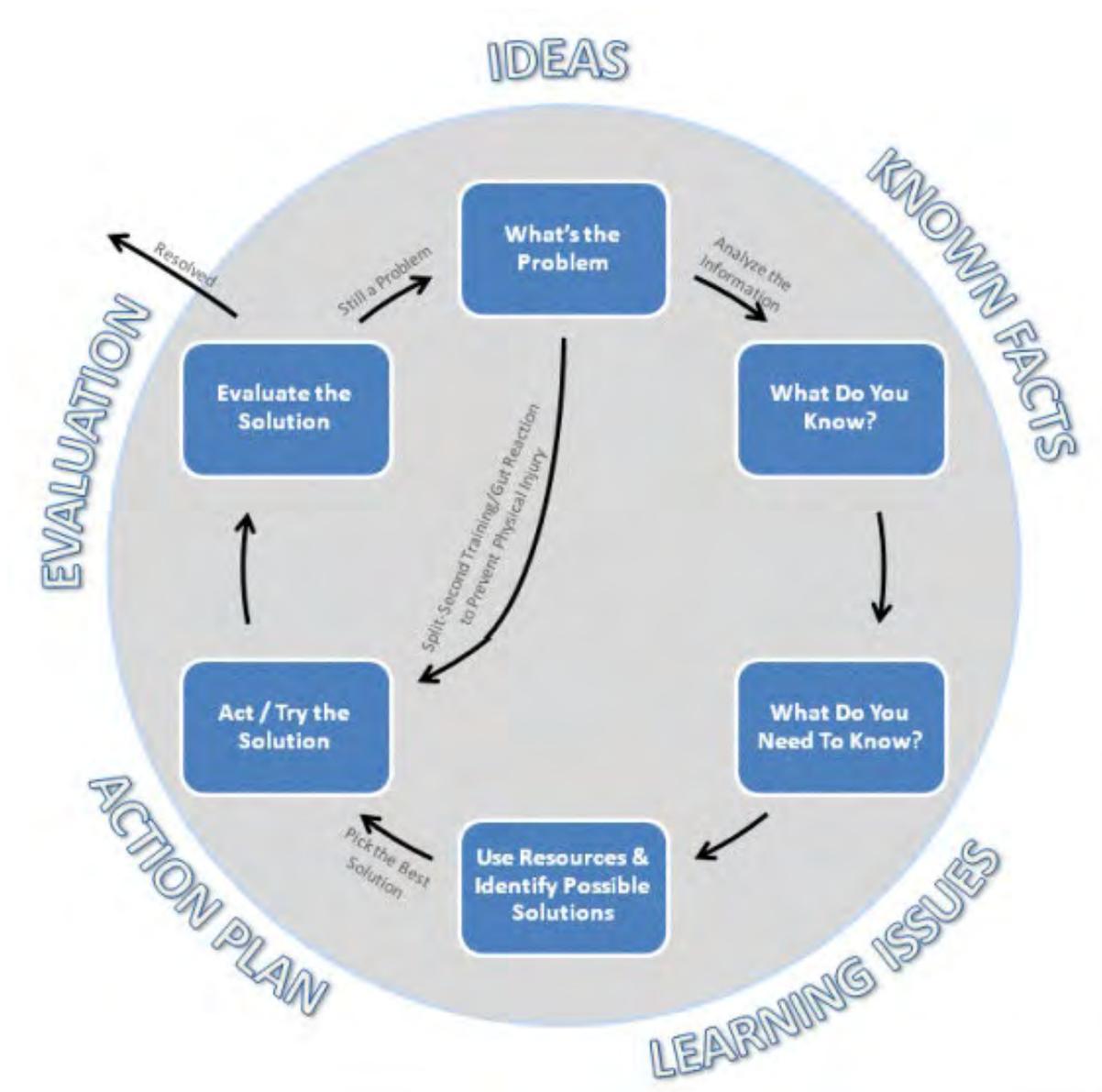
Policing is inherently about problem-solving. A typical day involves numerous problems of varying natures that an officer is expected to solve. Your effectiveness will largely depend on your ability to solve these varying problems. However, the varying nature is not the only complication facing police problem-solving. Time is also a factor. Some problems require immediate, split-second solutions. Others allow time for thought and planning.

A cognitive bias is a systematic error in thinking due to mental shortcuts. These shortcuts are the result of our brain trying to simplify information processing. There are numerous types of cognitive bias, including confirmation bias, or favoring information that matches our existing beliefs and discounting evidence that does not conform.



The Problem-Solving Model

There are many problem-solving models and you will learn several throughout the academy. For example, you will learn the SARA model of addressing crime in a community. Other problem-solving models could include the Fishbone (or Ishikawa) Diagram.





The Steps of the Problem-Solving Model

What is the problem?

What are your first thoughts about the nature of the situation? This step is when problem-solvers identify the scope of the problem. In group work, this step helps everyone get on the same page.

What do you know?

What are the facts? Every problem solver brings experience and knowledge to the table. In this step, an individual or group can brainstorm and share knowledge to define the problem further. These facts come from two sources:

Facts presented by the situation itself	Facts already known by YOU
Time of day Location of the incident Statements made by involved parties etc.	Your knowledge of laws/policies Your understanding of human nature Your experience dealing with similar incidents in the past etc.

What do you need to know?

Are there any pieces of information missing? What do you need to investigate as you move forward? This step is crucial to functional problem-solving. People often attempt to solve a problem based only on what they know at that moment. They don't seek out new information or skills that may be available to them. Problem solvers should always be aware they may not have all the available information or skills or expertise to handle every problem. By realizing what is missing, a problem-solver makes a "shopping list" of information, skills, and expertise. Is there something you'd like to look up before you decide on your "final answer"?



Use resources and identify possible solutions

In this step, as time permits, problem solvers take their list and go “shopping” for those missing pieces of information or skill. They research. They seek additional resources and coordinate with others. They take the initiative and learn self-reliance. A problem solver should say, “How can I figure this out?” instead of “Tell me what to do.”

Act / Try the solution

Now the problem solver or team puts their best option into action. An action plan should meet the following key criteria; is it legal, ethical, and reasonable?

Evaluate the solution

Did it work? Do you need to try it again or try something different? Is the original problem still present? Is there another problem now? If the problem persists or a new one arises, the process returns to Step #1 [What is the problem?] and begins again.

Note

One very unique component of this Problem-Solving Model is the recognition that some “problems” encountered by public safety professionals require immediate action to prevent physical harm to themselves or others. In some emergencies, officers must make quick judgments based on training and instinctual impulse to address a threat quickly, thereby following a direct route from Step #1 [What is the problem?] to Step #5 [Act]. This direct route is only used when there is no time to work through the intermediate steps. After addressing the immediate threat and evaluating, the problem solver should start over at Step #1 and begin to work through the complete problem-solving process.



Procedural Law

BASIC POLICE ACADEMY





Procedural Law 1-3

Instructional Goal: This series is designed to develop a new officer's understanding of the legal authority to carry out duties.

Learning Outcomes:

Upon completion of instruction, student will be able to:

1. Identify different types of encounters and the justification for that interaction
2. Analyze a situation, determine if Miranda applies, and apply when needed
3. Articulate search and seizure authority in a given circumstance
4. Identify the required contents of a search warrant

Content Outline:

Part 1- Types of Encounters

- I. Types of Encounters
 - a. Mere Conversation
 - b. Stop
 - c. Arrest
- II. Stop and Frisk
 - a. Federal Law
 - b. Oregon Law

Part 2- Consular Notification & Miranda

- III. Consular Notification
- IV. Custody Interrogation
 - a. Miranda v Arizona

Part 3- Search and Seizure



Part 1- Types of Encounters and Discretion

In order to help ensure that the laws are applied fairly, there are certain rules and procedures that must be enforced. This set of laws, rules, and procedures is known as procedural law.

These rules are the constitutional and statutory limitations upon the manner in which a criminal suspect may be arrested and convicted and in which evidence may be seized. Everything, from the investigation into a matter, through the trial must follow a specific procedure outlined by law. This is in contrast to “substantive law,” which refers to the actual laws by which a crime may be charged, or which govern how the facts of the case will be accepted and presented.

Procedural law defines how law enforcement can treat suspects, not what activities are illegal.

Police-Citizen Encounters

Encounters between police and citizens are governed by the Fourth Amendment:

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

There are three generally recognized levels of encounters between police officers and citizens:

**Mere
Conversation**
(also called mere or consensual encounters)

Stop

Arrest



Mere Conversation	Stop	Arrest
<p>Mere Conversations are questioning of persons without any restraint of the person's liberty.</p>	<p>A stop is a temporary restraint of a person's liberty by a peace officer lawfully present in any place. A stop is not an arrest. ORS 131.605(7)</p>	<p>Arrest means to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense. ORS 133.005(1)</p>
<p>The officer can ask any question he or she wishes and obtain consent to search the person or person's property. The citizen is free to leave, refuse to answer any questions or be searched, decline to identify themselves and ask the officer to leave their property.</p>	<p>Less than an arrest, but still restrains a citizen's free movement.</p>	<p>The citizen is not allowed to leave.</p>
<p>Requires no justification</p>	<p>Justified by reasonable suspicion</p>	<p>Justified only by probable cause</p>
<p>Example: An officer sees a person walking down the sidewalk and parks nearby (not blocking the person's movements) and asks to speak to the person. The person agrees and they talk.</p>	<p>Example: An officer responds to a bar fight at a local tavern and as the officer approaches the officer notices someone running out who has their clothing in disarray and a cut on their face. The officer says "stop" and begins to talk to the person.</p>	<p>Example: An officer sees a person the officer knows is the subject of an arrest warrant. After the officer confirms the warrant the officer contacts the person and immediately tells the person he/she is under arrest.</p>



Stops

Federal Law	Oregon Law
<p>In <i>Terry v. Ohio</i>, 392 US 1 (1968), the Supreme Court held that an officer may detain suspect based upon a reasonable suspicion that:</p> <ul style="list-style-type: none"> • A crime has occurred; • Is occurring; or • Is about to occur. <p>As to whether or not a police officer may “frisk” a “stopped” person, the Supreme Court held:</p> <p>“Where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the person with whom he is dealing may be armed and presently dangerous,... he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him. Such a search is a reasonable search under the Fourth Amendment, and any weapons seized may properly be introduced in evidence against the person from whom they were taken.”</p>	<p>Definitions for Stop and Frisk. ORS 131.605</p> <ul style="list-style-type: none"> • A <u>stop</u> is a temporary restraint of a person’s liberty by a peace officer lawfully present in any place. A “stop” is not an arrest. • A <u>crime</u> is any offense for which a sentence of imprisonment may be imposed. • A <u>frisk</u> is an external patting of a person’s outer clothing. • A <u>dangerous weapon</u> is any instrument, article or substance that under the circumstances of its use, attempted use or threatened use is readily capable of causing death or serious physical injury. • A <u>deadly weapon</u> is any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury. • <u>Reasonable suspicion</u> means to hold a belief that is reasonable under the “totality of the circumstances” existing at the time and place the officer acts.



- Peace officer has the meaning given that term in ORS 133.005. The current definition is set forth below under “Arrest.”

NOTES:

The officer must be able to point to “articulable objective facts” used in establishing reasonable suspicion.

“Reasonable suspicion” is not the same as probable cause.

An anonymous tip without independent observations by the stopping officer that a crime is occurring or has occurred has been found to lack sufficient reliability to support a stop. State v. Black, 80 Or App 12 (1986)

- Is about to commit means unusual conduct that leads a peace officer reasonably to conclude in light of the officer’s training and experience that criminal activity may be afoot.



Stopping of Person ORS 131.615

- Basis for stop – A peace officer who reasonably suspects that a person has committed or is about to commit a crime may stop the person and, after informing the person that the peace officer is a peace officer, make a reasonable inquiry.
- Detention and inquiry – Shall be conducted in vicinity of stop for no longer than a reasonable time. “Reasonable inquiries” are limited to immediate circumstances arousing officer’s suspicion and other circumstances during detention that give rise to a reasonable suspicion of criminal activity.
 - Note: The “unavoidable lull” doctrine referred to the time necessary, e.g., for an officer to investigate a violation and write the citation without delay. You may hear more experienced officers refer to this. In late 2019, the Oregon Supreme Court effectively did away with this doctrine in *State v. Arreola-Botello*. The impact is this: the issue is not if the inquiry adds additional time to the encounter; *the issue is if the officer’s inquiry was “reasonably related” to the stop (or if the officer had reasonable suspicion to instigate additional “investigative activities” on other matters)*.
 - An officer may ask the driver questions “reasonably related” to investigating the reason(s) for the stop, e.g., the traffic violation(s).
 - However, if an officer wishes to engage in “investigatory activities” (including questions) that are not “reasonably related” to the issues of the original stop, then the officer must be able to articulate reasonable suspicion to do so, i.e., “there must be an independent constitutional justification to [engage in] those activities.” *State v. Watson*, 353 Or 768 (2013).
 - An example of an “investigative activity”: *State v. Sherriff*, 3030 Or App 638 (2020) – An officer stopped defendant for a driving violation. While that officer was investigating the offense, a second officer ran his drug-dog around the vehicle (causing no additional delay). As there was no reasonable suspicion of an offense beyond the traffic violation,



and as this was not “reasonably related” to the initial violation, this was a prohibited “investigative activity”; defendant’s conviction was reversed.

- Safety-related inquiries– ORS 131.615 and ORS 810.410 also authorize officers, during criminal investigation stops and traffic stops, to make an inquiry to ensure “the safety of the officer, the person stopped or other persons present, including an inquiry regarding the presence of weapons.”

So, how do these rules about “reasonably related” and reasonable suspicion for additional “investigative activities” impact a law enforcement officer’s ability to either ask questions about weapons or search for weapons in these situations?

- *Asking questions* about weapons
 - Not permitted to do so as a matter of course or routine, but
 - You are permitted to ask if asking about weapons is “reasonably related” to effectuate an investigation of the basis for the stop, and
 - You are permitted to ask if you can articulate circumstance-specific facts indicating possible danger to you or people in the public, and
 - And you certainly may ask if during your investigation of the initial offense (and your actions in doing so were “reasonably related” to the initial offense) you became aware of facts that give rise to reasonable suspicion of a weapons offense.
- What about conducting a search for weapons?
 - You may search (vs. just ask about weapons) if you can articulate reasonable suspicion that the person “might pose an immediate threat of serious physical injury.”

Without any particularized suspicion, questions may be unlawful if they aren’t related to the reasons for the stop.

These inquiries may be justified, under an appropriate set of facts, by the “officer safety exception.”
(Discussed below under “searches without a warrant”)

- Force used to effectuate stop – The peace officer making a “stop” may use the degree of force reasonably necessary to make the stop and ensure the safety of the peace officer, the person stopped or other persons present.



Frisk of Stopped Persons ORS 131.625

Basis for frisk –	Seizure of weapon –
A peace officer may frisk a stopped person for dangerous or deadly weapons if the officer reasonably suspects that the person is armed and dangerous to the officer or other persons present.	If, in the course of the frisk, the peace officer feels an object which the peace officer reasonably suspects is a dangerous or deadly weapon, the peace officer may take such action as is reasonably necessary to take possession of the weapon.

“Such reasonable suspicion exists where: (1) the container has the physical capacity to conceal a weapon, and (2) under the totality of the circumstances, there was a reasonable suspicion that it did contain a weapon.” State v. Wiggins, 184 Or App 333 (2002) The “officer must hold a subjective belief that the object the officer feels is a weapon and must also state specific and articulable facts to show that belief is objectively reasonable.”

Case Law Example: “Frisk” or “patdown” of stopped person vs. a more significant intrusion

State v. Rudder, 219 Or App 430 (2008)

The Oregon Court of Appeals found an officer was justified in restraining and hand cuffing defendant for the purpose of conducting an officer- safety pat down. Defendant had been stopped in a residential neighborhood in the early morning hours near the area of a residential burglar alarm; He was sweating profusely, had shaky hands and had bulges in his pockets. However, the court found officer- safety concerns did not justify reaching into defendant’s pocket after the pat down did not indicate any weapons and where restraining and cuffing defendant alleviated any potential danger.

In affirming the Court of Appeals ruling, the Oregon Supreme Court noted: “A patdown, because of its limited intrusiveness, is constitutionally permissible if it is based on a reasonable suspicion of a threat to officer safety. But intrusion into a suspect’s clothing requires something more – either probable cause or some greater justification than was present here.” State v. Rudder 347 Or 14 (2009)



Case Law Examples: When is an encounter a “seizure?”

- a) “Only when the content of police questions, the manner of asking them, or other police action would convey to a reasonable person that the police are exercising their authority to coercively detain the citizen does the encounter rise to the level of a seizure.” State v. Backstrand, 354 Or 392 (2013).
- b) “A ‘seizure’ of a person occurs under Article I, section 9, of the Oregon Constitution: (a) if a law enforcement officer intentionally and significantly restricts, interferes with, or otherwise deprives an individual of that individual’s liberty or freedom of movement; or (b) if a reasonable person under the totality of the circumstances would believe that (a) above has occurred.” State v. Ashbaugh, 349 Or 297 (2010).
- c) “The thing that distinguishes ‘seizures,’ that is, ‘stops’ and ‘arrests’ –from encounters that are ‘mere conversation’ is the imposition, either by physical force or through some ‘show of authority,’ of some restraint on the individual’s liberty.” Ashbaugh
- d) An officer stops a person when he or she communicates that he or she is conducting an investigation that “could result in the person’s citation or arrest at that time and place”...A stop occurs “when an officer tells a person that the person has committed a violation or crime.” State v. Morfin-Estrada, 251 Or App 158, rev den 352 Or 565 (2012).



Case Law Examples: Unlawful “prolongation” of scope or duration of stop; the “unavoidable lull.”

State v. Rodgers/Kirkeby, 347 Or 610 (2010)

“In summary, Article I, section 9, and this court's case law establish the following principles that must guide the police in their contact with motorists stopped for routine noncriminal traffic violations. Police authority to perform a traffic stop arises out of the facts that created probable cause to believe that there has been unlawful, noncriminal activity Police authority to detain a motorist dissipates when the investigation reasonably related to that traffic infraction, the identification of persons, and the issuance of a citation (if any) is completed or reasonably should be completed. Other or further conduct by the police, beyond that reasonably related to the traffic violation, must be justified on some basis other than the traffic violation...Police conduct during a noncriminal traffic stop does not further implicate Article I, section 9, so long as the detention is limited and the police conduct is reasonably related to the investigation of the noncriminal traffic violation.”

State v. Raney, 215 Or App 399, mod on recon 217 Or App 470, rev den, 344 Or 671 (2008).

Because the officer asked for consent to search the car while he was awaiting the results of a record check, he did not unlawfully prolong the stop of defendant.

State v. Dennis, 250 Or App 732 (2012)

In Dennis, the officer, while conducting a traffic stop, began making unrelated inquiries instead of expeditiously processing the traffic citation. The Court of Appeals ruled that an officer unlawfully extends a traffic stop if the officer ceases to process the citation and instead, without justification, begins making inquiries unrelated to the traffic stop.



State v. Jimenez, 357 Or 417 (2015)

In this case, 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.*”

State v. Kimmons, 271 Or App 592 (2015)

“The principles related to seizures under Article I, section 9, are categorical, as a constitutional matter, and thus **do not distinguish** between traffic and criminal matters. Therefore it is of “no consequence” that in Jimenez, above, the inquiry occurred in the context of a noncriminal traffic investigation.



Case Law Examples: Clarification regarding requests for identification, retention of identification, and “warrant checks.”

State v. Backstrand 354 Or 392 (2013).

“We reaffirm that police requests for information or cooperation do not implicate Article I, section 9, as long as the officer does no more than seek the individual's cooperation through noncoercive questioning and conduct. A request for identification, in and of itself, is not a seizure. Nor is an officer's act of checking the validity of that identification, in and of itself, a seizure. For a request and verification of identification to amount to a seizure, something more is required on an officer's part. Either through the context, the content or manner of questioning, or the other circumstances of the encounter, the officer must convey to a reasonable person that the officer is exercising his or her authority to significantly restrain the citizen's liberty or freedom of movement.” (Emphases added).

In State v. Thompson, 264 Or App 754, (2014), the Court of Appeals characterized Backstrand, and its companion cases Highley and Anderson, as holding that neither briefly holding a person's identification, nor calling in a person's identification to check for warrants necessarily and always means the person has been stopped. However, when an officer takes a person's identification and retains it for “more than a reasonable time,” the encounter is a stop.



ARREST

Definitions - ORS 133.005

- “Arrest” - ORS 133.005 (1) means to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging him with an offense.
- “Peace officer” (ORS 133.005 (3)) means a member of the Oregon State Police; a sheriff, constable, marshal, or municipal police officer; a reserve officer; a police officer commissioned by a university under ORS 352.383 or 353.125; an investigator of a district attorney’s office if the investigator is or has been certified as a peace officer in this or any other state, or an investigator of the Criminal Justice Division of the Department of Justice of the State of Oregon; a humane special agent as defined in ORS 181A.345; a regulatory specialist exercising authority described in ORS 471.775 (2); an authorized tribal police officer as defined in ORS 181A.680; or a judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181A.540.

NOTE:

An “arrest” is more than a “stop”

“Offense” includes crimes and violations. ORS 161.505

Who May Make an Arrest? ORS 133.220

- A peace officer under a warrant;
- A peace officer without a warrant;
- A parole and probation officer under a warrant;
- A parole and probation officer without a warrant for violations of conditions of probation, parole or post-prison supervision;
- A private person;
- A federal officer.



Arrest by Private Person ORS 133.225

- A private person may arrest another person for any crime committed in the presence of the private person if the private person has probable cause to believe the arrested person committed the crime.
- A private person making such an arrest shall, without unnecessary delay, take the arrested person before a magistrate, or deliver the arrested person to a peace officer.
- In order to make the arrest a private person may use physical force as is justifiable.

Arrest by a Peace Officer; Procedure ORS 133.235

- A peace officer may arrest for a crime at any hour of any day or night.
- A peace officer has the authority to arrest without a warrant per ORS 133.310 (1), and the officer may arrest anywhere in the state regardless of the location of the crime.
- The officer shall inform the person to be arrested of the officer's authority, and if the arrest is under a warrant, **shall** show the warrant, unless... [Circumstances make it]...impracticable.
- The officer may use physical force as justified to make the arrest. See ORS 161.235; ORS 161.239 and ORS 161.245

In order to make the arrest, the peace officer may enter premises in which the officer has probable cause to believe the person to be arrested to be present. *But see below...*

The officer must “knock and announce” his identity, authority and purpose before entering the premises.

The Oregon Supreme Court, in *State v. Olson*, 287 Or 157 (1979), held that application of this subsection (ORS 133.235 (5)) to a warrantless entry would be unconstitutional where there are no exigent circumstances.

The leading federal case on this issue is *Payton v. New York*, 445 US 573 (1980). The *Payton* ruling made clear that police officers need an arrest warrant or probable cause plus exigent circumstances in order to make a lawful entry into a suspect's home.

However, also be aware of the ruling in *Steagald v. United States*, 451 US 204 (1981). The issue in *Steagald* was whether, under the Fourth Amendment, a law enforcement officer may legally search for the subject of an arrest warrant in the home of a third party without first also obtaining a search warrant.

The Court concluded that a search warrant must also be obtained, absent exigent circumstances or consent. The Court reasoned that an arrest warrant alone was not adequate to protect the Fourth Amendment interests of persons not named in the warrant, when their homes are searched.



Arrest by Peace Officer with a Warrant

- An arrest warrant is an order from the court directed to a peace officer, who serves the warrant by arresting the person named in the warrant and bringing him before the court.
- Content and form of warrant of arrest ORS 133.140

A warrant of arrest is issued by a magistrate only upon probable cause that the person has committed the crime complained of and shall:

- Be in writing;
- Specify the name of the person to be arrested;
- State the nature of the crime;
- State the date when issued and the county or city where issued;
- Be in the name of the State of Oregon or city where issued, be signed by and bear the title of the office of the magistrate having authority to issue the warrant;
- Command any peace officer, or any parole and probation officer for a person who is being supervised by the Department of Corrections or a County Community Corrections agency to arrest the person for whom the warrant was issued;
- In special circumstances, waive “knock and announce” requirements;
- Specify amount of security for release

Authority to Issue Warrant ORS 133.120

- Only a magistrate may issue an arrest warrant.
- Magistrates are defined in ORS 133.030 as:
 - Supreme Court judges
 - Court of Appeals judges
 - Circuit Court judges
 - County judges and justices of the peace
 - Municipal judges



- A judge of the Supreme Court or Court of Appeals may issue a warrant of arrest for any crime committed or triable anywhere in the state.
- Arrest warrants issued by all other magistrates are limited to crimes committed or triable only within the jurisdiction of their court.

Authority of Peace Officer to Arrest without Warrant ORS 133.310

- A peace officer **may** arrest a person without a warrant if the officer has probable cause to believe that the person has committed any of the following:
 - A felony;
 - A misdemeanor;
 - An unclassified offense equal to or greater than the maximum penalty allowed for a class C misdemeanor
 - Any other crime committed in the officer's presence
- A peace officer **may** arrest a person without a warrant when the peace officer is notified by telegraph, telephone, radio or other mode of communication by another peace officer of any state that there exists a duly issued warrant for the arrest of a person within the other peace officer's jurisdiction.
- A peace officer **shall** arrest and take into custody a person without a warrant when the officer has probable cause to believe:
 - Person has violated a "restraining order", a "protective order for victims of sexual abuse", or a temporary "emergency protective order"; or
 - Person has violated a "foreign restraining order"; or
 - Person has been charged with an offense and is presently released under ORS 135.230 to 135.290, and person has failed to comply with a no contact condition of release agreement.
 - A peace officer or other officer with power of arrest may arrest a probationer without a warrant for violating any condition of probation (ORS 137.545)



Probable Cause Defined ORS 131.005 (1)

“Probable cause” means 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.

NOTE: Probable cause in Oregon has both a subjective and an objective component. An officer must subjectively believe that an arrest is lawful and that belief must be objectively reasonable in the circumstances. *State v. Owens*, 302 Or 196 (1986).

The arresting officer may make a warrantless arrest based on probable cause known to a different officer and unknown to the arresting officer at the time of the arrest. However, the state must prove the existence of probable cause by a preponderance of the evidence if the warrantless arrest is later challenged. *State v. Crawford*, 91 Or App 587 (1988)

Probable Cause Determination after Arrest

In *County of Riverside v. McLaughlin*, 500 US 44 (1991), the U.S. Supreme Court held that, absent extraordinary circumstances, the Fourth Amendment requires that a person in custody on a warrantless arrest is entitled to a judicial determination of probable cause within 48 hours.

This rule requires that the officer file a sworn probable cause statement / affidavit with the court when lodging a suspect in custody.

Please refer to sample Probable Cause Statement form at end of this handout.



Criminal Citation ORS 133.055 – 133.070

- A police officer may issue a citation for:
 - Misdemeanors
 - Felonies subject to misdemeanor treatment
 - Violations
 - A criminal citation is not the same as a uniform traffic citation

- Domestic disturbances are exceptions ORS 133.055 (2)
 - Police shall arrest and take into custody the alleged or potential assailant if there is probable cause to believe:
 - An assault (includes strangulation) has occurred between “family or household members,” or
 - One such person *has placed the other in fear* of imminent serious physical injury. This is more than Menacing, which only requires an attempt to place the other in fear. Mandatory arrest for Menacing is triggered by a victim actually placed in fear. Remember your definition of “imminent”

- The citation issued shall contain:
 - The name of the court in which the cited person is to appear;
 - The name of the person cited;
 - A complaint containing at least:
 - Name of court, name of public body bringing action and name of defendant;
 - Readily understandable statement of the crime and date, time and place of alleged crime; and

Statutory FTA Warning:

“This citation is not a complaint or information. One may be filed and you will be provided a copy thereof at the time of your first appearance. You **MUST** appear in court at the time set in the citation. **IF YOU FAIL TO APPEAR AND A COMPLAINT OR INFORMATION HAS BEEN FILED, THE COURT WILL IMMEDIATELY ISSUE A WARRANT FOR YOUR ARREST.**”



- Peace officers certification of sufficient grounds to believe person named in complaint committed the offense;
- Time, date and place at which the person cited is to appear in court;
- If arrest was made by a private person, the arresting person's name;
- Whether a complaint or information has been filed at the time the citation was issued;
and
- Statutory warning about failure to appear warrant.



Part 2- Consular Notification and Miranda

CONSULAR NOTIFICATION AND ACCESS - ORS 181A.470

Oregon law 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.

These are mutual obligations that also pertain to American citizens abroad. In general, you should treat a foreign national as you would want an American citizen to be treated in a similar situation in a foreign country. This means prompt, courteous notification to the foreign national of the possibility of consular assistance, and prompt, courteous notification to the foreign national’s nearest consular officials so that they can provide whatever consular services they deem appropriate.



Steps to follow when a foreign national is arrested or detained:

- Determine the foreign national's country. In the absence of other information, assume this is the country on whose passport or other travel document, the foreign national travels.

- If the foreign national's country is not on the mandatory notification list:
 - Inform the foreign national, without delay, that he or she may have his or her consular offices notified of the arrest or detention and may communicate with them. (Suggested statement provided below)

“As a non-U.S. citizen who is being arrested or detained, you may request that we notify your country's consular officers here in the United States of your situation. A consular official may be able to help you obtain legal representation, and may contact your family and visit you in detention, among other things. If you want us to notify your consular officers, you can request this notification now, or at any time in the future. After your consular officials are notified, they may call or visit you. Do you want us to notify your consular officers at this time?”

- If the foreign national asks that consular notification be given, notify the nearest embassy or consulate of the foreign national's country without delay. (Suggested notification fax sheet found at the end of Student Resource)

- Forward any communication from the foreign national to his or her consular officers without delay.



- If the foreign national's country is on the list of mandatory notification countries:
 - Notify that country's nearest embassy or consulate, without delay, of arrest / detention. (You may use the suggested fax sheet for making the notification.)
 - Tell the foreign national that you are making this notification and inform him or her (without delay) that he or she may communicate with his or her consular officers. (Suggested statement provided below)

“Because of your nationality, we are required to notify your country's consular officers here in the United States that you have been arrested or detained. We will do this as soon as possible. In addition, you may communicate with your consular officers. You are not required to accept their assistance, but your consular officers may be able to help you obtain legal representation and may contact your family and visit you in detention, among other things. Please sign to show that you have received this information.”
 - Forward any communication from the foreign national to his or her consular officers without delay.
 - Keep a written record of the provision of notification and actions taken.



Mandatory Notification Countries and Jurisdictions

Albania	Georgia	Russia
Algeria	Ghana	Saint Kitts and Nevis
Antigua and Barbuda	Grenada	Saint Lucia
Armenia	Guyana	Saint Vincent and the Grenadines
Azerbaijan	Hungary	Seychelles
Bahamas, The	Jamaica	Sierra Leone
Barbados	Kazakhstan	Singapore
Belarus	Kiribati	Slovakia
Belize	Kuwait	Tajikistan
Brunei	Kyrgyzstan	Tanzania
Bulgaria	Malaysia	Tonga
China (including Macedonia and Hong Kong) (see 1 below)	Malta	Trinidad and Tobago
Costa Rica	Mauritius	Turkmenistan
Cyprus	Moldova	Tuvalu
Czech Republic	Mongolia	Ukraine
Dominica	Nigeria	United Kingdom (see 3 below)
Fiji	Philippines	Uzbekistan
Gambia	Poland (see 2 below)	Zambia
	Romania	Zimbabwe

1 Notification is not mandatory in the case of persons who carry the “Republic of China” passports issued by Taiwan.

Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office (TECRO), the unofficial entity representing Taiwan’s interests in the United States, can be notified at their request.

2 Mandatory only for foreign nationals who are not lawful permanent residents in the United States (i.e., “green card” holders). Otherwise, upon the nation’s request.

3 The bilateral consular convention between the United States and the United Kingdom applies to British nationals from Great Britain (England, Wales, and Scotland); Northern Ireland; the Crown Dependencies of Jersey, Guernsey, and the Isle of Man; and the British Overseas Territories, including Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Gibraltar, Montserrat, and the Turks and Calcos Islands, along with other island territories. Residents of the Overseas Territories may be traveling on a passport issued by the territory with no indication that the territory is British. Nevertheless, for them and all others from a British possession listed above, consular notification and access should be provided to the nearest U.K. consulate.



Foreign Embassies and Consulates in the United States

Information regarding foreign embassies and consulates in the United States is available from the Department of State. Consular notification should be made to the officer nearest the place of arrest or detention. Washington, D.C., information is generally for embassies to the United States; numbers for other locations are for consular offices outside of Washington or, in the case of some countries without embassies or consular offices in the United States, for the country's mission to the United Nations in New York.

A list of numbers may be obtained from the Office of Public Affairs and Policy Coordination Bureau of Consular Affairs, telephone 202-647-4415 (after hours 202-647-1512); facsimile 202-736-7559 or by visiting the consular notification website at

<https://travel.state.gov/content/travel/en/consularnotification.html>.

CUSTODY AND INTERROGATION

Miranda v. Arizona, 384 US 486 (1966)

In *Miranda*, the Supreme Court held that if a person is subjected to custodial police interrogation, any statements obtained therefrom, whether incriminating or exculpatory, are not admissible unless the prosecution demonstrated that sufficient procedural safeguards were afforded the accused.

Elements of Miranda Warning

The Supreme Court required that prior to questioning the accused must be advised:

- That he or she has the right to remain silent;
- That any statement made may be used against the accused;
- That the accused has the right to an attorney prior to and during questioning, and
- That an attorney may be appointed to represent the accused if accused is unable to afford one.



A person should be advised of the Miranda rights if:

P

- The police are **present**; and

C

- The police take the suspect into **custody**;
- Compelling circumstances; and

I

- The police are going to **interrogate**

Custody (Federal – 5th Amendment analysis)

- In Miranda, the Court specified that the Miranda rule applied to questioning initiated by a law enforcement officer after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.
- Test is not what the suspect himself actually believed (i.e., subjective test)
- Apply objective test: how a reasonable person in suspect's position would have understood the situation. Berkemer v. McCarty, 468 US 420 (1984)
- Miranda does not apply when the defendant's freedom to depart is not restricted in any way. Oregon v. Mathiason, 429 US 492 (1977)



- Place of Interrogation:
 - Police station = custodial; exception; Mathiason volunteer.
 - Jails = custodial
 - Homes = generally non-custodial; some exceptions
 - Places of business = usually non-custodial; exceptions
 - Automobiles = generally not custodial; State v. Smith, 298 Or 704 (1985)
- Juvenile suspects – The U.S. Supreme Court has held, “so long as the child’s age was known to the officer at the time of police questioning, or would have been objectively apparent to a reasonable officer, its inclusion in the custody analysis is consistent with the objective nature of that test. This is not to say that a child’s age will be a determinative or even a significant, factor in every case...It is however, a reality that courts cannot simply ignore.” J.D.B. v. North Carolina, 564 US 261 (2011).

Custody (Oregon Analysis)

- 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. See State v. Burdick, 186 Or App 460 (2003).
 - 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:
 - The location of the encounter;
 - The length of the encounter;
 - The amount of pressure exerted on the defendant; and
 - The defendant’s ability to terminate the encounter. State v. Roble – Baker, 340 Or 631 (2006)



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:
 - The number of officers present;
 - Whether the suspect was physically restrained with handcuffs or confined in a patrol car;
 - Whether officers used force or displayed weapons;
 - The duration of the detention;
 - The demeanor of the officers in engaging and questioning a suspect;
 - The language used by the officers;
 - Whether sirens or flashing lights were present; and
 - Whether the suspect had been expressly confronted with incriminating evidence at the time of the questioning. State v. Shirley, 221 Or App 12 (2008)

- None of these factors are to be applied “mechanically”. Rather “the Miranda warnings are necessary to ensure that a person’s statement is truly the product of free choice and not involuntary or the product of his will being overborne.” Shirley



“Compelling circumstances” case examples:

State v. Shaff, 343 Or 639 (2007)

Officers responded to a 911 call about an injured woman at defendant’s trailer. After defendant let them inside, they spoke with him without reading him his Miranda rights. While the victim spoke with one officer outside, the primary officer overheard her state that she had merely fallen down. Regardless, he asked defendant why the victim would say that she had been assaulted. The Oregon Supreme Court held:

- 1) The fact defendant was not free to leave did NOT create “compelling circumstances.” He was detained for only a brief period of time, no more than a typical traffic stop. Also, he was questioned in his own home, not at the police department, and the officer did not raise his voice, threaten defendant, or engage in a show of force to coerce defendant to answer;
- 2) The officer’s show of authority was, at most, a stop. The fact that defendant was not free to leave did not, in and of itself, make the setting compelling;
- 3) The trial court had implicitly found that the officer acted in an appropriate and courteous manner in inquiring about the victim’s welfare;
- 4) The mere fact the one statement by the officer had a “false premise” did not create coercion; rather, the question is “what effect the information that the statement conveyed would have had on a reasonable person in the suspect’s position;” and
- 5) Confronting a suspect with evidence of guilt, without any “heightened level of activity” on the officer’s part, does not render the circumstances “compelling.”



State v. Saunders, 221 Or App (2008)

Defendant was convicted of various sexual crimes involving minor children, based in part on statements he made to police during questioning at his home without Miranda warnings. The interviewing detectives confronted him with incriminating evidence, and at that point, when he asked to get up to get cigarettes, one of the detectives told him to sit down and retrieved the items for him. The Court of Appeals held that confronting defendant with incriminating evidence in a “police dominated atmosphere” did not create compelling circumstances in this case. Under *Shaff*, the confrontation of a defendant with incriminating evidence does not create compelling circumstances unless it is done in a “coercive” manner. Here there was no evidence the detectives confronted defendant in a coercive manner. Likewise, their request that defendant “please sit down” did not, by itself, make the situation compelling.

State v. Shirley, 220 Or App 606 (2008)

A plainclothes officer contacted defendant after seeing him make an apparent drug buy. The officer identified himself, then saw defendant swallow “very hard” which caused the officer to believe defendant was attempting to dispose of the drugs he just purchased. He told defendant to spit it out, and defendant denied he had anything. The officer told him he just watched him buy drugs, and defendant opened his mouth to reveal a piece of candy. Then the officer noticed a packaged piece of rock cocaine on the ground almost directly under defendant. The officer handed it to another officer and told defendant it didn’t “matter” because they found his drugs. He also told defendant he didn’t need to lie and that it was “disrespectful” for him to lie about the drugs. At that point, defendant admitted he bought it for \$10. The Oregon Court of Appeals held defendant’s statement was made under compelling circumstances, and the failure to give Miranda warnings required suppression. Before the officer saw the cocaine on the ground, he had lawfully stopped defendant based on reasonable suspicion. That temporary restraint on defendant’s liberty did not create compelling circumstances. However, once the officer saw the cocaine on the ground, a reasonable person in defendant’s situation would have believed that he was going to be placed in custody. The officer’s subsequent comments about lying being “disrespectful” constituted interrogation regarding whether defendant had possessed the cocaine, and those comments prompted defendant’s admission without the benefit of a Miranda warning.



State v. Roble – Baker, 340 Or 631 (2006)

Officers detained suspect and questioned her for five to six hours at the police station and confronted her with questions that assumed her guilt. The Oregon Supreme Court found compelling circumstances, requiring Miranda warnings for statements to be admissible.

State v. Burdick, 186 Or App 460 (2003)

At least seven officers forcibly entered a home (not Burdick's) pursuant to a search warrant for drugs. Officer ordered Burdick and other occupants to the floor at gunpoint, handcuffed them for 15 to 30 minutes, and after removing the handcuffs, confined them on the porch while the officers continued searching the house and interviewing the occupants. After being released from handcuffs, Burdick asked if he could leave to go to work. A detective asked Burdick if he had any drugs on him. Burdick produced a pipe, some meth, etc. He then was allowed to leave. The Court of Appeals ruled the detective should have given Burdick Miranda warnings before questioning him. "Considering all the circumstances, the situation was, at a minimum, compelling... The officers' actions created the sort of police-dominated atmosphere that Miranda warnings were intended to counteract."

Interrogation

- Interrogation, under Miranda, means "either express questioning or its functional equivalent."
- Interrogation "refers not only to express questioning, but also to any words or actions on the part of the police that the police should know are reasonably likely to elicit and incriminating response from the suspect."
- "Interrogation" does not include routine booking questions put forth by corrections officers.

Volunteered Statements

- A statement made at any time that is not in response to a question by any law enforcement officer.
- Volunteered statements of any kind are not barred by the Fifth Amendment and are not affected by Miranda decision.
- Police are not required to stop and advise a person who enters a police station and states a wish to confess to a crime.
- Test for voluntariness is "totality of circumstances"



Admission v. Confession ORS 136.425

Admission A statement by the accused of facts pertinent to an issue and tending, in connection with proof of other facts, to prove the accused's guilt.	Confession A statement by the accused disclosing his guilt of the crime with which he is charged, and excluding the possibility of reasonable inference to the contrary.	Corroboration A confession by itself is not sufficient to warrant the conviction of the defendant without some other proof that the crime has been committed.
Example: While talking to a theft suspect the suspect admits to being at the location of the theft during the time of the theft.	Example: When talking to a theft suspect the suspect admits to taking the missing items, and to knowing it was wrong.	Example: The theft suspect not only confesses to taking the missing money, but tells you where he/she is hiding those items which you eventually recover.

State v. Manzella, 306 Or 303 (1988)

- Case law typically established a distinction between “confessions” as acknowledgements of guilt and “admissions” as acknowledgements of fact.
- A “confession” must have been made after the commission of the crime in question, for the purpose of acknowledging the speaker is guilty of some criminal offense.
- If in the course of the “confession” the accused admits one or more elements of the crime charged, the State must produce “some other evidence” (corroboration) of that element.



Waiver of Rights

Under Miranda, a defendant's waiver of constitutional rights must be:

Voluntary

Knowing

Intelligent

“Voluntariness of course is always a requirement for admission of a defendant's incriminating statements. Even warned statements may be inadmissible if they are not otherwise voluntary.” State v. Vondehn, 348 Or 462 (2010).

“We acknowledge, of course, that a defendant is entitled to demonstrate (whether by defendant's own testimony or otherwise) that the defendant's waiver was not knowing. So, for example, a defendant may demonstrate that he or she did not understand the warnings due to cognitive or linguistic limitations.” Vondehn.

When a translation of the Miranda rights has been given, our inquiry is whether the concepts have been expressed rather than whether the words have been accurately translated. State v. Corona, 60 Or App (1982).

Courts will presume defendant did not waive his rights; waiver cannot be inferred from silence. Determination of whether waiver occurred depends upon “the particular facts and circumstances surrounding the case, including the background, experience and conduct of the accused.” North Carolina v. Butler, 441 US 369 (1979).

Explicit assertion of Miranda rights is not necessary; these rights exist whether or not the accused claimed them. Key inquiry is whether a waiver occurred and whether it was free, voluntary and involved no police persuasion. State v. McGrew, 38 Or App 493 (1979).



Signed or written waiver is not required; though when a defendant is asked if he or she understands Miranda rights, signs a Miranda card, and says, “Yes,” waiver of rights occurs. State v. Anderson, 30 Or App 257 (1977).

Unnecessary to articulate waiver following warnings; rather, clear and unambiguous conduct by person advised of rights that includes willingness to answer questions sufficient to establish waiver. State v. Davison, 252 Or 617(1969). Answering police questions following Miranda warnings is evidence of waiver of rights under Article I, section 12. State v. Collins, 253 Or 74 (1969).

An officer’s testimony that he advised a suspect of each right under Miranda is generally sufficient proof that the suspect was so advised.

Assertion of Rights

In Miranda the Supreme Court held that if a defendant “indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking there can be no questioning.”

“An accused’s request for an attorney is per se an invocation of his Fifth Amendment rights, requiring that all interrogation cease.” Fare v. Michael C., 442 US 707 (1979). Under the Oregon Constitution, Article I, section 12, when a suspect makes an equivocal request for counsel, the police may ask only “further questions seeking clarification of the suspect’s intent.” State v. Charboneau, 323 Or 38 (1996).

“An accused...having expressed his desire to deal with police only through counsel, is not subject to further interrogation by the authorities until counsel has been made available to him, unless accused himself initiates further communication...” Edwards v. Arizona, 451 US 477 (1981)

- Edwards applies to second officer who is unaware of earlier invocation.
- Also applies to questioning about separate charges, whether related or unrelated. Arizona v. Roberson, 486 US 675 (1988)
- “Initiated” means any statement by the suspect that evinces “...a willingness and a desire for a generalized discussion about the investigation; [and] not merely a necessary inquiry arising out of the incidents of the custodial relationship.” Oregon v. Bradshaw, 462 US 1039 (1983)



Massiah and Brewer: Suspects represented by counsel

- In Massiah v. United States, 377 US 201 (1964), the Supreme Court held statements made by defendant after indictment were not admissible when made in the absence of counsel.
- In Brewer v. Williams, 430 U.S. 387 (1977), the Supreme Court held that Sixth Amendment right to counsel precludes eliciting incriminating statements from a custodial defendant in the absence of counsel when formal criminal proceedings have commenced, the defendant is represented by counsel, and the police promised not to discuss the case without counsel.



Part 3- Search and Seizure

SEARCH AND SEIZURE: WITH A WARRANT

Fundamental Principles

<p>United States Constitution – Fourth Amendment</p>	<p>Oregon Constitution – Article 1, Section 9</p>
<p>“The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.”</p>	<p>“No law shall violate the right of the people to be secure in their persons, houses, papers and effects, against unreasonable search, or seizure; and no warrant shall issue but upon probable cause, supported by oath, or affirmation, and particularly describing the place to be searched and the person or thing to be seized.”</p>

In State v. Owens, 302 Or. 196 (1986), the Oregon Supreme Court defined “search” and “seizure” in terms of the interests protected by the Oregon Constitution:

“Article 1, Section 9, protects privacy and possessors’ interests. A ‘search’ occurs when a person’s privacy interests are invaded.”

What about “abandoned property?”

The Oregon Supreme Court, in State v. Cook, 332 Or 601 (2001), identified three legal principles applicable to the analysis:



1. First, the determination whether a defendant has relinquished a constitutionally protected interest in an article of property involves both factual and legal questions, which [the] court reviews in the same manner that it reviews other search and seizure questions....
2. Second, because Article 1, section 9, protects both the possessory and privacy interests in effects, property law concepts of ownership and possession are relevant, though not always conclusive, in the factual and legal determination whether a defendant relinquished all constitutionally protected interests in an article of property.
3. Finally, for constitutional purposes, the question to be resolved ... [is] whether the defendant's statements and conduct demonstrated that the relinquished all constitutionally protected interests in the articles of property....”

Later, in State v. Brown, 348 OR 293 (2010), the Court rejected those Court of Appeals opinions since Cook which appeared to add a requirement that the defendant indicated an intent to “permanently” relinquish the property. No proof of “permanent relinquishment” is required.

In balancing the inherent tension between the constitutional provisions of “reasonable searches” and “probable cause warrants,” the courts acknowledge that the requirement of a warrant is preferred, and that the government must establish that a warrantless search was necessary and reasonable under the circumstances.

General rule: “searches, in the absence of well-recognized exceptions, may be made only under the authority of a search warrant.” Chimel v. California, 395 US 752 (1969)



What about “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. 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.

The “curtilage” of a home is the land immediately surrounding and associated with a person’s residence.

Search Warrants – General Requirements ORS 133.545

- A search warrant may be issued only by a judge (magistrate)
- Jurisdiction of warrant depends upon jurisdiction of judge.
- Application for a search warrant may be made only by a district attorney, a police officer, or by a “special agent” as described in ORS 131.805.
- The application shall conform to ORS 133.565 and be supported by one or more affidavits particularly setting forth the facts and circumstances tending to show that the objects of the search are in the places, or in the possession of the individuals to be searched. If an affidavit is based in whole or in part on hearsay, the affidavit shall set forth facts bearing on any unnamed informant’s reliability and shall disclose, as far as possible, the means by which the information was obtained.
- Application may be in writing or judge may take oral statement under oath. The oral statement shall be recorded and a copy of the recording submitted to the judge who took the oral statement. Judge shall certify that the recording of the sworn oral statement is a true recording of the oral statement under oath and shall retain the recording as part of the record. The recording shall constitute an affidavit. The applicant shall retain a copy of the recording and shall provide a copy of the recording to the district attorney if the district attorney is not the applicant.



- The written affidavit and warrant may be submitted by FAX or similar electronic transmission. The affidavit may have a notarized acknowledgement or affiant may swear to affidavit over telephone. Affiant must note on affidavit if oath administered telephonically. Judge's declaration must be filed with return.

- A judge may authorize execution of a search warrant outside of the judicial district in which the court is located if the judge finds that:
 - The search relates to one of the following offenses involving a victim who was 65 years of age or older at the time of the offense:
 - Criminal mistreatment in the first degree as described in ORS 163.205 (1)(b)(D) or (E);
 - Identity theft;
 - Aggravated identity theft;
 - Computer crime;
 - Fraudulent use of a credit card;
 - Forgery in any degree;
 - Criminal possession of a forged instrument in any degree;
 - Theft in any degree; or
 - Aggravated theft in the first degree;

 - The objects of the search consist of financial records; and

 - The person making application for the search warrant is not able to ascertain at the time of the application the proper place of trial for the offense described in paragraph (a) of this subsection.



Contents of Search Warrant ORS 133.565

- Dated and addressed to officer authorized to execute it;
- The warrant shall state, or describe with particularity:
 - The identity of the issuing judge and date;
 - The name of the person to be searched, or the location and designation or the premises or places to be searched;
 - The things constituting the object of the search and authorized to be seized; and
 - The period of time, not to exceed five days, after execution...within which the warrant must be returned.
- Unless authorized otherwise, the warrant shall be executed between the hours of 7:00 a.m. and 10:00 p.m. and within five days from date of issuance.

Execution of Search Warrant ORS 133.575

- A search warrant may be executed only within the period and at the time authorized by the warrant and only by a police officer.
- Before entering the premises executing officer shall give appropriate notice of the identity, authority and purpose of the officer to the person to be searched.

NOTE: Under Oregon law, a search warrant cannot provide advance authority for police to enter without knocking and announcing. Determination of the need to forgo knocking and announcing can be made only at time of entry. State v. Arce, 83 Or App 185 (1986)
- Before undertaking any search or seizure pursuant to the warrant, the executing officer shall read and give a copy of the warrant to the person to be searched.



Objects of Search and Seizure ORS 133.535

- Evidence of or information concerning the commission of a criminal offense;
- Contraband, the fruits of a crime, or things otherwise criminally possessed;
- Property that has been used, or is possessed for the purpose of being used, to commit or conceal the commission of an offense; and
- A person for whose arrest there is probable cause or who is unlawfully held in concealment.

List of Things Seized ORS 133.595

- Promptly upon completion of the search, the officer shall:
 - Make a list of the things seized,
 - Deliver a receipt embodying the list to the person from whose possession they were taken or the person in apparent control of the premises or vehicle from which they were taken.
 - If vehicle or premises are unoccupied or there is no one present in apparent control, leave the receipt suitably affixed to the vehicle or premises.

Search Warrants: Case law regarding digital evidence

The Court of Appeals has ruled that a search warrant, which authorized a search of the entire hard drive of a digital device, was unconstitutionally overbroad, since the officer's affidavit did not create a nexus to the specific type of things to be searched within the device, in this case, a phone.

The decision in State v. Mansor, 363 Or 185 (2018) affects any search warrant that is seeking to search, seize and analyze digital evidence items such as cell phones, laptops, thumb drives, etc.

For example, an officer may have probable cause to look at a drug dealer's text messages. The warrant shouldn't be written so broadly as to authorize the officer to search through the suspect's photos, calendar items, browser history, and/or to search for items which significantly predate the believed illegal conduct. Rather, the officer's affidavit would need to articulate a nexus to each type of data the officer seeks.



The court said “the warrant must identify, as specifically as reasonably possible in the circumstances, the information to be searched for, including, if relevant and available, the time period during which that information was created, accessed, or otherwise used.” Mansor, 363 Or at 218. This means the warrant itself should list the subject of the search, or the officer should specifically include a reference incorporating the affidavit into the warrant to help guide the examiners understanding of the limits of the search.

The court also recognized that a “forensic examination likely will need to examine, at least briefly, some information or data beyond that identified in the warrant.” Mansor. If the officer discovers evidence outside the scope of the warrant, the officer should immediately stop and seek a further warrant to expand the scope of the search. In that second affidavit, the officer must identify the facts that support a search warrant exception (e.g. plain view) for discovery of the evidence outside the scope of the original warrant.

SEARCH AND SEIZURE: WITHOUT A WARRANT

Search Incident to Arrest

The Oregon Supreme Court has held that unlike federal search and seizure law, a valid custodial arrest does not alone give rise to a unique right to search. Such a warrantless search must be justified by the circumstances surrounding the arrest. See State v. Caraher, 293 Or 741 (1982)

Under Article 1, Section 9, of the Oregon Constitution, there are three valid justifications for a search incident to a lawful arrest:

To protect the officer’s safety, and/or prevent escape;	To prevent the destruction of evidence; and	To discover evidence relevant to the crime for which the defendant is being arrested.
---------------------------------------------------------	---------------------------------------------	---------------------------------------------------------------------------------------



A pat-down or limited search for weapons to protect the officer or to prevent escape would be justified whenever a person is taken into custody. State v. Owens, 302 Or 196 (1986). Beyond that limited search, however a further search incident to arrest conducted to protect officer safety or to prevent escape must be reasonable, taking into account all the facts surrounding the arrest.

The justifications for always allowing some limited warrantless search incident to arrest are clear: The proximity of an officer to an arrestee during arrest and handcuffing makes it imperative that the arrestee not have immediate access to a weapon or tool of escape that might be easily concealed and reachable even if the arrestee were handcuffed...but...when the immediate danger of handcuffing and arresting a suspect has passed, and the officer has determined that the arrestee has no means of escape concealed on his person...any further search incident to arrest must be justified by specific and articulable facts. State ex rel Juv. Dept. v. Singh, 151 Or App 223 (1997).

Once police have seized a closed container from an arrestee, the threat to officer safety from any item within that container has dissipated, and the police can protect themselves by taking steps short of conducting a search while waiting to obtain a search warrant. Singh.

A police officer who, while investigating a crime, develops probable cause to believe another crime has been committed may conduct a search for evidence that is relevant to the latter crime and that reasonably could be concealed on the arrestee's person or in the belongings in his or her immediate possession at the time of the arrest. State v. Crampton, 176 Or App 62 (2001).

As long as the search is for evidence of the crime for which the arrest was made, and such evidence reasonably could be concealed on the arrestee's person or in the belongings in his or her immediate possession at the time of the arrest, no "container rule" blocks the intensity of the incidental search. Owens.

A search for the purpose of discovering evidence of the crime of arrest may be justified even if the defendant has been removed from the area in which an officer believes that evidence may be located. In those circumstances, the search will comport with Article I, section 9, even though the defendant no longer has control over the area searched, as long as the evidence reasonably could be found in that



area and the search is otherwise reasonable in time, scope, and intensity. State v. Washington, 265 Or App 532 (2014).

A search may be considered “incident to arrest” even though it preceded the arrest. See State v. Anfield, 313 Or 554 (1992).

Summary of relevant cases concerning police authority to search, “incident to arrest,” for officer protection and/or means of escape:

State v. Hoskinson, 320 Or 83 (1994)

Facts: After arresting defendant for driving while suspended, officer handcuffed defendant and then conducted a “pat-down search” of defendant’s person. During the pat-down, officer took a wallet from defendant’s back pocket. Officer opened it and looked inside. On direct, officer was asked if he had any indication from looking at the wallet before opening it that it may contain a weapon or a means of escape. He said he “could not tell that by not opening it up.” On cross he said, “its normal practice for myself to obtain the wallet and see if there are any weapons or any indications of things that would be used to escape that would alert myself to search the subject more thoroughly and extensively for additional means of escape.” Trial court said valid search conducted to protect officer safety and to prevent escape.

Ultimately, the Oregon Supreme Court, after analyzing the history of Caraher and Owens, said “...a further search incident to arrest conducted to protect officer safety or to prevent escape must be reasonable, taking into account all the facts surrounding the arrest. Thus, an officer may conduct a further protective search (after pat-down) if he or she develops a reasonable suspicion, based on specific and articulable facts, that the person in custody poses a serious threat of harm or escape and that a search would lessen or eliminate that threat.”

The court in ruling, that officer’s warrantless search of defendant’s wallet was not justified under the “officer-safety prong” of the search incident to arrest exception, noted the following: Officer testified he searched defendant’s wallet because it was his “normal practice” to do so. Officer testified he had no specific reason to believe defendant’s wallet contained a weapon or means of escape. He testified his



training and experience led him to believe that the wallet could have contained one of those items, but he could not tell until he opened it.

Therefore, the court found, there was nothing to suggest the officer had a *reasonable* suspicion defendant posed an immediate threat of escape or harm.

State v. Lumpkin, 133 Or App 265 (1995)

The court in Lumpkin referred to the ruling in Hoskinson as “the constitutional standard for determining when, after conducting a limited, pat-down search for weapons, an officer may conduct a more extensive search incident to arrest to protect officer safety or to prevent escape.”

In ruling that the officer was justified in removing a pouch from defendant that he felt during the pat-down, the court said “The officer here gave very clear reasons as to why he was concerned that the object that he felt might have contained a weapon: Despite his repeated instructions to defendant to keep his arms spread out on the trunk of the police car, defendant twice pulled his arms and hands in toward the midsection of his body and out of officer’s view, exactly where the officer felt the unidentified object.” The court concluded the officer’s belief was reasonable.

State v. Sopiwnik, 176 Or App 127 (2001)

Officer testified he becomes concerned for his safety when somebody “bails out of a car”, as this indicates the person intends to fight or flee. He believes a person is a flight risk, or may become confrontational, when the person is fidgety and does not make eye contact. In his experience, people involved with theft crimes (like defendant) are often involved with drugs and often have weapons. He was particularly concerned defendant might have small weapons such as razor blades, needles or knives or that he might have a handcuff key or some other small tool that could be used to pick the handcuff lock.

Officer then described his “search incident to arrest.” “What I do is I go through the pockets. I check – I pat the outside, and then I go actually into the pockets because I don’t want to miss anything. I don’t want to bring a weapon into the jail. I don’t want to have him have access to a weapon while he is in the back seat of my patrol car, which is going to hurt me.” He follows this procedure “every time” he makes an arrest.



In this case, officer found nothing during exterior pat-down, but when going through pockets of defendant's thick jacket, found meth.

The court reminded that under Caraher, "A valid custodial arrest does not by itself authorize a search." Under Owens, "Reasonable steps taken to prevent a detainee from escaping or from harming others in the area may fall within the officer-safety justification...An initial pat-down of the exterior of the clothing of a person in custody is always justified to protect the officer's safety." Then the court cited the ruling in Hoskinson, quoted above.

Looking at Hoskinson, and the facts of this case, the court said "The fact that officer reaches into the pockets of everyone he arrests did not necessarily make his decision to search the interior of this defendant's pockets unreasonable. The decisive questions are whether, irrespective of his normal practice, officer believed that defendant posed a threat to officer safety and whether such a belief was reasonable. The court ruled that the circumstances of this case, "coupled with officer's training and experience, gave rise to a reasonable belief that defendant posed a risk to officer safety."

State v. Weems, 190 Or App 341 (2003)

Officer testified that she, after patting down the defendant, searched him "for officer safety." She did not testify why she believed removal of items from defendant's pockets was warranted. "The testimony from officer is she conducted a search, during which she discovered the bindle and removed it." She explained she "checked all the pockets...I did just a pat-down. Well, I guess it would be a search because when you, on a felony warrant, the practice is, they'd be arrested. We do the processing at Hermiston and then they are taken to the county jail."

The court cited Owens as authority for officer's pat-down of defendant. However, the court found that the officer's further search was "not justified because, after the pat-down there was no evidence that defendant posed an immediate threat of injury to the officers present."



Federal law

- Federal search incident to arrest is not as restrictive
- Under the Fourth Amendment, officers have an automatic ability to search incident to arrest for weapons and evidence. The officer may search the arrestee and everything worn by the arrestee. U.S. v. Robinson, 414 US 218 (1973)
- The scope of the search is limited to the arrestee's person and the area within his immediate control, i.e., "the area from within which he might gain possession of a weapon or destructible evidence." Chimel v. California, 395 US 752 (1969).
- Under the Fourth Amendment, as interpreted by Arizona v. Gant, 556 US 332 (2009), an officer may search a vehicle incident to a lawful arrest of a recent occupant "only if the arrestee is within reaching distance of the passenger compartment at the time of the search or it is reasonable to believe the vehicle contains evidence of the offense of arrest."

Oregon's "Officer Safety Doctrine"

The Oregon Supreme Court has held that certain actions taken by police officers to protect the safety of officers (or others present) do not violate Article I, Section 9. The most comprehensive discussion of the officer safety doctrine (which effectively functions as a warrant exception) is found in State v. Bates, 304 Or 510 (1987). In Bates, the Court held:

"Article I, Section 9 of the Oregon Constitution does not forbid an officer to take reasonable steps to protect himself or others, if during the course of a lawful encounter with a citizen, the officer develops a reasonable suspicion, based upon specific and articulable facts, that the citizen might pose an immediate threat of serious physical injury to the officer or others then present."
(Emphasis added).



The Court further noted:

“...it is not our function to uncharitably second guess an officer’s judgment. A police officer in the field frequently must make life-or-death decisions in a matter of seconds. There may be little or no time in which to weigh the magnitude of a potential safety risk against the intrusiveness of protective measures. An officer must be allowed considerable latitude to take safety precautions in such situations. Our inquiry, therefore, is limited to whether the precautions taken were reasonable under the circumstances as they reasonably appeared at the time the decision was made.” (Emphasis added).

“The requirement of specific, articulable facts relates only to whether an officer reasonably suspected an immediate threat...Beyond that, the doctrine asks only whether safety precautions chosen by the officer were reasonable under the perceived circumstances. The state is not required...to justify the choice of one reasonable precaution over another.” State v. Foster, 347 Or 1 (2009).

Moveable Vehicles: “Automobile Exception”

Under Article 1, Section 9, “automobiles that have just been lawfully stopped by police may be searched without warrant and without a demonstration of exigent circumstances when police have probable cause to believe that the automobile contains contraband or crime evidence.” State v. Kock, 302 Or 29 (1986). Automobile must have been mobile at time of stop. State v. Brown, 301 Or 268 (1986)

Search may be of interior of vehicle, closed containers therein and the trunk of the vehicle, including closed containers therein, if the evidence sought could reasonably be located there.

Rule does not apply if the vehicle is parked, immobile and unoccupied at the time police come upon the vehicle.

The Oregon Supreme Court in State v. Kurokawa-Lasciak, 351 Or 179, (2011) rejected the notion that any operational vehicle is “mobile” under the automobile exception. The Court made clear that the exception has only two requirements:



The vehicle must be mobile at the time that it is first encountered by police in connection with a crime.	Probable cause must exist for the search of the vehicle.
-----------------------------------------------------------------------------------------------------------	----------------------------------------------------------

What does it mean to be encountered by police in connection with “a crime?” According to the Court of Appeals, the automobile exception applies regardless of whether the lawful stop of a moving vehicle is for a traffic violation or for a crime. Of course, the officer must then develop probable cause to believe the car contains contraband or evidence of a crime during the course of the stop. State v. Bliss, 283 Or App 833 (2017).

Additionally, while an officer will generally see a car in motion, mobility can also be established by auditory means. In State v. Anderson, 361 Or 187 (2017), officers overheard a phone call between an informant and the suspect that the suspect was arriving at the buy location, but never saw the vehicle in motion. The Court found this was sufficient to establish mobility.

Lastly, while the officer must establish both prongs (i.e. mobility & PC), those prongs don’t have to be related to each other. In State v. George, 287 Or App 312 (2017), officers stopped a vehicle that matched the description of an assault suspect. When the officer approached, the officer realized that the driver was not the assault suspect. The officer also saw an open container of alcohol near the passenger. The officer contacted the passenger and smelled an odor of an alcoholic beverage. The officer then opened the door to get the beer can and smelled marijuana. The Court found this was a valid search because the vehicle was mobile at the time it was encountered in connection with the assault, and even though that dissipated, the officer developed PC that it contained contraband or evidence of a crime.



Exigent Circumstances

- This exception requires both probable cause and an exigency.
- “An exigent circumstance is a situation that requires the police to act swiftly to prevent danger to life or serious damage to property, or to forestall a suspect’s escape or the destruction of evidence.” State v. Stevens, 311 Or 119 (1991)
- The exigent circumstances must exist both:
 - For the item you wish to seize; and
 - During the time frame in which you wish to seize it.

An exigent circumstance is a situation that requires the police to act swiftly to prevent danger to life or serious damage to property, or to forestall a suspect’s escape or the destruction of evidence.

NOTE: The state should provide testimony regarding the estimated time required to get a warrant, including a telephonic warrant, and why it was impracticable at the time.

- The search must be limited to the exigency that justified it.
- A person’s history of assault and resisting arrest does not necessarily constitute exigent circumstances justifying noncompliance with the knock and announce requirement. State v. Arce, Or App 185 (1986)
- A police officer cannot create exigent circumstances by his or her own action or inaction.
- Federal law and minor offenses: The Ninth Circuit has held that “an exigency related to a misdemeanor will seldom, if ever, justify a warrantless entry into a home.” Lalonde v. County of Riverside, 204 F3d 895 (2000). Further, the Ninth Circuit characterized the US Supreme Court as having “suggested that exigent circumstances can rarely, if ever, support entry into a home to investigate or arrest someone for a misdemeanor offense.”



What about animals?

The Oregon Supreme Court has ruled that “the exigent circumstances exception to Article I, Section 9, is not limited [as defendant had argued] to circumstances in which human life is threatened. [In the case at issue] the officer had probable cause to believe that a crime [animal neglect] was in progress and, based on specific, articulable facts, determined that warrantless action was necessary to prevent an ongoing criminal act from causing further serious imminent harm to the victim of the crime - an animal entitled to statutory protection. In those circumstances, the exigent circumstances exception permitted the officer’s actions.” State v. Fessenden/Dicke, 355 Or 759 (2014).

The “emergency aid” exception and significance of “community caretaking”

- “Emergency aid” is a recognized exception to the warrant requirement; “community caretaking”, standing alone, is not.

“community caretaking functions” means any lawful acts that are inherent in the duty of the peace officer to serve and protect the public.

ORS 133.033, The “community caretaking” statute, provides:

“Except as otherwise expressly prohibited by law, any peace officer of this state is authorized to perform community caretaking functions.

As used in this section, “community caretaking functions” means any lawful acts that are inherent in the duty of the peace officer to serve and protect the public. “Community caretaking functions” includes, but is not limited to:

- The right to enter or remain upon the premises of another if it reasonably appears to be necessary to:
 - Prevent serious harm to any person or property;
 - Render aid to injured or ill persons; or
 - Locate missing persons.



- The right to stop or redirect traffic or aid motorists or other persons when such action reasonably appears to be necessary to:
 - Prevent serious harm to any person or property;
 - Render aid to injured or ill persons; or
 - Locate missing persons....”

In State v. Martin, 222 Or App 138 (2008), the Court of Appeals distinguished between “community caretaking” and the “emergency aid” exception”:

“ORS 133.033 does not independently establish as exception to the warrant requirement. Rather, it provides legislative authorization for... a particular class of searches, subject to many of the same constitutional constraints that operate to limit other searches, including the warrant requirement. A lawful community caretaking search, in other words, must first be within the universe of police action described in ORS 133.033, and then it must also fall within one of the constitutional exceptions to the warrant requirement.”

The Oregon Supreme Court has articulated that the “need to render emergency aid or prevent serious injury or harm is an appropriate justification for an immediate warrantless entry under Article 1, Section 9.” In State v. Baker, 350 Or 641 (2011), the Court thus concluded that an “emergency aid” exception to the warrant requirement is justified when:

“Police officers have an objectively reasonable belief, based on articulable facts, that a warrantless entry is necessary to either render immediate aid to persons, or to assist persons who have suffered, or who are imminently threatened with suffering, serious physical injury or harm.”

The Oregon Court of Appeals has held the exception may, in appropriate cases, extend to “warrantless searches or seizures that law enforcement officers reasonably believe are necessary to render immediate aid or assistance to **animals**.”



Consent to Search

Key Factors Indicating Voluntariness of Consent	Factors Showing Non-Consent
<p>Advice of Miranda rights</p> <p>Advice of right to refuse consent</p> <p>Knowledge of right to refuse consent</p> <p>Congenial and uncoercive atmosphere</p> <p>Absence of threats or promises</p> <p>Unequivocal consent</p> <p>Conduct indicating the defendant agrees to the search</p>	<p>Police lies</p> <p>Threats to commit illegal acts</p> <p>Failure to advise person of rights</p> <p>Custody may override the voluntariness of consent</p> <p>Uninvited police entry</p>

Scope of Consent: Police may not go beyond the physical boundaries established by the consent.

Case Law Discussion-Scope of Consent

State v. Blair, 361 Or 527 (2017)

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



Oregon Supreme Court, who reversed the Oregon Court of Appeals and remanded to the trial court for more fact finding, ruled: “The logic behind the consent exception supports a focus on the defendant’s actual understanding and intent with respect to the scope of her consent to a search, but what a person says is often the best indicator of what the person intended. In light of those considerations, we think that the nature of the inquiry should be described in the following way: In determining whether a particular search falls within the scope of a defendant’s consent, the trial court will determine, based on the totality of circumstances, what the defendant actually intended. That determination is a factual one...

However, where – based on the totality of circumstances- the defendant’s intent with respect to the scope of consent is unambiguously expressed, that manifestation of intent is controlling. In that way, what a reasonable person would understand by his or her choice of unambiguous words or other manifestation of intent will bear its expected weight in citizen-police interactions. Such clarity in expression will be further promoted when officers requesting consent make clear to a suspect what the objects of the requested search are and what level of scrutiny is sought.”

State v. Winn, 361 Or 636 (2017)

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 Oregon Supreme Court reversed the Oregon Court of Appeals, and remanded back to the trial court for more fact-finding, ruling:



“In light of Blair, (NOTE: Winn and Blair were “companion cases” when they went to the Court of Appeals, and the Oregon Supreme Court similarly considered them together) we initially consider whether, in light of the surrounding circumstances, defendant unambiguously manifested consent—or denial of consent—to the opening of any small closed containers, like the compact in question, that [one] might encounter while searching the purse. We conclude that she did not: As in Blair, in view of the surrounding circumstances, defendant’s affirmative response to [the] generalized request to search gave rise to competing inferences with respect to the scope of her consent... Because evidence in the record would support either of those opposing inferences, we cannot conclude that defendant’s unqualified expression of assent to [the] request to search her purse by hand was unambiguous with respect to the scope of her consent. Instead, the scope of consent determination requires the resolution of those competing inferences...The trial court’s written decision indicates that the court did not resolve that factual issue...Accordingly, as in Blair, we must remand to the trial court to determine the scope of defendant’s consent under the correct standard.

Jointly Occupied Property

- The U.S. Supreme Court in Georgia v. Randolph, 547 US 103 (2006) held: “A physically present inhabitant’s express refusal to consent to a police search is dispositive as to him regardless of the consent of a fellow occupant.”
- As a practical matter, this means a police entry based on, e.g., sister’s consent and over brother’s objection means that any evidence found thereby is inadmissible against brother under the Fourth Amendment.
- However, the court noted if police obtain consent to search from someone with authority over premises (in Oregon actual versus apparent authority is required), there is no obligation to seek out and ask a co-occupant who is not physically present and who otherwise is not expressly objecting.
- Further, the court observed if the police have some other lawful basis for entry, e.g., exigent circumstances, etc., that does not depend on consent, they can ignore the co-occupant’s objection.



Third-Party Consent

- A third party consent is valid only to the extent the party has actual authority to consent to search commonly held property.
- An officer's good faith belief that a third party has authority to consent is irrelevant to the legal determination.
- A third party has "actual authority" to consent to a search only if he or she has "common authority as shown by that person's joint use or occupancy of the premises before validly authorizing the search."
- The "scope of a person's authority [to consent] depends on the level of access that the co-occupants have agreed on."
- Authority to consent to a search of an area is not necessarily coextensive with authority to consent to a search of personal items within that area. With "respect to items of personal property within jointly occupied space, a co-occupant's actual authority to consent to a search depends on that person's use of, or access to, those items."
- Minors – age is but one factor in analyzing if consent was knowing and voluntary.

Significance of *State v. Hall*, *State v. Unger*, and related cases, to consent to search and "exploitation"

- Whenever the state has obtained evidence following the violation of a defendant's Article I, section 9 rights, it is presumed that the evidence was tainted by the violation and must be suppressed. *State v. Unger*, 356 Or 59 (2014).
- The state may rebut this presumption by establishing that the disputed evidence "did not derive from the preceding illegality." *State v. Hall*, 339 Or 7 (2005).



- When a defendant challenges the validity of his or her consent based on a prior police illegality (illegal stop or search), the state bears the burden of demonstrating that the consent was voluntary and was not the product of police exploitation of that illegality.
- When determining whether a defendant's consent to search is the product of exploitation of police misconduct, courts are to consider the totality of the circumstances, including: the temporal proximity between the misconduct and the consent; the existence of any intervening or mitigating circumstances; the nature of the misconduct, including its purpose and flagrancy and whether the police took advantage of it; and the voluntariness of the consent. Unger
- The Supreme Court observed in Hall and reaffirmed in Unger that exploitation of police misconduct may exist if the police seek the defendant's consent solely as a result of knowledge of inculpatory evidence obtained from their unlawful conduct.

Inventory Search

- In State v. Atkinson, 298 Or App 1 (1984), the Oregon Supreme Court addressed inventory policies. Non-investigatory inventories of the contents of impounded vehicles (and personal property seized from a person being taken to a secure facility), are a search warrant exception under the Federal Constitution.
- Under Article 1, Section 9, of the Oregon Constitution, law enforcement agencies may adopt and administer inventory policies in order to protect private property.
- The inventory must be conducted pursuant to a properly authorized administrative program, designed and systematically administered so that the inventory involves no exercise of discretion by the law enforcement person directing or taking the inventory.
- The person performing the inventory must not deviate from the established protocol.



- The scope of the inventory must be reasonable in relation to its purpose. Weber v. Oakridge School Dist. 76, 184 Or App 415 (2002) rev den, 335 Or 422 (2003).
- Generally, property is to be listed by its outward appearance; no closed opaque container may be opened to determine what if anything is inside it so that the contents may be inventoried in turn. State v. Ridderbush, 71 Or App 418 (1985).
- The exception to the rule above, is that an inventory policy may authorize officers to open closed containers that are “designed to or likely to contain” valuable items. State v. Williams, 227 Or App 453 (2009).
- Any object discovered in plain view, while conducting the inventory pursuant to policy, including the contents of glove compartments, consoles and vehicle trunks, may be inventoried and seized. State v. Keller, 265 Or 622 (1973).



Open View and Plain View

Oregon courts generally distinguish between two kinds of plain view:

Open View	Plain View
<p>Where there is no physical intrusion by an officer into a constitutionally protected area.</p> <p>If there is open view and no physical intrusion into a protected area, there is no violation of the Fourth Amendment or Article I, section 9.</p>	<p>Where there is a physical intrusion into a constitutionally protected area.</p> <p>If there is a plain view, and there is an intrusion, the Fourth Amendment and Article I section 9 require:</p> <ul style="list-style-type: none">• The prior intrusion must be a lawful intrusion by the officer to gain a lawful advantage to view the evidence;• There must be immediate probable cause to believe the evidence is seizable.• The officer has a lawful right of access to the object itself.



**Department of Public Safety Standards and Training
 Probable Cause Statement and Data Sheet**

Reliable Eyewitness Confession/Admission/Provable Lie Physical Evidence Connecting Defendant to Crime

I offer the following information based upon my information and belief:

Name of Arrestee _____ DOB _____

Crime(s) Alleged _____

Date of Crime(s) _____ Date of Arrest _____

Location of Crime(s) _____ Location of Arrest _____

Other Arrestees _____

Victim(s) of Crime _____ DOB _____

Victim Address _____ Victim Phone _____

Witness (es) Adult Minor _____

Injury _____ Loss/Damage _____ Value _____

Summary of Probable Cause _____

Submitted by _____

(Sign and Print Name, Print DPSST#, Department and Date Completed)

State of Oregon,) Under penalty of perjury, I declare that I have examined this statement and
 County of _____) to the best of my knowledge and belief, it is true, correct, and complete and is based on
) all information of which the preparer has any knowledge.

Subscribed and sworn to before me this _____ day of _____, 20__

 Deputy Clerk of the Court

- I find that probable cause exists to believe the arrestee committed the crime(s).
- I find that insufficient probable cause exists, so the defendant must be released on this charge.
- No decision is needed because the defendant has been released.

Judge _____ Date _____ Time _____



**SUGGESTED FAX SHEET FOR NOTIFYING CONSULAR OFFICIALS OF ARRESTS OR
 DETENTIONS**

SUBJECT: NOTIFICATION OF ARREST OR DETENTION OF A NATIONAL OF YOUR COUNTRY

DATE/TIME: _____

TO: Embassy/Consulate of _____ in _____, _____
 (COUNTRY) (CITY) (STATE)

FROM:

Name/Office _____
 Address _____
 City _____ State _____ Zip Code _____
 Telephone (____) _____ Fax (____) _____

We arrested/detained the following foreign national, who we understand is a national of your country, on _____.
 (DATE)

Name: _____
 Date of Birth/Place of Birth: _____
 Nationality/Country: _____
 Passport Issuing Nation: _____
 Passport Number: _____

This person has been or may be charged with the following offense(s):

For more information, **please call** _____ between the hours of _____
 Please refer to **case number** _____ when you call.

ADDITIONAL INFORMATION:

ARRESTING A NON-U.S. CITIZEN

Consular Notification Process



Q. Are you a U.S. citizen?

A. **"YES, I am a U.S. citizen."**

(No further action required.)



"NO, I am not a U.S. citizen."



Q. Are you a national of one of these countries?

Albania	Costa Rica	Kazakhstan	Poland ²	Tanzania
Algeria	Cyprus	Kiribati	Romania	Tonga
Antigua and Barbuda	Czech Republic	Kuwait	Russia	Trinidad and Tobago
Armenia	Dominica	Kyrgyzstan	St. Kitts and Nevis	Tunisia
Azerbaijan	Fiji	Malaysia	St. Lucia	Turkmenistan
Bahamas	Gambia	Malta	St. Vincent and the Grenadines	Tuvalu
Barbados	Georgia	Mauritius	Seychelles	Ukraine
Belarus	Ghana	Moldova	Sierra Leone	United Kingdom ³
Belize	Grenada	Mongolia	Singapore	Uzbekistan
Brunei	Guyana	Nigeria	Slovakia	Zambia
Bulgaria	Hungary	Philippines	Tajikistan	Zimbabwe
China ¹	Jamaica			

1. Includes Hong Kong and Macao. Does not include Republic of China (Taiwan).

2. Mandatory only for non-permanent residents in the United States (i.e., those not holding a "green card"); for green card holders, notification is upon request.

3. UK includes Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos islands. Residents' passports bear the name of their territory and may also bear the name "United Kingdom." Whether or not the passport bears the name "United Kingdom," consular services for these persons are provided by UK consulates.

A. **"YES."**

Step 1. Inform detainee that he or she may communicate with consulate, and that you must notify consulate of arrest/detention.

Step 2. Notify nearest consulate **without delay**.

Step 3. Make record of notification in case file. Where fax or email sent, keep fax confirmation or sent email.

Step 4. Allow consular officers access to detainee if they subsequently request access.

(No further action required.)



"NO."

Inform detainee, **without delay**, that he or she may have consulate notified of arrest/detention.



Q. Do you want your consulate notified of your arrest/detention?

A. **"YES."**

Step 1. Make note in case file.

Step 2. Notify nearest consulate **without delay**.

Step 3. Make record of notification in case file. Where fax or email sent, keep fax confirmation or sent email.

Step 4. Allow consular officers access to detainee if they subsequently request access.

(No further action required.)



"NO."

Step 1. Make note in case file.

Step 2. Do **NOT** inform the consulate.

(No further action required.)



IN ALL CASES:

- Do not inform consulate about detainee's refugee or asylum status.
- Detainee may communicate with consular officer and may request consular access at any time (whether previously declined or not).
- Consular officers may have access to detainee regardless of whether detainee requests it. Even if detainee does not want to be visited, consular officers may still have one face-to-face visit.

Consular Notification & Access (CNA)
U.S. Department of State
CA/P
SA-17, 12th Floor
Washington, DC 20522-1712

P: 202-485-7703
F: 202-485-6170
consnot@state.gov

For more information visit: <http://travel.state.gov/CNA>



LEGAL Bulletin

EFFECTS OF MEASURE 110 ON INVESTIGATION AND PROSECUTION OF DRUG OFFENSES

Appellate and Criminal Justice Divisions, Oregon DOJ

January 14, 2021

The recent enactment of Ballot Measure 110 means that possession of controlled substances, whether under ORS 475.752 or the substance-specific statutes later in Chapter 475, will now generally be a violation, not a crime. Drug possession will only be a crime when it involves a certain quantity of a drug covered by the substance-specific offenses listed below, or a commercial drug offense (CDO) that involves a Schedule I or II drug or a drug listed in the substance-specific offenses. These changes impact the scope of an officer's ability to investigate drug offenses.

Measure 110 takes effect February 1, 2021. The changes to the legal classifications of conduct will apply only prospectively—*i.e.*, only to conduct *committed* on or after that date. The changes do not apply to conduct committed before February 1, 2021, even if the defendant is not charged or tried until after that date. *See* ORS 161.035(4) (even after statute is amended or repealed, the law in effect at the time of the person's conduct controls the prosecution).¹

¹ Although the legislature has the power to make a statute apply retroactively to conduct committed before its enactment, ORS 161.035(4) states a general policy judgment that conduct is prosecuted and punished based on the law at the time of the offense. Compare *State v. Isom*, 313 Or 391, 395 (1992) (later amendments redefining crime of escape did not affect the classification of the defendant's conduct, which constituted escape under the law in effect at the time), with *State v. McDonnell*, 329 Or 375, 384-85 (1999) (where legislature expressly provided that amended sentencing statute applies to "any defendant sentenced to death after [its effective date]," ORS 161.035(4) did not override legislative stated intent that it apply to conduct committed before effective date). As a result, because Measure 110 states only that its amendments "become operative" on February 1, 2021, and does not purport to change the classification of prior conduct, ORS 161.035(4) provides that the prior statutes remain effective for conduct committed before its operative date.

Below, DOJ addresses the most significant effects of the new law on current drug enforcement practices. The reclassification of “mere possession” as a violation will limit officers’ authority to make initial stops based on suspicion of drug possession, to investigate suspected drug possession even during a lawful stop made for another offense, and to make arrests and—at least to some degree—to search pursuant to the automobile exception based on probable cause for possession of drugs.

A. THE INITIAL STOP: WHAT JUSTIFICATION IS NEEDED TO STOP FOR SUSPECTED DRUG POSSESSION?

1. A stop for a *violation*-level offense requires probable cause.

An initial question under the new law is what authority an officer has to make a stop for suspected possession of drugs, now that it has been reclassified as a violation. Although DOJ previously has attempted to convince the appellate courts that reasonable suspicion should be sufficient, the Oregon Court of Appeals has held that the state constitution requires probable cause to stop a person for a traffic violation. *See, e.g., State v. Aguilar*, 307 Or App 457, 466-67 (2020) (“[U]nder Article I, section 9, of the Oregon Constitution, an officer must develop probable cause—rather than merely reasonable suspicion—to stop a citizen for a traffic violation.”) (citing *State v. Gordon*, 273 Or App 495, 500 (2015), *rev den*, 358 Or 529 (2016)). And if probable cause is required to stop for a *traffic* violation, it seems likely that test will be the same for a *non-traffic* violation.²

² ORS 153.039(2), which governs non-criminal violation stops, sets a lower standard than probable cause—allowing a stop based on “*reasonable grounds*” that the person has committed a violation—but that does not affect the constitutional analysis. Moreover, the meaning of “reasonable grounds” is nebulous at best. In a different context, the Oregon Supreme Court has held only that “reasonable grounds” means something *more* than reasonable suspicion, but *less* than probable cause. *State v. Gulley*, 324 Or 57 (1996). And, although the state has attempted to argue that “reasonable grounds” means reasonable suspicion, the Court of Appeals—at least at this time—has declined to address the issue. In sum, even if ORS 153.039 is relevant to the constitutional question, that standard currently requires *more* than reasonable suspicion to stop for a violation.

Thus, in a close case as to probable cause, it may be worth making a backup argument that reasonable suspicion, or “reasonable grounds,” can justify a stop for a non-traffic violation—to preserve the issue for appellate review. The Oregon Supreme Court has not directly decided the issue—*see, e.g., State v. Watson*, 353 Or 768, 774 n 7 (2013)—and, in *dictum* in one case, has strongly suggested that reasonable suspicion may be constitutionally sufficient for a violation stop. *See, e.g., State v. Suppah*, 358 Or 565, 568 n 2 (2016). But the Court of Appeals cases requiring probable cause for a traffic stop are binding unless the Supreme Court holds otherwise, and it is unlikely that it would set a lower standard for non-traffic violations.

2. A stop for a *crime* requires reasonable suspicion.

Of course, the reasonable suspicion standard still applies to stops to investigate criminal offenses (or to expand the scope and duration of a traffic stop to investigate a criminal offense). Under the new law, manufacture and delivery of drugs remain crimes.

Possession remains **criminal** only if it involves the following:

Quantities of specific-drug offenses:

LSD	40 or more user units	ORS 475.752(7)(b)(A)	A misd.
Psilocybin	12 gram(g) or more	ORS 475.752(7)(b)(B)	A misd.
Methadone	40 or more user units	ORS 475.824(2)(c)	A misd.
Oxycodone	40 or more pills	ORS 475.834(2)(c)	A misd.
Heroin	1 g or more	ORS 475.854(2)(c)	A misd.
MDMA	1 g or more; or 5 or more pills	ORS 475.874(2)(c)	A misd.
Cocaine	2 g or more	ORS 475.884(2)(c)	A misd.
Meth	2 g or more	ORS 475.894(2)(c)	A misd.

Commercial drug offenses involving:³

Schedule I	Any, incl. LSD and psilocybin	ORS 475.752(7)(a)	B fel.
Schedule II	Any amount	ORS 475.752(8)	C fel.
Methadone	Any amount	ORS 475.824(2)(b)	C fel.
Oxycodone	Any amount	ORS 475.834(2)(b)	C fel.
Heroin	Any amount	ORS 475.854(2)(b)	B fel.
MDMA	Any amount	ORS 475.874(2)(b)	B fel.
Cocaine	Any amount	ORS 475.884(2)(b)	C fel.
Meth	Any amount	ORS 475.894(2)(b)	C fel.

As shown above, drug possession is criminal only when accompanied by CDO factors or if the amount of the substance exceeds the specified threshold. Thus, unless the officer has a specific and objective factual basis for believing that the suspect possesses drugs in a quantity exceeding the threshold or that CDO factors are present, the officer can initiate a stop for the violation-level offense only based on *probable cause*.

³ ORS 475.900(1)(b): CDO involves three or more factors, such as unlawful possession of guns or possession weapons for use in a controlled substance offense, possession of packaging or manufacturing materials, drug records, stolen property, or modification of structures to facilitate a drug offense or use of public lands. Other factors apply only when the crime involved specific controlled substances—*i.e.*, such as delivery of certain substances (heroin, cocaine, methamphetamine, lysergic acid diethylamide, psilocybin or psilocin) “for consideration,” or possession of more than a specified amount of a particular substance.

For example, even if an officer reasonably suspects that a suspect has *some* drugs, that fact alone does not establish probable cause to believe that the suspect has a *criminal quantity* of the substance. *See, e.g., State v. Tallman*, 76 Or App 715, 720 (1985) (discovery of less than one ounce of marijuana “cannot by itself create probable cause to search for more”); *State v. Huff*, 253 Or App 480, 490-91 (2012) (mere discovery of meth pipe with residue in defendant’s RV did not provide probable cause to search the RV for more drugs). Similarly, to support a reasonable suspicion that three CDO factors are present, the officer must be able to point to specific and articulable facts about the particular suspect that reasonably would give rise to that suspicion.

And, as explained below, Measure 110’s decriminalization of “mere possession” of drugs not only impedes officers’ abilities to stop a person for having drugs, but also their ability to further investigate during an otherwise lawful stop if they suspect that the person has drugs. That is because an officer’s investigation during a stop for one purpose must be “reasonably related” to that offense, unless the officer has independent reasonable suspicion of a *crime* that would justify a separate investigation. An officer’s discovery that the detainee has a noncriminal quantity of a controlled substance does not, by itself, provide grounds to expand a stop in order to inquire or request consent to search for evidence of a criminal-level drug offense.

B. EXTENSION OF LAWFUL STOP: WHEN CAN AN OFFICER INVESTIGATE A PERSON FOR DRUG POSSESSION DURING A STOP FOR AN UNRELATED PURPOSE?

The Oregon Supreme Court recently rejected the Court of Appeals’ longstanding “unavoidable lull” rule, which allowed inquiries unrelated to the basis for the initial stop as long as it did not extend the duration of the stop. The supreme court held that an extension of the stop occurs either when the duration is extended or when an officer investigates beyond the subject matter of the original stop. Now, “all investigative activities, including investigative inquiries,” that are unrelated to the reason for the stop are unlawful unless the state can prove that there was “independent constitutional justification.” *State v. Arreola-Botello*, 365 Or 695 (2019).

Under *Arreola-Botello*, it appears that the level of “independent constitutional justification” that will justify an unrelated investigation during a stop is the same as the justification that would be required if an officer stopped a suspect to conduct that investigation.⁴ In other words, the level of suspicion needed to extend the scope of a stop will depend on whether the officer seeks to investigate a **violation** or a **crime**.

⁴ In *Arreola-Botello*, the court noted that the officer’s inquiries could have been justified if the officer had “reasonable suspicion that [the] defendant had engaged or was about to engage

1. Extension of an unrelated stop to investigate a drug *violation* requires probable cause.

As stated above, in Oregon, an officer needs **probable cause** to initiate a stop or any other constitutionally significant inquiry related to a **violation**. Thus, under *Arreola-Botello*, an officer can ask questions or otherwise investigate a violation drug offense during an unrelated stop only based on probable cause for the violation.

If PC develops for a violation-level offense, the officer can ask only those questions reasonably related to that offense. Such questions might include:

- Questions about the specific drugs for which PC exists;
- A request for consent to search for those drugs;
- A command to hand over the drugs, because the officer has authority to seize contraband.
 - Note: An officer cannot actually enter a vehicle—which is a separate event with different constitutional significance—to seize contraband unless a warrant exception applies, such as consent, exigency, or the automobile exception, described below.
- Questions about whether the suspect possesses *other* drugs, unless it is clear that the officer is shifting the investigation to *criminal* activity without reasonable suspicion.
 - Example: A question whether there are “a lot more drugs” or whether CDO facts exist is clearly investigating a crime, not the original violation.

Questions about packaging materials or other evidence of a *crime* must be based on independent suspicion that the person is engaged in *criminal* activity in drugs, as explained below.

2. Extension of an unrelated stop to investigate a drug *crime* requires reasonable suspicion for that crime.

An officer who develops suspicion during a stop that a person is engaged in a drug *crime* must be able to articulate facts supporting **reasonable suspicion** to inquire about or otherwise investigate the criminal activity. Here are some examples:

in *criminal conduct*.” 365 Or at 714. But the court treated unrelated questions or investigation during the initial stop as a separate stop that requires its own constitutional justification.

- **Possession of a criminal quantity of a controlled substance.** During a stop for another offense, an officer with reasonable suspicion that the defendant possesses a controlled substance in a quantity—or under other circumstances—that would make it a crime, rather than a violation, can ask questions related to the *crime*.
 - **Substances with low threshold amounts.** In the case of possession of substances for which the legislature has set low threshold amounts, the same facts that support probable cause for the violation may often be sufficient to establish reasonable suspicion of a criminal amount, if the officer can articulate why he or she reasonably believed that the amount exceeded the threshold.⁵ For example, it takes only a gram of heroin for possession to be a crime; thus, it may not take a lot more than a belief that the person has *some* heroin to suspect a crime.

- **Drug possession, plus three CDO factors.** If an officer has reasonable suspicion for possession of a controlled substance and that three or more CDO factors are present, the officer can inquire about that crime during an unrelated stop. But in that scenario, it may be just as easy for the officer to rely on reasonable suspicion for delivery of a controlled substance, rather than trying to explain facts supporting a belief that specific CDO factors are present.

- **DUII.** An officer who reasonably suspects DUII can ask questions about the presence of alcohol or a controlled substance because that is reasonably related to the purposes of a DUII investigation. *State v. Williams*, 297 Or App 384, *rev den*, 365 Or 658 (2019). *See also* pages 67-70 of the DOJ Search and Seizure Manual (2020 ed) for other cases with facts supporting reasonable suspicion for DUII.

C. HOW WILL MEASURE 110 IMPACT OFFICERS’ ABILITY TO ARREST AND TO SEARCH ABSENT CONSENT OR A SEARCH WARRANT?

As we all know, an officer lacks authority to make a custodial arrest for a violation, so Measure 110’s reclassification of most conduct involving drug possession to violations eliminates any arrest authority that formerly would have been available for that

⁵ Even when an officer does not know the quantity of drugs involved, if an officer articulates reasonable suspicion of a *crime*, the fact that it is possible the defendant may possess only a *violation*-level quantity does not restrict the officer from investigating the crime. *State v. Acuna*, 264 Or App 158, 169 n 4, *rev den*, 356 Or 400 (2014).

conduct.⁶ In addition, some exceptions to the warrant requirement depend on whether the suspect was subjected to a lawful arrest. For example, most inventories of a person and his or her belongings are permitted only upon an arrest, and a search incident to arrest is allowed only if there is a lawful custodial arrest. In those circumstances, the lack of authority to arrest will mean that officers no longer will have authority to conduct a search that previously would have been allowed.

Automobile exception. One exception to the warrant requirement, the automobile exception, still applies, even to violation-level offenses. The automobile exception to Article I, section 9, permits a warrantless search of a vehicle if the vehicle “is mobile at the time it is stopped by police,” and the officer has probable cause “to believe that the vehicle contain[s] contraband or evidence of a crime.” *State v. Brown*, 301 Or 268, 274 (1986). Contraband includes evidence of violations. *State v. George*, 287 Or App 312 (2017), *rev den*, 363 Or 744 (2018) (finding that automobile exception applied to justify warrantless search for evidence of an open container violation); *State v. Smalley*, 233 Or App 263, *rev den*, 348 Or 415 (2010) (finding that the automobile exception applied to justify a search for suspicion of less than an ounce of marijuana). *See also State v. Tovar*, 256 Or App 1, 10 (2013), *rev den*, 353 Or 868 (2013) (describing holding in *Smalley*). The automobile exception will therefore justify a search of a vehicle if car was mobile at the time of the stop and the officer has probable cause to believe that the car contains drugs, even if the amount of drugs possessed would be only a violation.

A word of caution about probable cause: Probable cause for purposes of the auto exception is probable cause to believe that evidence or contraband is *in* the vehicle, not merely probable cause that the person has committed a crime. That is, “‘additional facts’ beyond mere physical possession of drugs must be presented to establish the probability that *further* evidence of criminal activity will be found” in the vehicle. *State v. Sunderman*, 304 Or App 329, 343 (2020) (search under the automobile exception was unlawful because the presence of unused methamphetamine pipes did not “establish probable cause of current possession”); *see also State v. Tovar*, 256 Or App 1, 9 (2013), *rev den*, 353 Or 868 (2013) (the “scope” of search pursuant to the automobile exception “is defined by the

⁶ For that reason, Measure 110 limits officers’ ability to take a youth into custody for drug possession now classified as a violation. *See* ORS 419C.080(1) (a youth can be taken into custody without a warrant or court order “[w]hen, if the youth were an adult, the youth could be arrested without a warrant”). Thus, an officer cannot take a youth into custody based on the youth having committed a violation under Ballot Measure 110. Instead, the officer must issue a citation, returnable to the juvenile court. ORS 419C.085. **Note:** ORS 419C.370(1)(b) authorizes a juvenile court to enter an order directing that “offense[s] classified as violation[s] * * * be waived to municipal court if the municipal court has agreed to accept jurisdiction.” That statute appears to authorize such an order with respect to violations under Ballot Measure 110.

warrant that the officer could have obtained”).⁷ It should also be noted that an officer’s observation of a defendant’s intoxication—without more—is insufficient to establish the inference that a defendant presently possesses a controlled substance. *Sunderman*, 304 Or App at 343; *State v. Schmitz*, 299 Or App 170, 177 (2019).

Thus, if an officer sees a user amount of drugs in plain view, the officer may conduct a limited search of the automobile for the purpose of seizing those drugs. To search the car for additional drugs, however, the officer most likely will need to articulate facts establishing probable cause to believe that the car contains additional drugs. If an officer has probable cause to believe that there are additional drugs in the car, the officer may search the car and any containers that might reasonably contain the drugs.

Please note that the continuing validity of the automobile exception is at issue before the Oregon Supreme Court in *State v. McCarthy*, case no. S067608.

Probable cause and exigency. Additionally, a search for, or the seizure of, contraband may also be permissible pursuant to the probable cause and exigency exception to the warrant requirement. The probable cause prong refers to the justification for the issuance of a warrant. *See State v. Matsen*, 287 Or 581, 586-87 (1979) (finding that officers had probable cause to search, but “the state failed to prove that destruction of contraband or the escape of the defendants was imminent”). Contraband is a permissible object of a search and seizure warrant. ORS 133.535(2). Hence, an officer with probable cause to believe that a person has contraband could seek a warrant to search that person.

Moreover, if that officer also has an objectively reasonable belief that there is an exigent circumstance, that officer may be justified in conducting the search or seizure without seeking a warrant. “An exigent circumstance is a situation that requires the police to act swiftly to prevent danger to life or serious damage to property, or to forestall a suspect’s escape or destruction of evidence.” *State v. Stevens*, 311 Or 119, 126 (1991). Hence, if an officer reasonably believes that a person may destroy contraband before the officer could lawfully obtain a warrant, the officer may seize that contraband.

D. PROSECUTION OF DRUG VIOLATIONS

1. Can the state rely on a presumptive field test result at trial?

⁷ *Tovar* distinguished its probable-cause holding from that in *State v. Huff*, 253 Or App 480, 486-88 (2012), which is not an automobile-exception case, but which explained that, in that case, discovery of a quarter gram of meth and a pipe with residue in the defendant’s RV did not establish probable cause to search the RV because the officer’s affidavit did “not provide any potential linkage between the presence of some drugs and the likelihood of more drugs.”

The first question is whether a presumptive field test, if admitted, will be sufficient to prove the identity of a controlled substance in a violation trial. In most circumstances, a field-test result will be legally sufficient to prove a violation by a preponderance of the evidence under ORS 153.076(2).

Another question relates to the foundation for admission of a field-test result, which will be treated as “scientific” evidence under OEC 702. The obvious difficulty in a violation case is that the defendant often will appear *pro se* (i.e., without an attorney), in which case the district or city attorney’s office may assist with the case preparation and subpoena witnesses, but the officer generally makes any legal arguments to the court. ORS 153.076, 153.083. Unless the legislature enacts a statute that would affirmatively make presumptive field tests admissible in these cases, prosecutors will either need to ensure that officers are trained on—and prepared to respond to—potential evidentiary objections to the field test or provide direct assistance when objections arise.

A trial court generally has an obligation as a gatekeeper to require an evidentiary foundation for scientific evidence—often by application of the *Brown/O’Key* multi-factor test—but there are circumstances in which a full evidentiary hearing is not required to establish scientific validity of the science underlying a particular technique. One circumstance involves scientific evidence that is the subject of *prima facie* legislative recognition under *State v. Helgeson*, 220 Or App 285 (2008) and *State v. O’Key*, 321 Or 285 (1995). That is, if the legislature has determined that evidence obtained using a particular scientific technique is admissible, that is at least *prima facie* evidence of its validity and can support its admission at trial. In the case of presumptive field tests, the legislature has provided (in ORS 475.235(3)) that their results are admissible in grand jury and other preliminary proceedings, thereby recognizing the underlying “science” to be valid. In short, that legislative recognition is one way to establish scientific validity without application of the *Brown/O’Key* multifactor test.

Another way of establishing the scientific foundation without a full hearing is to establish that the principles or methodology underlying field testing are “universally accepted” and thus are a “clear case” in which no additional foundational evidence is required for admission. *See O’Key*, 321 Or at 293; *see also State v. Branch*, 243 Or App 309 (2011) (principles underlying LIDAR speed measurement are universally accepted). Note that the requirement of “universal acceptance” applies to the scientific principles used in the technique, not the ultimate *result* of the testing.

Finally, even if the trial court believes that it must apply the *Brown/O’Key* multi-factor test, the state could rely on evidence—from the manufacturer or other source of information—explaining the methodology and error rates for the results.

The OSP crime lab has provided some simple explanations of the two methods involved in field testing (**Raman spectroscopy**, the technique underlying the TruNarc handheld analyzer, and **Colorimetric reagent analysis**, which is the testing method underlying the NIK color tests), along with scientific sources for those explanations. DOJ has compiled those explanations into “cheat sheets” that explain the testing methods and summarize the legal arguments in support of the use of judicial notice and *prima facie* legislative recognition as foundation for the reliability of testing based on those techniques. DOJ hopes that the “cheat sheets” are useful tools in court.

2. What if a defendant fails to appear on a citation?

If a defendant is cited for a possession violation and fails to appear on the citation or any other court appearance, the court can issue an order to show cause why the defendant shall not be held in contempt. ORS 153.064(2). The show-cause order can be served by certified mail with return receipt requested, and if that cannot be done, the defendant must be served *personally* with the order. If the defendant is served and does not appear as required by the order, the court can issue an arrest warrant. ORS 153.064(2). A person who knowingly fails to appear on a citation or other court appearance required after the person is served with a citation can be charged with failure to appear in a violation proceeding under ORS 153.992. If the person fails to appear on that misdemeanor charge, the court may issue an arrest warrant. ORS 153.064(1).

E. FURTHER MEASURE 110 RESOURCES (AND RECOGNITION OF AUTHORSHIP)

This memorandum is the result of substantial work by attorneys for the Oregon Department of Justice, as well as the assistance of the Oregon State Police Crime Laboratory. If you have questions, please feel free to call any of the authors of this memo: Criminal Justice Division AAG Kurt Miller, at 503-378-6347; or Appellate Division AAGs Leigh Salmon, Joanna Jenkins, Philip Thoennes, and Jennifer Lloyd, at 503-378-4402.

Please do not forget to use the attached “cheat sheets” in court if you believe they will be helpful for purposes of establishing the scientific foundation for presumptive field tests in violation trials.

RAMAN SPECTROSCOPY/TRUNARC™ PRESUMPTIVE FIELD TEST

How it works: The TruNarc handheld analyzer is the field version of an instrument that has been used in laboratories, including crime labs, since the 1970s. The instrument is a presumptive test that analyzes substances in their packaging, which greatly reduces the risk of losing evidence or exposing an officer to dangerous substances. The instrument operates on the principles of Raman spectroscopy. This method focuses a laser on a sample to measure the spectrum of light that passes through the sample at different wavelengths. The instrument compares the measurements to known standards of substances to make a presumptive identification, which is then displayed to the officer. The properties of Raman scattering were discovered in 1928 and practical applications have been universally accepted in the scientific community for decades.⁸

Foundation for admission at trial: There are two possible bases on which the trial court can find that the technique is reliable scientific evidence:

1. The court can take judicial notice because the technique is universally accepted in the scientific community. Because the scientific principle of Raman spectroscopy is universally accepted in the scientific community, and the TruNarc instrument applies that principle to identify the substance at issue in a violation trial, the court can find that this is a “clear case,” and also a case for judicial notice of the indisputable scientific validity, such that the state is not required to present additional scientific foundation to satisfy the *Brown/O'Key* test for the admissibility of scientific evidence as discussed in *State v. Branch*, 243 Or App 309 (2011), *rev den*, 351 Or 216 (2011) (LIDAR involves scientific evidence, but requires no scientific foundation because it presents a clear case, and a case for judicial notice).

2. The technique is a subject of *prima facie* legislative recognition. Further, ORS 475.235(3)(a) provides that a presumptive field test is *prima facie* evidence of the identity of the substance for purposes of grand jury and a preliminary hearing. Because the legislature has accepted presumptive tests for those purposes, the trial court may find that presumptive tests are the subject of *prima facie* legislative recognition of the reliability of that process for testing substances such that the state is not required to present additional evidence to satisfy the *Brown/O'Key* foundation for the admissibility of scientific evidence as discussed in *State v. Helgeson*, 220 Or App 285 (2008) (testing for BAC involves scientific evidence, but requires no scientific foundation because it is the subject of *prima facie* legislative recognition of the testing process).

⁸ K. S. Krishnan; Raman, C. V. (1928). "The Negative Absorption of Radiation", *Nature*, 122 (3062): 12-13; Moffat, A.C. et al., (editors). *Clarke's Analysis of Drugs and Poisons*, (most recent edition) the Pharmaceutical Press, Volume 1, (chapter on Raman Spectroscopy); Lewis, I.R. and H.G.M. Edwards (editors), *Handbook of Raman Spectroscopy*, Marcel Dekker, Inc., 2001. pp. 1-40, 733-748; Gardiner, D.J. (1989). *Practical Raman spectroscopy*. Springer-Verlag; Ravreby, M. D., Gorski, A., "Effects of Crystal Habits in Heroin on the Infrared Spectra", Proceedings of the International Symposium on the Forensic Aspects of Controlled Substances, 1988, pp. 165-167; Guidelines on Raman Handheld Field Identification Devices for Seized Material. United Nations Office on Drugs and Crime. www.unodc.org/documents/scientific/Guidelines_Raman_Handheld_Field_identification_Devices.pdf

COLORIMETRIC ANALYSIS/NIK® PRESUMPTIVE FIELD TEST

How it works: NIK brand tests, as well as other colorimetric reagent test kits, have been used by officers and in laboratories for decades. The kits are a presumptive test that detects the presence of a particular class of drugs by a simple method whereby the officer places a small portion of the substance in the kit. A specific color change will indicate a presumptive positive for the specified compound. These tests are based upon the known chemical color reactions when two substances are exposed to each other. The science of chemical color tests dates to 1859 and practical applications have been universally accepted in the scientific community for decades.⁹

Bases for admission at trial: There are two possible basis on which the trial court can find that the technique is reliable scientific evidence:

1. The court can take judicial notice because the technique is universally accepted in the scientific community. Because the scientific principle of colorimetric analysis is universally accepted in the scientific community, and the test kit used by an officer applies that principle to identify the substance at issue in a violation trial, the court can find that this is a “clear case,” and also a case for judicial notice of the indisputable scientific validity, such that the state is not required to present additional scientific foundation to satisfy the *Brown/O’Key* test for the admissibility of scientific evidence as discussed in *State v. Branch*, 243 Or App 309 (2011), *rev den*, 351 Or 216 (2011) (LIDAR involves scientific evidence, but requires no scientific foundation because it presents a clear case, and a case for judicial notice).

2. The technique is a subject of *prima facie* legislative recognition. Further, ORS 475.235(3)(a) provides that a presumptive field test is *prima facie* evidence of the identity of the substance for purposes of grand jury and a preliminary hearing. Because chemical reagent tests based on colorimetric analysis are presumptive tests under ORS 475.235(6), the trial court may find this is the subject of *prima facie* legislative recognition of that testing method such that the state is not required to present additional foundational evidence to satisfy the *Brown/O’Key* test for the admissibility of scientific evidence as discussed in *State v. Helgeson*, 220 Or App 285 (2008) (BAC testing involves scientific evidence, but requires no scientific foundation because it is the subject of *prima facie* legislative recognition of the testing method).

⁹ Alim A Fatah. Color Test Reagents/Kits for Preliminary Identification of Drugs of Abuse. National Institute of Standards and Technology (NIST): Maryland; 2000; Rapid Testing Methods of Drugs of Abuse. United Nations Office on Drugs and Crime: Vienna; 1995; A.C. Moffat, M.D. Osselton, and B. Widdop (Eds.), *Clarke’s Analysis of Drugs and Poisons*, 3rd Edition, Pharmaceutical Press, London, p. 279-300 (Vol. 1: colour tests), 978-979 (Vol.2: ephedrine); Feigl F, Anger V. Spot Tests in Organic Analysis. Amsterdam, Netherlands: Elsevier Science B.V; 1966; Feigl F, Anger V. Spot Tests in Inorganic Analysis. Amsterdam, Netherlands: Elsevier Science B.V; 1972; Moffat, A. C., Osselton, M. D., Widdop, B., & Watts, J. (2011). *Clarke’s analysis of drugs and poisons: In pharmaceuticals, body fluids and postmortem material*. London: Pharmaceutical Press; Andrea E. Holmes et al. Evaluation of the NIK® test: Primary general screening test for the presumptive identification of drugs. *Int J Cri & For Sci.* 2:5, 81-137; 2018; David J S, Michael J K, Marco P, Andrea E H. General Advantages and Disadvantages of the NIK Narcotic Test. *J Forensic Sci & Criminal Invest.* 2018; K. Grates, J. Ring, K. Savage, T. Denicola, V. Beall, J. Dovyak, E. Schlomer, Conclusion of Validation Study of Commercially Available Field Test Kits for Common Drugs of Abuse, National Forensic Science Technology Center; 2008.

M110 Summary

As of 2/1/2021, Measure 110 will limit officers' authority to investigate, search, and arrest for drug possession.

INITIAL STOP FOR DRUG POSSESSION:

- A stop for a *violation* offense requires probable cause that the suspect committed the offense.
- A stop for a *crime* requires reasonable suspicion that the suspect has committed that crime.
 - PCS in the following quantities or with additional factors are criminal:
 - Heroin—one gram or more
 - 3,4 methylenedioxymethamphetamine (MDMA)—at least: 1 gram, or 5 tablets, pills, capsules
 - Methamphetamine—2 grams or more
 - Methadone—40 or more user units
 - Oxycodone—40 or more pills, tablets, or capsules
 - Cocaine—two grams or more
 - LSD—40 or more user units
 - Psilocybin or psilocin—12 grams or more
 - PCS in Schedule I or II (including the above specific drugs) *and* three or more CDO factors

EXTENSION OF A STOP: ANY UNRELATED INQUIRY REQUIRES LEGAL JUSTIFICATION:

- Officer can ask questions and investigate a drug *violation* during an unrelated stop when:
 - Specific, articulable facts make it *probable* that the suspect possesses drugs; and
 - Investigation is limited to the violation for which there is PC
 - Questions must be reasonably related to investigating the possession violation
 - Officer can ask for consent to search, but only for the drugs for which there is PC
- Expansion of a stop to investigate drug *crimes* requires reasonable suspicion of that crime.
 - PCS in specified quantities or with CDO factors (see above).
 - DUII: Questions about the presence of alcohol or drugs are reasonably related to DUII.

ABILITY TO ARREST AND TO SEARCH BASED ON VIOLATION PCS:

- M110 does not change authority to search for *crime* evidence. But some warrant exceptions depend on a lawful arrest (which is not permitted for a violation).
 - Most inventories of a person apply only upon an arrest
 - *Search incident to arrest* requires PC to arrest for a *crime*.
- Plain view: authorizes a seizure of contraband from a lawful vantage point
 - An observation made in the course of a plain-view seizure *may* support a more expanded search
- Automobile exception applies to violation drug possession.
 - Allows search of a vehicle that was **mobile** when it was stopped only when there is PC that *contraband* or evidence of a crime is inside.
 - Contraband means anything the law prohibits possessing.
 - This search is **limited** to an entry to seize the contraband to which the PC relates
 - PC for commission of a drug crime does not, by itself, provide PC that drugs are in the *car*:
 - Possession of *some* drugs does not, on its own, supply PC that *more* drugs are present.
 - Intoxication, in and of itself, does not supply PC that the suspect *currently* has drugs.
 - To search for *more* drugs, there must be other facts that establish PC that *more* drugs are present.
 - If so, you may search any area or containers that might reasonably contain those drugs.
- PC & Exigency
 - If an officer has PC that a subject possesses contraband and reasonably believes an exigent circumstance exists (e.g. destruction of evidence) the officer may seize the contraband.

Report Writing

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATKINS 1960-1980
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
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THEY INDEED



Report Writing Series

Instructional Goals:

This course is designed to:

1. Develop a new officer's report writing skills to document information discovered and received during an investigation.
2. Develop a new officer's understanding regarding the proper procedures for preparing a police report for criminal prosecution.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify the principles of report writing and note-taking.
2. Demonstrate the ability to construct reports given the necessary information correctly.

Content Outline:

- Importance of Police Reports
- Report Writing Process
- Four Pillars: Clear, Concise, Complete, Accurate
- Report Sections
- Reviewing and Proofreading
- Assignment



Part 1

Why should police officers care about report writing? The excitement of responding to emergencies and helping to stabilize situations is the foundation for an officer's awareness that the officer is making a positive impact on society on a daily basis. The boredom of sitting to write a report can lead many officers to shortcut the process and the final product. While report writing is not the most exhilarating, nor glamorous, part of police work, it is the most important tool to ensure long-term success. A well-written police report communicates vital information to the reader while reflecting the professionalism of the writer. A poorly drafted report confuses facts, is missing essential information, and is usually the basis for either a dismissal by the prosecutor or a successful cross-examination by a defense attorney.

It is also likely that this report will be transmitted to a multitude of agencies and individuals. These other entities use police reports to perform essential functions in their fields. These other individuals also have the opportunity to critically review the report for a greater length of time than the officer who authored the report. Before an officer decides to shortcut a report, the officer should consider the importance of the report to the officer and the officer's agency and all the other persons who will also use that report.

While agencies may have different forms and formats, the fundamental process of writing a report does not vary. Additionally, report writing, like any other task, improves with experience. Therefore, to ensure a quality report on the first day of your career and the final day of your career, you should follow the same report writing procedure. In this, report writing is similar to investigating since a routine procedure that is repeated on each occasion builds skills and increases the likelihood of a quality end-product. Writing a report starts from the time an officer begins his or her shift, continues through the investigation, and culminates in the actual written document.



The Importance of Police Reports

Even the most basic of police reports are reviewed by someone other than the reporting officer. Multiple people will review the police report after the officer submits it. First will be a supervisor where it will be either approved or sent back. Next, it goes to records staff who enter the information into databases and are often forwarded to other locations.

Police reports are official government documents used not only in the criminal justice system but also in various government agencies, business organizations, and the general public. Given this importance, an officer should take the time necessary to communicate relevant factual information in a manner that reflects the officer's professionalism.

Consider the many ways in which a police report is used:

Importance to Law Enforcement

To the officer writing the report:

- For review before a hearing or trial
- Can be the basis of cross-examination and establishing a reputation
- Portrays professionalism and pride

To other officers or detectives inside or outside the reporting officer's agency who review to continue the investigation or utilize to assist in another investigation.

To supervisors who:

- Evaluate officer performance
- Determine personnel needs during shifts and patrol locations
- To crime analysts who track statistics
- To grant writers who apply for funding
- To attorneys who defend you and your agency from lawsuits
 - False arrest
 - Excessive force
 - Wrongful death
 - etc.



Importance to Prosecutors

To evaluate the case and probability of successful prosecution by identifying strengths and weaknesses in the case.

To make charging decisions

- Are there sufficient facts to satisfy the elements of each crime?
- Are there potential defenses, and are they likely to succeed?
- Is the evidence subject to suppression?
 - Was the scope of the contact/stop reasonable?
 - Was the search/seizure legal?
 - Voluntary
 - Exigent
 - Search incident to arrest
 - etc.
 - Were the statements voluntary?
 - Miranda
 - Coercion
 - Voluntariness
 - etc.
- Was force used, and if so, was it reasonable?

To plan trial tactics

- To make decisions regarding witnesses
- To evaluate the admissibility of testimony
- To evaluate physical exhibits and evidence
- To comply with disclosure obligations

General (ORS 135.815)

- Case law and legislation:
 - *Brady v. Maryland*, 373 US 83 (1963)
 - The state must disclose any material that tends to:
 - Exculpate the defendant,
 - Negate or mitigate the defendant's guilt or punishment, or,
 - Impeaches a person the state intends to call



Importance to Defense Attorneys

To make decisions on how to handle the case

- To identify strengths and weaknesses in the prosecution's case
- To determine the possibility of successful motions to suppress
- To evaluate defense theories (e.g., self-defense, insanity, etc.)
- To plan cross-examination of the officer and other witnesses

Importance to Corrections Officers

To evaluate offenders' needs, dangerousness, supervision level, conduct while on release, and truthfulness

Importance to Juvenile Dept. / Oregon Youth Authority

To evaluate youths' conduct, risk of recidivism and determine the appropriate level of intervention

Importance to Child Welfare Workers

To evaluate the threat of harm to children, assess parenting strengths and weaknesses, and determine the appropriate level of intervention

Importance to mental health professionals

Assess the defendant's ability to aid and assist in his or her defense and potential guilty except for insanity (GEI) issues

Determine danger to self, others, or inability to provide self-care

Importance to other professionals

Forensic evaluators

Insurance adjusters

Investigators for licensing boards

Private investigators

Other



The Report Writing Process

As previously mentioned, the process to write a high-quality report, just like the procedure to follow for a thorough investigation, is something that can be learned and repeated.

Most agencies use electronic report writing programs, but they look very much like the older handwritten or typed reports once printed out. When looking at the printed version, the police report can almost always be divided into two sections.

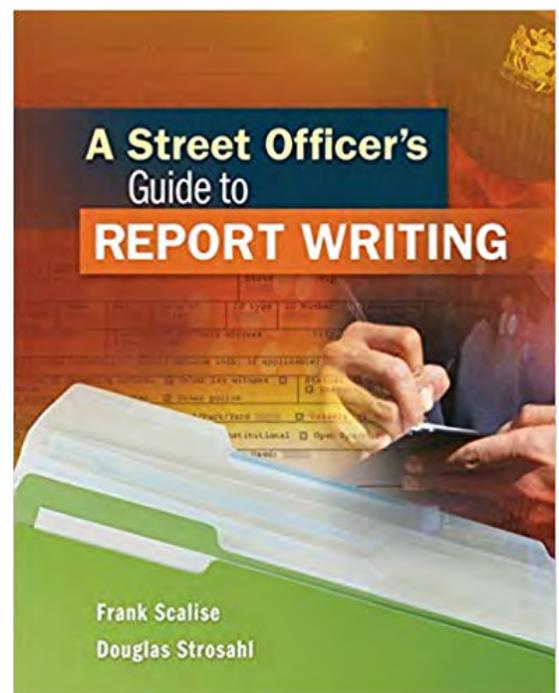
1. The statistical section (names, address, phone number, DOB's, vehicle information, etc.) often called a face sheet or cover page.
2. The narrative.

We will spend more time talking about constructing the narrative section of the police report throughout this series.

For the Report Writing series, DPSST uses the book "A Street Officer Guide to Report Writing." This book was checked out to you at orientation. To prepare for class, please review the following chapters:

- Chapter 2 - CLEAR
- Chapter 3 - CONCISE
- Chapter 4 - COMPLETE
- Chapter 5 - ACCURATE

These four pillars will provide the foundation for the Report Writing series. They will be the criteria upon which your reports will be evaluated.





Document Complete and Accurate Information in your Field Notebook

Before you write a report, you must first capture the necessary information. Some investigations are short and simple, and some are highly complex. In both cases, to best preserve the factual information, you should begin taking accurate and thorough notes as soon as the scene is safe. The Field Notebook is still the best tool for recording information for later use in writing your reports. There are other methods to record data, such as audio and video recordings. These other tools should be in addition to your notebook, not in place of it.

Most officers get into a routine on starting a shift and what information to record in their notebooks. Some agencies even use a Notebook Stamp to gather specific information. There is no set format for doing this, but a notebook should be kept professional as it is not private property. Instead, it belongs to your agency and can be reviewed by others, including the defense attorneys in some cases. Because of this, removing pages is strongly discouraged as it leads others to speculate you are hiding something.

When documenting information in your field notebook, try to obtain as much relevant information as possible. The following table includes some examples of facts to document in your investigation if they are relevant to your investigation.

The Investigation type will dictate how little or how much information you will need to collect.



People	Vehicles	Bicycles	Weapons
<p>Full legal name</p> <p>Aliases, nicknames, and street names</p> <p>Gang names and affiliations</p> <p>Gender</p> <p>Date of birth</p> <p>Race, ethnicity, nationality, origin</p> <p>Physical descriptions (height, weight, hair, eyes, etc.)</p> <p>Scars, marks, tattoos, outstanding features</p> <p>Clothing (if needed for identification)</p> <p>Identification numbers (driver's license, SSN, alien registration, etc.)</p> <p>Address (mailing address, physical address, directions)</p> <p>Home, work, cellular, message, etc. number</p> <p>Occupation – even though unemployed s/he may have an occupation</p> <p>Place of employment, including hours/shift worked</p> <p>Vacation or travel plans (if needed as a potential witness)</p>	<p>License plate number, state of issue, and VIN</p> <p>Color, make, model, year, etc.</p> <p>Customization, bumper stickers, other identifying modifications</p> <p>Previous damage and expected damage (hit and run)</p> <p>Description of vehicle contents</p> <p>Location of keys</p> <p>Name and location of the owner</p> <p>Value</p>	<p>Make, model name, and number</p> <p>Size and color of the frame</p> <p>Serial number, owner applied number</p> <p>City or county license tag information</p> <p>Equipment (light, kickstand, etc.)</p> <p>Customization, previous/expected damage</p> <p>Owner's name and address</p> <p>Value</p>	<p>Type (revolver, semi-automatic handgun, shotgun, knife)</p> <p>Manufacturer, model</p> <p>Caliber</p> <p>Serial number, owner applied number</p> <p>Finish, distinctive features, condition</p> <p>Modification, accessories</p> <p>Origin, if it can be determined (handmade, stolen, purchased)</p> <p>Value</p>



Audio and Visual Recording

While the primary tool for documenting facts at the scene is your field notebook, there are other tools for recording information. An audio or visual recording is a useful way to supplement field notes to write the most thorough report. However, officers should not rely on electronic equipment to substitute field notes, given that equipment may fail.

Since technology rapidly changes and different agencies use varied equipment, a thorough discussion of specific devices is impossible. Despite the differences in equipment, some generalities remain.

Benefits of Recording	Downsides of Recording
<ul style="list-style-type: none">● A permanent record of exact statements/events● Helpful to review during report writing to refresh recollection● Captures events in a level of detail beyond the written report	<ul style="list-style-type: none">● Equipment failure<ul style="list-style-type: none">○ Do not rely on as sole means of writing report (i.e., use notes)○ Challenged by the defense (e.g., purposeful, inept, etc.)● Notification of recording can be forgotten<ul style="list-style-type: none">○ Can lead to suppression of recordings● The knowledge that statements are being recorded can make the encounter seem more formal or could limit disclosures● The entire encounter can be scrutinized for minor mistakes

Tips for success

- Test equipment at the beginning of shift if possible
- Build a routine to remember turning on and off at appropriate time during and after the event
- A routine introduction also helps you remember to notify that the encounter is being recorded
- Certain cameras can be refocused to capture events more clearly



Mandatory Recording of Certain Interviews

While recording events is almost always a useful tool in thoroughly documenting investigations. State law mandates that custodial interviews in law enforcement facilities be electronically recorded in certain investigations.

See ORS 133.400- Recording of Custodial Interviews

- The requirement for recording includes investigations for aggravated murder and Measure 11 offenses (found in ORS 137.700 and .707).
- While there are some exceptions to this law, it is best practice to record any interview in a law enforcement facility.
- A law enforcement facility includes any agency building, a courthouse, and any jail or detention facility, including juvenile detention.
- Failure to record the interview leads to a jury instruction regarding the legal requirement to record and the superior reliability of electronic recordings compared with testimony.



Principle Components of Report Writing

Police reports need to be written with the following criteria. These are universal components statewide, with only a few exceptions. As such, your reports will be evaluated to make sure they meet these criteria:

- Chronological Order
 - The report is told in the order the events unfolded from the officer's perspective
 - Example: I got a call of a fight, I responded to the call, I arrived...
- First Person
 - The officer will use the word "I" to describe what they did
- Active Voice
 - Attaching each action to a direct person
 - Example: I found the broken glass.
- Past Tense
 - All events are done when you write the report, so use the past tense to describe what happened
 - Example: I noticed the victim had a black eye and bloody lip.
- Be Professional
 - Choosing the right words, using plain language, and telling the story professionally

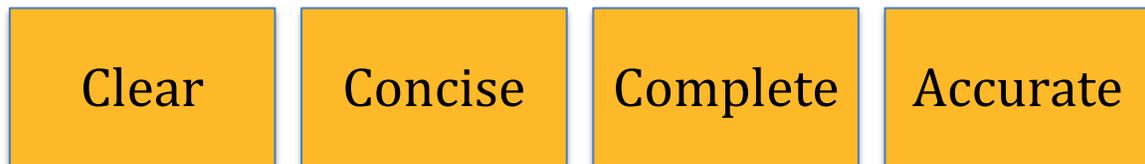
Reports that follow the above criteria are more likely going to meet the needs of most police agencies. Reports not using these criteria are likely to be rejected.



Part 2

Completing the investigation and taking good notes has led to the point where you are ready to sit down and write the report. Before writing a detailed narrative, it's a good idea to remind yourself that nearly everyone that reads your report will have no idea of the events that happened. Therefore, you must communicate effectively by explaining relevant facts that you learned through your investigation.

We will be using the four pillars described in the book "A Street Officer's Guide to Report Writing."



First Person

Although it should go without saying, you must write your report in the first person. Do not write from the third person observing your investigation. You are the person writing the report, and you should use "I" to refer to actions you take. Historically, officers have referred to themselves in a report as "this officer" or "the undersigned writer." Using these phrases instead of "I" generally confuses the reader and impairs the readability of your report.

Professional

Even though we must be professional every time we write a report, that does not mean we must unnecessarily use big words. Since we communicate to a vast range of audiences, we are most effective using commonly understood words. Reports should be written as though the writer is speaking face-to-face with the reader.



Remember, good writing is simple writing. Put words together in sentences that are easy to understand. Do not overwhelm the reader; communicate the information as simply and directly possible. Do your best to avoid long sentences and uncommon abbreviations (e.g., CSO, LPO, etc.). Also, avoid police jargon:

- proceeded vs. drove, went
- advised vs. told, said
- contacted vs. wrote, telephoned, spoke with
- utilized vs. used

The task is not only to express ideas but also to make an impression on the reader's mind. Reports are meaningless unless the reader is informed, understands a situation, or is moved into action. With that in mind, we will briefly review some common pitfalls and how to avoid them.

Date References

Dates and times are also essential in good police report writing. Exact dates or narrow date ranges are extremely important for various legal issues (e.g., the statute of limitations, adult vs. juvenile charging decisions, etc.). Therefore, if the exact date is unknown, you must narrow the time window as much as possible. If the interviewed person's memory of the month and year is unclear, use seasons, birthdays, holidays, school years, etc., to narrow the window of time in which the event occurred. The burden is on the investigating officer to determine this, then as the report writer to explain it.

For example, if you are talking to a 22-year-old about being sexually abused when she was a young child. She may not remember what year or how old she was when the crime happened, but you need this for the report. However, she might remember that she shared a bedroom with her sister or that the house had a big front porch. You may need to ask other family members when the sisters shared a bedroom or what year the family lived in a house with a big front porch, then document how you determined the year in your report.



Pronoun Usage

When frequently referring to a person in a sentence, it is common to use a pronoun (e.g., he, she, they, etc.) rather than a name. Appropriate pronoun usage is concise and improves the readability of a sentence. Keep in mind that the pronoun must relate to the last-named person. Using multiple pronouns in a sentence can confuse who is performing the action.

For example:

- The judge agreed that he was impaired when Powers committed the assault.
- Littleton told her that her sergeant called, and she left a message that she should clean out her locker.

Opinions and Conclusions

Do not include opinions expressing personal approval or disapproval and never make an unsupported opinion. Be aware, opinions on the credibility of victims and witnesses are always provided to the defense. This includes whether they are relayed to the prosecutor in a report, e-mail, or conversation. Therefore, avoid opinions on the credibility of witnesses.

You may include opinions on subjects other than credibility when they assist the reader in understanding the information presented. Opinions are general conclusions you make based on your training and experience. When writing your report, you should clearly label your opinion and include the facts which support that opinion.

Example: "I noticed that Mr. Jones had bloodshot and watery eyes, slurred speech, an odor of an alcoholic beverage on his breath, and was unsteady on his feet. From these observations, and based on my training and experience, I formed the opinion that Mr. Jones was under the influence of alcohol."



Similar to opinions, conclusions may be included in your report when they are factually supported. While you should generally avoid making legal conclusions (e.g., search warrant exceptions, serious physical injury, etc.), conclusions that are common interpretations of events observed and not necessarily formed based on your training and experience may be included. However, always describe the facts supporting your conclusion. Writing a conclusion without identifying the facts is not persuasive and cannot substantiate the elements of a crime.

Compare the following:

Unsupported Legal Conclusion	Factual Observation
It appeared the victim was physically injured.	I saw a one-inch cut on the victim's left forearm that was bleeding.
The suspect braked when he saw me.	Shortly after I saw the suspect vehicle, the front end dipped down sharply, and the vehicle quickly decelerated.

Past Tense

Reports should always be written in the past tense as the events you are documenting have already happened. However, when you are quoting someone, the quotation should be in the present tense, as that is how the statement was made. Therefore, the only shifting of tenses should occur in quotations and not in any other place in your report. Consistent writing in the correct tense helps the reader to understand the sequence of events.

Active Voice

In addition, you should always write your report in an active, rather than passive, voice. An active voice is when the subject of the sentence does the action. A passive voice is when the subject of the sentence has an action done to it. The active voice is preferable because it clearly identifies the person who does the action or who can testify to the fact. Using a passive voice creates an ambiguity where the reader is forced to guess who the actor is. Compare:

Active	Passive
I found a bloody knife on the kitchen counter.	A bloody knife was found in the kitchen.



Report Length

Do not confuse the length of a report with the quality of a report. Use as few words as possible to record the necessary facts, but do not use so few words that some necessary facts are omitted. The words that are written in the report are the words that must stand. If you testify to facts not included in your report, the defense will challenge their validity, why your report was incomplete, and your competence. Remember, communicate professionally.

Report Sections/Headings

While agency formatting varies, most reports have similar components.

Face Sheet

Includes data on people, vehicles, stolen items, or other recovered evidence. Face sheet format differs from department to department, depending on the agency's needs for record-keeping and data entry purposes.

Common information:

- Exact Date and time of occurrence or a date range
- Location of occurrence
- Type of occurrence (crime, collision, runaway, etc.)
- Involved parties (Suspect, Victim, Witness, etc.)

Narrative (Body of Report)

The headings discussed here are possible headings. Your agency may use all or some of these and/or may use different heading titles. Your agency may also use a different order of headings than set forth below. Regardless of headings used, the purpose is to allow the reader to jump to different sections quickly.



Summary

An introduction or paraphrasing of events in the report. This is similar to a PC statement but maybe less detailed. Any summary should be a summary of the incident, not a summary of the investigation.

- Begin with "On" the date and time; or "Between" the time frame of the significant event(s).
- Include the following when possible:
 - What- Name of the crime or significant event
 - Who- Name of the suspect or description if unidentified
 - Who- Name of the victim and any injuries
 - Where- State the location
- In the end, include the status of the case (i.e., arrest vs. open case)

Mentioned

A list of people in the report (note: this may be different agency to agency).

- Name every person discussed during the investigation
- Your agency may include a brief description (i.e., role identifier) after each name as to how that person was related to the case (e.g., victim, witness, suspect, informant, assisting officer, etc.)
- Include contact information (name, address, phone number, and e-mail address)
- Not necessary to place the person on the face sheet and in the mentioned section unless agency policy requires it



Action Taken / Narrative

A chronological list of the things the investigating officer did, plus the reasons for the activity.

- Sequence of events – the narrative must be in chronological order to describe events in a logical sequence.
 - It helps the reader develop a clear picture of what you did, saw, and heard
 - It allows the reader to follow the investigation in a progressive manner
 - It documents all critical information regarding the elements of the crime

- Listed in the order in which the officer conducted the investigation

- Not necessarily the order that the events first occurred

- Statements in the narrative:
 - If your agency does not use a separate statement section, include statements as they occurred in chronological order of your investigation.
 - If your agency uses a separate statement section, do not include what people said during their interviews unless it is necessary to explain the reasons for the officer's next investigative activity. If so, be brief.

- Narrative Content: The WHO, WHAT, WHERE, WHEN, WHY, and HOW represent the basic information a report should contain.

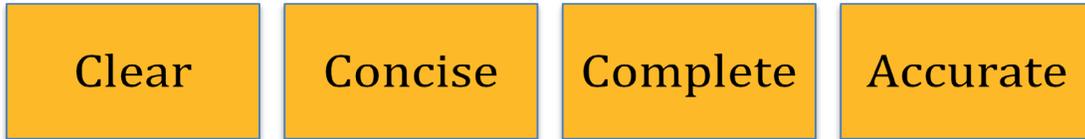


If suggested by your facts, clearly describe or document the following:

- Circumstances of initial contact, including probable cause or reasonable suspicion
 - Justification for entry into building, residence, vehicle
 - Identification of suspect and all other persons involved in the incident
 - Miranda time and suspect's response (voluntariness)
 - Statements and specific quotes when possible
 - Clearly identify who did what to whom
 - Legal basis for the search for and seizure of evidence (e.g., consent, search incident to arrest, automobile exception, exigent circumstances, etc.)
 - Description of evidence processing and disposition
 - Time, date, and location of arrest
 - If force was used: a full description of the force, the circumstances necessitating the use of force, the suspect's actions, any contributing factors, your verbal commands, all injuries, and any post-care (suspect, officer, others)
 - Probable cause or elements of each charge
 - Disposition of suspect, suspect's property, and/or suspect's vehicle
- **Statements – Interviews with witnesses and suspects**
 - Write the person's name, followed by "told me" or "stated," followed by that person's statement.
 - Include the giving of Miranda warnings and responses
- **Action Recommended / Case Status – Suggestions for what the next investigative step(s) should be.**
 - It can be a simple statement (e.g., cleared by arrest, referred to detectives, etc.)
 - If not closed, what are the next steps in the investigation?
 - Do not include any opinions as to what the ultimate disposition of the case should be.



Review



Summary- Contains the **Who, What, Where, and When** in a brief 1 – 2 sentences. More complex reports maybe 1 – 2 paragraphs. Should include information on the outcome if possible (i.e., Smith was charged with Assault IV).

Narrative- Contains not just the **Who, What, Where, and When** but also includes the **Why and How** in every report.

Remember the five components of a good report:

- Chronological Order
- First Person
- Active Voice
- Past Tense
- Professional



PC Statements

Contains the basic elements of the crimes charged, so a judge sees that probable cause exists. This information allows the suspect to be lodged. The prosecutor then uses this information to make a charging decision.

Summarize the facts but do not state legal conclusions. Compare:

The suspect caused physical injury to the victim

I saw a two-inch gash on the victim's forehead that was bleeding profusely. The suspect admitted hitting the victim in the face.

Include enough facts to substantiate the **elements** of **every** charged crime.

If there are insufficient facts:

- The judge may not find probable cause and will release the suspect
- The prosecutor may not be able to charge an offense that will maintain the suspect in custody

Evaluate Your Report

Many officers are in a hurry to submit the report, and because of that, once they finish typing, they hit submit without proofreading or evaluating it before they do. This is a big mistake and can lead to a reputation of poor report writing skills. Before you submit a report, you need to make sure it is correct.

Steps you can take to evaluate your report:

- Proofread
 - Review what you typed to see if you have typos or if it conveys the information you want it to convey.
- Spellcheck
 - Use the tools available within the program you are using or, if they are limited, cut and paste into another program with better spelling/grammar tools.
- Use Another evaluator
 - If you are not sure a section (or the entire report) sounds right, ask another person to read it.



- Read it Aloud
 - Silent proofreading does not catch as many errors as reading aloud.
- Ask yourself critical questions:
 - Is the report clear?
 - Is the report complete?
 - Is the report concise?
 - Is the report accurate?

Commonly Confused Words

If you are uncertain, you should look at online resources for help and assistance. Take responsibility for the quality of your report.

Examples:

- There, their or they're
- Too, to or two
- Affected vs. effected
- Cite vs. Sight

Punctuation

If you are uncertain about the usage of common punctuation, you should consult online resources.

Examples:

- Commas
- Apostrophes
- Semicolons
- Question Marks



Video Report & Report Writing Lab

Directions:

- Submit the report electronically per your training coordinator's instructions. You will have received instructions from your Class Coordinator on how to title and save all reports.
- Use the scenario provided by your instructor as the basis for your report.
- The report must be on the DPSST template and format provided, then saved as a "Word" document.
- Any information you include should be written with attention to detail.
 - e.g., don't write "a neighbor's house"; instead, use "the house at 123 Main Street."
- The report must include:
 - A Summary
 - Complete Narrative of all observations and actions
 - Collection and logging of ALL physical evidence;
 - A "Probable Cause Statement." You will find a template for the PC statement at the bottom of the report template. This allows it to be saved as just one document.
- A finding of "Meets Standards" is required for a passing grade; however, a finding of "Does Not Yet Meet Standards" on the report will result in a need to remediate the report.
- A copy of this report, the instructor critique/s, and any remediation reports may be provided to your hiring agency. This will be standard procedure for all reports you write while here at the Academy.



You may be asked to testify in Mock Trial on any of the reports you write at the Academy.

	Excellent	Average	Developing	Beginning
Clear	All of the report is easily understandable to the reader.	Most of the report is easily understandable to the reader.	Some of the report is easily understandable to the reader.	Few parts of the report are easily understandable to the reader.
	Includes all 10 of the following: <ul style="list-style-type: none"> • Appropriate Word Choice • Proper Format • Chronological Order • Plain Language • Appropriate Names, Numbers, and Times • Correct Spelling • Correct Grammar • Past Tense • First Person • Active Voice 	Includes 7-9 of the following: <ul style="list-style-type: none"> • Appropriate Word Choice • Proper Format • Chronological Order • Plain Language • Appropriate Names, Numbers, and Times • Correct Spelling • Correct Grammar • Past Tense • First Person • Active Voice 	Includes 4-6 of the following: <ul style="list-style-type: none"> • Appropriate Word Choice • Proper Format • Chronological Order • Plain Language • Appropriate Names, Numbers, and Times • Correct Spelling • Correct Grammar • Past Tense • First Person • Active Voice 	Includes 3 or fewer or none of the following: <ul style="list-style-type: none"> • Appropriate Word Choice • Proper Format • Chronological Order • Plain Language • Appropriate Names, Numbers, and Times • Correct Spelling • Correct Grammar • Past Tense • First Person • Active Voice
Concise	The report contains only pertinent facts.	The report contains mostly pertinent facts with little extraneous material.	The report contains some pertinent facts, with some extraneous material.	The report contains few pertinent facts, with much extraneous material.
Complete	The report includes all relevant facts, observations, and actions taken.	The report includes most of the relevant facts, observations, and actions taken.	The report includes some of the relevant facts, observations, and actions taken.	The report includes few or none of the relevant facts, observations, and actions taken.
	Includes all of the following: <ul style="list-style-type: none"> • Elements of the Crime • Who, What, When, Where, Why, and How 	Includes most of the following: <ul style="list-style-type: none"> • Elements of the Crime • Who, What, When, Where, Why, and How 	Includes some of the following: <ul style="list-style-type: none"> • Elements of the Crime • Who, What, When, Where, Why, and How 	Includes few or none of the following: <ul style="list-style-type: none"> • Elements of the Crime • Who, What, When, Where, Why, and How
Accurate	The report includes all specific, correct information.	The report includes most of the correct information.	The report includes some of the correct information.	The report includes any information that is not correct. The report contains assumptions.

Remediation Required: _____ Yes _____ No

Instructor _____ Date _____



OPSA Police Department CAD Event

PRIMARY UNIT:	59	OTHER UNIT(S):	52	Officer Andy Bechdolt					
DISP:	0855	ER:	0855	ARR:	0902	CLR:	1059		
CALL TIME:	0852	DATE:	Today's Date						
TYPE:	ASSLT - Assault								
LOCATION:	313 Harry Minto Court, Salem, OR 97317								
CALLER:	Michael Williams								
CALLER ADDRESS:	319 Harry Minto Court			PHONE:	503-555-1217				
CALL NOTES:	TMA - 0852: Neighbor being assaulted by an unknown male. TMA - 0853: Unknown subject has left the scene in a grey Jeep, unknown direction of travel. RAI - 0855: 2nd caller, reporting to be the victim, is refusing medical attention TMA - 0940: Follow up at 490 Jack Williams Ave, suspect contact TMA - 0947: One in custody, transporting to the jail TMA - 0952: Subject lodged at the jail								
LIC:	ZWE783	COLOR:	GREY	MAKE:	JEEP	MODEL:	CHEROK	YEAR:	2004
ASSOCIATED PERSONS									
ROLE:	Victim/Complainant			NAME:	Myers, Corban Dean			DOB:	10/15/1979
RACE:		SEX:		HGT:		WGT:		AGE:	
ADDRESS:	313 Harry Minto Court			CITY:	Salem	STATE:	OR	ZIP:	97317
PHONE:	(503) 555-1424								
ROLE:	Suspect			NAME:	Read, Michael			DOB:	1/1/1988
RACE:	W	SEX:	M	HGT:	6'1"	WGT:	177	AGE:	
ADDRESS:	490 Jack Williams Ave			CITY:	Salem	STATE:	OR	ZIP:	97317
PHONE:	(503) 555-3141								
ROLE:	Witness/Complainant			NAME:	Williams, Michael			DOB:	9/11/1977
RACE:		SEX:		HGT:		WGT:		AGE:	
ADDRESS:	319 Harry Minto Court			CITY:	Salem	STATE:	OR	ZIP:	97317
PHONE:	(503) 555-1217								



STATE OF OREGON
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
Basic Police





Resiliency

BASIC POLICE ACADEMY





Resiliency 1

Instructional Goals:

This course is designed to:

1. Enhance a new officer's awareness of job-related stressors
2. Develop a new officer's understanding of potential strategies for addressing stressors to maintain their emotional, physical and mental health
3. Develop a new officer's ability to self-assess or reflect on their self-care strategies

Learning Outcomes:

Upon completion of instruction, students will be able to:

1. Recognize symptoms of trauma and job-related stress
2. Identify factors that contribute to the stress and associated trauma of a career in public safety
3. Articulate healthy ways to address potential trauma or stress to maintain whole health

Content Outline

- Overview
 - What is Resiliency?
 - Setting the Stage for 16 weeks
- Developing awareness for 16 weeks
 - Vicarious Trauma
 - Triggers
 - Recognizing Tactical Thinking Errors
 - Developing Stress Reduction
- Developing Strong Resiliency Factors
 - Creating a Resiliency Log

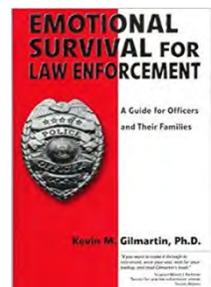


Congratulations on your decision to be part of the law enforcement profession. For some, this will be their first exposure to the profession, while others will have been involved as cadets, reserves, military police, or law enforcement from another state. What everyone shares is their commitment to make our communities safer and to protect those who are at risk for harm.

Resiliency

An ability to recover from or adjust easily to misfortune or change
(Merriam Webster dictionary)

The law enforcement profession is a helping profession, and as other helping professions (doctors, nurses, therapists), you will be exposed to trauma. You will receive training on trauma and how to have a trauma-informed approach in your interactions. One of the skills that you will develop as part of your training is the ability to have empathy for people you encounter. One of the strengths of empathy is being genuine with a person that is experiencing distress or pain. When you practice empathy, you are taking on the emotion the person is experiencing, and your brain records the emotion, not distinguishing it as belonging to you or another person. Your training here will incorporate the development of resiliency as an essential part of your profession. When you know you are prepared for what to expect, you can develop resiliency that will increase your effectiveness as a law enforcement professional and help you have longevity in your career.



You have received a copy of Kevin Gilmartin's book *Emotional Survival for Law Enforcement*. You are strongly encouraged to read this book and share it with your family and friends that are part of your support system. In this book, Gilmartin talks about developing a resilience plan. During your sixteen weeks in the academy, you will have many learning experiences. The basic practices that you establish at the academy you will find you implement and sustain when you return to your agency. We would like you to develop a resiliency plan to focus on the next 16 weeks that you can practice. You will be receiving information throughout the academy (classes on Stress First Aid, Resiliency, Trauma, Nutrition, and Exercise), which will enhance your plan. Your ability to include a resiliency plan into your professional growth will increase your success, satisfaction, and longevity in this exciting career.



Developing Awareness for 16 Weeks

Vicarious trauma is defined as a transformation in the helper's inner sense of identity and existence that results from utilizing empathy when listening to clients' trauma-content narratives. Vicarious trauma is what happens to your neurological (or cognitive), physical, psychological,

Vicarious Trauma

A transformation in the helper's inner sense of identity and existence that results from utilizing empathy when listening to clients' trauma-content narratives.

emotional, and spiritual health when you listen to traumatic stories day after day or respond to traumatic situations *while having to control your reaction*.

A transformation occurs to your inner-self as well as your perception of the world around you, which can cause severe impairment—depression, anxiety, addiction.

(Vicarious Trauma Institute)

Vicarious Traumatization

One additional aspect of traumatic exposure affects primarily the workers who help trauma and disaster victims. These people include psychologists and other mental health professionals, but also the emergency workers -- EMTs, physicians, fire, police, search & rescue, etc. -- exposed to an overdose of victim suffering. These professions are at-risk for secondary traumatization. Known by various names -- compassion fatigue, secondary or vicarious traumatization, and "burn out," the symptoms here are usually less severe than PTSD-like symptoms experienced by direct victims in a disaster. But they can affect the livelihoods and careers of those with considerable training and experience working with disaster and trauma survivors. Individuals who experience vicarious traumatization should seek appropriate professional help.

What are some examples of incidents that can cause vicarious traumatization in policing?



Triggers

There are many reasons that individuals chose to enter into law enforcement. It is not unusual for someone who has experienced adverse events in their life either personally or as a witness to want to make a difference. A law enforcement career may be the way an individual can feel empowered to have an impact on change in a positive way.

We bring our experiences, positive and negative, into our professional life. As a law enforcement professional, you are dealing with people who may be at their most vulnerable, and the situations may be negative. We are human, and we may identify with a situation from personal experience, and this may invoke a response in us. We all have triggers that are psychological stimuli (may be smell, sound, sight) that connects us to a personal experience. Being aware of the vulnerabilities that you bring can help you anticipate experiencing an emotional response. As an example, you may have lost someone close to you to a terminal illness, and engaging with a person in the field who has a terminal illness may invoke an emotional response in you.

You will be getting information during your time in the academy about trauma and our responses to it. Being aware of triggers can help you to start incorporating into your resiliency plan how you can best process them.

Tetris

As we talk about triggers, there will be times during the academy experience where you may have a triggered response, or you may have a negative experience. Research has shown that one method to reduce potential trauma response is to have the survivor play the game Tetris. This is a game where you place different shape blocks together without gaps. It is easily accessed through app stores. The process of playing Tetris involves using analytical skills and keeps a trauma memory from getting seated in the limbic system of the brain. If you have an opportunity to try playing Tetris if you are triggered or have a negative experience, try this and see if you find it helpful.



Recognizing Tactical Thinking Errors

Law Enforcement is an exciting, rewarding profession, and it has challenges with the responsibility officers have to protect the safety of our communities and enforce the law. It is not uncommon to develop negative thinking patterns that may influence how we perceive ourselves, the people we work with, and our world view. You may hear the term "stinking thinking" at some point in your career. You may recognize some of these thinking errors emerging while you are at the academy. Being aware of tactical thinking errors may help you avoid them by incorporating a strategy into your resiliency plan.

All or Nothing Thinking	Black and white thinking. Only two extremes can exist. Example: Something/someone is either "all good" or "all bad" or only one person is "right," and everyone else is "wrong."
Overgeneralizing	A single negative gets applied to all situations. Terms like "I never, you never, it always, I always" may indicate. Example: "I always get the runaway calls."
Magical Thinking	Making an unrealistic connection between two ideas. Example: "If I had left 10 minutes later"
Disqualifying the Positive	Seeing the negative and minimizing the positive. Example: "My grade on the test was just okay and probably won't be that high again."
Super Powers	Mind Reading – believing you know what other people are thinking, "He doesn't like me." Fortune Telling – predicting how things will turn out before they happen, "He will never pass agility."
Emotional Reasoning	Your emotions are the truth – because I feel it, it must be true. Example: "I don't feel confident, so I must be a failure."
Labeling	Applying a negative label to yourself. Examples: "I'm lazy" or "I'm a loser."
Self-blame/Blame Others	You see yourself as the reason for an adverse event that you did not have any control over. Example: "It happened because I was not able to stop it from happening." Or you blame others. Example: "We are in debt because my spouse is irresponsible."

Source: Adapted from Counseling Cops, 2014



Developing Resiliency Protective Factors

Being in the academy is hopefully a rich learning experience for you; however, there can be many stresses you experience while you are here. One stress that is universally felt by students is the time away from family and friends. Being able to develop a resiliency plan in the academy will help you to cope with stress and grow with the experience. At the end of this section, you have been provided a 16-week log. This log is in your workbook. You will make brief entries weekly into six different areas. These areas are the building blocks for a resiliency plan that will support you throughout your career. There will be two additional classes on resiliency, and you will review your log during each of these classes.

Healthy Eating

You will receive classes on nutrition during your time at the academy. Many times, healthy eating is one of the first areas that is sacrificed when people are under stress. Having a good understanding of the importance of nutrition and practicing healthy eating will provide a good foundation for sustainability in this area. You will keep a nutrition log in your nutrition classes, which you will be able to also use in this area of your resiliency log.

Sleeping

Sleep is an essential part of a healthy lifestyle. This is one area where the majority of students notice a significant change from their pre-academy life. You may find some changes/challenges with sleep over the next sixteen weeks. Increased physical stress from ORPAT, PT, DT, and some possible minor (hopefully not major) injuries can have an impact on sleep. Increased mental exercise in learning a large amount of new and diverse information can affect sleep. Studying for exams late into the night or early in the morning increases sleep needs. Driving home and getting back to the academy late or very early to maximize time at home, unfamiliar surroundings, and sharing a living space with a person you did not know before the academy decrease sleep opportunities. All of these factors have an impact on sleep, and the opposing needs and opportunities can cause a "double whammy"!



Sleep deprivation can have a direct impact on your ability to learn, process, and retain information. It can decrease your ability to problem-solve. When we are sleep deprived, our ability to control our appetite is reduced, and we can eat foods that are high in sugar and fats, which harms our bodies. We are not as alert when we are sleep deprived and may experience spatial disorientation resulting in slower reaction times and increase the potential for injury. Sleep deprivation also increases the risk of heart disease. In your career, you will experience various working shifts. Working the night shift can have an impact on your sleep by disrupting the circadian clock and making quality sleep difficult. Please review the handout "The Effects of Sleep Deprivation" from the International Association of Chiefs of Police at the end of this section.

With all this information, it becomes clear why having sleep included in the log is essential. Some strategies can have a positive impact on getting quality sleep. Sleep hygiene is a term used to describe what a person could do to improve their sleep. Some sleep hygiene practices are:

- Reduce caffeine- Don't consume caffeine in the afternoon or evening. Everyone has an individual sensitivity level for caffeine. If you are a caffeine drinker, experiment with what time is best for you to stop drinking caffeine so it will not interfere with your sleep.
- Limit alcohol- Drinking late at night can disturb your sleep. Alcohol may feel like it can help you relax, but it can interfere with your REM sleep. Reliance on alcohol to help you sleep can lead to alcohol dependence.
- Eliminate nicotine- Nicotine is a stimulant and can make it difficult to relax.
- Avoid narcotics and other sedative drugs. Narcotics can include muscle relaxers and sedatives, as they may interfere with your sleep and dream cycles.
- Spend less time in bed- If you find you are not able to sleep, get out of bed, and do something else until you become sleepy. You are creating the association in your brain that the bed is for sleeping.
- Keep a regular schedule- Try to have a routine bedtime and morning rising time.



- Limit naps during the day if it interferes with going to sleep or staying asleep. Limit naps to no more than two 15 minutes naps per day. This may change in the future if/when you work graveyard shifts. Napping or splitting sleep is a very successful strategy for officers on a graveyard shift.
- Create a "sleeping" environment- Have a good comfortable mattress. Use curtains or blinds to create a dark room and have the room temperature cooler than daytime temperature. If your sleep is being disturbed by noise, create a "white noise" with a machine or by turning a radio dial between two FM stations. Take a lukewarm, NOT HOT, bath, or shower before bed. You want to have a reduced body temperature when you go to bed. Have a light snack (no sugar or caffeine) or warm herbal tea or milk.
- Have interesting things to do during the day. (This will not be a problem when you are at the academy).
- Find a "wind" down routine that works for you. Read a book (avoid activating or exciting themes), do a crossword puzzle, draw, pray, meditate. Find what will work for you.
- Exercise. The recommended amount is 20 minutes of exercise that increases your heart rate at least three times a week. (This will not be a problem while at the academy).
- Use visualization. This is discussed below.
- Avoid bright white light (especially daylight) and light from phones and tablets.
- Keep a constant routine when possible.



Stress Management Techniques

Breathing

You will receive information on diaphragmatic breathing in the Fitness and Nutrition course. This will be an essential skill for you to develop for stress management.

Visualization

Visualize putting away your interactions from the day. This technique can be used at the end of the day. Picture the events of the day or the people you interacted with as individual objects and then put them in their "place."

For example:

Picture sailboats on the water	Picture books
Each sailboat has a different colored sail, and each sailboat represents an event you had during the day. Picture each sailboat moving through the water and being tied up at a dock. When you have tied up all the sailboats to the dock, you have closed the events for the day.	Think about the people you had a significant interaction with today. Picture each person like a book – different colors, sizes, thickness, hardcover, paperback. Take each person in the image of a book and place them on a shelf in a library. In the end, all the books will be on a shelf.

You can use any visualization that works for you with the idea that each item has an assigned image that is put into a final resting place to close your day.

Some additional visualizations that promote relaxation and stress reduction could include:

- Favorite place. Picture yourself in your favorite place. What do you see, what are you wearing, do you feel the wind or the sun?
- Creating. Imagine painting a picture, the colors, the details. Some people picture building a house or arranging furniture in a room.



Reflection

Another technique that people find helpful is doing a reflection at the end of the day. A positive reflection is suggested. An example would be to name three things at the end of the day that was positive or that you enjoyed.

Mental Grounding

There are several different ways to do mental grounding. Some examples include:

- **Connecting to your current environment.** Look around the area you physically are in. Observe the area in detail: different colors in the room, what are the materials in the room (tile floor, wood podium), what is the furniture in the room, how many windows in the room, how many doors, are there clocks in the room, exit signs, fire extinguishers, etc.
- **Distraction:** think of a category and name as many things in that category as you can. Examples: cities in Oregon, state capitals, teams in a specific sport, presidents, TV shows, names of different candy bars.
- **Numbers.** Start at 100, subtract 5, take the new number and subtract 5, keep going until you reach 0.

Physical Grounding

This technique focuses on your physical body. Some examples include:

- **Focus on the sense of touch.** Wiggle your toes and focus on what they are touching. Do they feel warm, cold, constricted? Sit in a chair. What part of your body is in contact with the chair (back of upper legs, buttocks, lower back). Is the chair hard, soft? Pick up something in your hand (pen, book, phone). What does the object feel like in your hands? Hard, soft, rigid, flexible, warm, cold? Think about the air in the room, what is the temperature – warm, cold, do you feel the air moving?
- **Progressive Muscle Relaxation.** Start at your feet. Tighten the muscles in your toes and feet. Hold for 5 seconds and release. Tighten the muscles in your calves, hold for 5 seconds, and release. Tighten the muscles in your glutes and hold for 5 seconds and release. Tighten the muscles in your abdomen and hold for 5 seconds and release. Tighten muscles in your upper back and shoulders, hold for 5 seconds, and release. Tighten the muscles in your upper arms, hold for 5 seconds and release. Tighten the muscles in your hand/make a fist,



hold for 5 seconds, and release. Tighten the muscles in your jaw, hold 5 seconds, and release. Tighten the muscles in your forehead, hold for 5 seconds, and release.

Soothing Grounding

This technique focuses on things in our life that we find comforting, relaxing. Some examples may include:

- Favorites. Think of your favorite things – favorite color, a favorite song, favorite TV show, favorite movie, favorite sport, favorite car, favorite person, favorite celebrity, favorite historical person.
- Places. Think of a place where you would feel completely relaxed. It can be a real or imaginary place. Think of the place in detail – what does it look like, what are the colors, what are the features, what would the temperature be, what are the sounds you would hear.

Building Strong Support Systems

One of the cornerstones of having a successful resiliency strategy is to have strong support systems. Support systems can include:

- Spouse
- Children
- Other Family Members
- Friends: Non-Law Enforcement
- Friends: Law Enforcement
- Peer Support
- Faith Community

What support systems did you use during the week? This is an opportunity to see if you have a pattern of the same support system and think about growing your support system.



Resources

We reach for resources during a time of need. As Law Enforcement professionals, you will be expected by your community to have or be aware of how to find a resource. You must have good resources for yourself. The best way to develop resources is to identify them at a time of least stress/need. You are going to hear a lot of resource information during your time at the academy. Many of the instructors are former law enforcement, and they will share resources with you that they have developed over their professional careers. We suggest you may want to start creating a resource directory while at the academy that will follow you in your career.

We will start you off with one resource suggestion:

Safe Call Now – a resource for someone in the field of law enforcement to talk anytime, 24/7
www.safecallnow.org





References and Resources

Counseling Cops: What Clinicians Need to Know

Authors: Kirschman, Kamena, Fay, (2015)

Posttraumatic Stress Disorder Symptom Management Group Treatment Manual

Portland VA Medical Center PTSD Clinical Team 2004

Seeking Safety

Author: Lisa M. Najavits

Early Interventions Following Exposure to Traumatic Events: Implications for Practice From Recent Research

Author: Dyregrov, Atle TN: 185298

The Body Keeps The Score: Brain, Mind, and Body in the Healing of Trauma

Author: [Bessel van der Kolk M.D.](#)

Shift Work: Disrupted Circadian Rhythms and Sleep—Implications for Health and Well-being

Stephen M. James & Kimberly A. Honn & Shobhan Gaddameedhi & Hans P.A. Van Dongen

Published April 2017

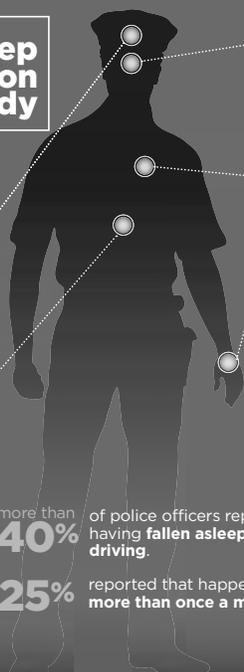
International Critical Incident Stress Foundation <https://icisf.or>

Supporting Officer Safety Through Family Wellness: The Effects of Sleep Deprivation

While sleep deprivation is not exclusive to law enforcement, it is often amplified due to the unique stressors of the job and shift work. Sleep is essential to maintain and repair bodily functions and systems. Sleep, or lack of, has effects on all functions of the mind and body, which not only affects an officer's job, but also family wellness.



Effects of Sleep Deprivation on the Body



Decreased Cognitive Processes, Problem-Solving, Concentration, and Reasoning

Lack of sleep inhibits decision making, interferes with forming sound judgements, and induces poor assessments due to increased irritability.



Lack of Appetite Control

Sleep deprivation has shown to increase feelings of hunger and affect a person's ability to judge portion size.⁶



Impaired Alertness

Sleep deprivation impairs an individual's ability to remain focused and alert for long periods of time.ⁱⁱ



Increased Risk for Heart Disease

Sleep deprived persons are at a higher risk for heart disease and high blood pressure when only sleeping five to six hours a night.^{iv}



Spatial Disorientation

Sleep deprived persons are more likely to become disoriented when navigating, and often report slower reaction times.⁷



More than half of all police officers don't get enough sleep^{vii}

more than **40%** of police officers reported having fallen asleep while driving.

25% reported that happened more than once a month.^{vi}

Sleep deprivation can be dangerous



What about working the night shift?

Our bodies naturally relax and cool down when it gets dark outside and become alert when the sun is up. **Working second or third shift can disrupt the circadian clock and make sleep more difficult.** Working against the natural rhythms of the body can cause sleep disorders and fatigue.

Law enforcement is a 24-hour job and for many, working the night shift is unavoidable. Learning how to adapt to the schedule and demands of the job can help combat some of the potentially dangerous symptoms of working the night shift.

If you work rotating night shifts:

- The circadian clock can't shift fast enough to keep up with a rotation.
- The American Psychological Association recommends avoiding symptomatic relief; caffeine to stay awake at night and sedatives to sleep during the day. These methods can be dangerous and only temporarily disrupt your circadian clock.⁹

If you work a permanent night shift:

- It is best to slowly shift your circadian clock enough to still be able to function on days off.
- The best way to do this is on days off, go to sleep as late as possible and sleep as late as possible.
- On a workday, minimize the sunlight exposure on the drive home by wearing sunglasses and utilize blackout curtains when trying to sleep.¹⁰



next page >

The Effects of Sleep Deprivation, continued...

What can officers do?

Practice a healthy lifestyle.

- Maintain balanced eating habits
- Refrain from tobacco use
- Limit alcohol consumption
- Exercise regularly
- Have an annual physical



Exercise proper sleep hygiene.

- Get seven to nine hours of sleep every night^{xi}
- Limit caffeine intake close to sleep time
- Minimize screen time before bed



Talk to your doctor about sleep disorders.

- Law enforcement officers are **twice as likely** to have a sleep disorder as non-law enforcement^{xii}



How can family help?

Assist in making the sleeping space **more comfortable and appealing**.

- Black out curtains, minimal electronics, supportive pillows and mattress, and a comfortable temperature are all ways to help with sleep.
- Ideal temperature for a room to sleep in is **60°-67°F**.^{xiii}
- Suggested addition: minimize activity in the house when the officer is trying to sleep.



Encourage your partner to talk to a doctor about his/her sleeping habits, particularly if s/he snores frequently, has trouble falling asleep or staying asleep, or begins to show other health concerns.

Create a family bedtime ritual.

Calming and relaxing environments help decrease stress and anxiety making falling asleep and staying asleep easier.

- One hour before you go to sleep have a 'wind down' hour. Do calming activities such as reading or taking a relaxing bath or shower. This is the crucial time to avoid electronic screens that can increase restlessness.^{xiv}



Get into a routine as much as possible.

Eating on a regular schedule and going to sleep and waking up on a regular schedule, no matter what the schedule is, all decrease the effects of sleep deprivation.

Communicate with family and friends to help distribute family responsibilities, such as sports practices, carpools, and grocery shopping.

Exercise regularly. Vigorous exercise can make it easier to fall asleep. Make it fun for the whole family. Think of creative family exercise opportunities like hiking, ice skating, dancing, and/or swimming.



- For more information about the Institute for Community-Police Relations, please visit: <http://www.theiacp.org/ICPR>.
- This publication is one in a series. For more family support resources please visit: <http://www.theiacp.org/ICPRlawenforcementfamily>

ⁱRajaratnam, Shantha MW, Laura K. Barger, Steven W. Lockley, Steven A. Shea, Wei Wang, Christopher P. Landrigan, Connor S. O'Brien et al. "Sleep disorders, health, and safety in police officers." *Jama* 306, no. 23 (2011): 2567-2578.

ⁱⁱHogenkamp, Pleunke S., Emil Nilsson, Victor C. Nilsson, Colin D. Chapman, Heike Vogel, Lina S. Lundberg, Sanaz Zarei et al. "Acute sleep deprivation increases portion size and affects food choice in young men." *Psychoneuroendocrinology* 38, no. 9 (2013): 1668-1674.

ⁱⁱⁱRajaratnam, Shantha MW, Laura K. Barger, Steven W. Lockley, Steven A. Shea, Wei Wang, Christopher P. Landrigan, Connor S. O'Brien et al. "Sleep disorders, health, and safety in police officers." *Jama* 306, no. 23 (2011): 2567-2578.

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^{vii}Rajaratnam, Shantha MW, Laura K. Barger, Steven W. Lockley, Steven A. Shea, Wei Wang, Christopher P. Landrigan, Connor S. O'Brien et al. "Sleep disorders, health, and safety in police officers." *Jama* 306, no. 23 (2011): 2567-2578.

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^{xi}National Sleep Foundation Memorandum released February 2015

^{xii}Pearsall, Beth. "Sleep disorders, work shifts and officer wellness." *National Institute of Justice Journal* 270 (2012): 36-39.

^{xiii}<https://sleep.org/articles/temperature-for-sleep/>

^{xiv}<https://sleepfoundation.org/sleep-tools-tips/healthy-sleep-tips/page/0/1>

This publication is one in a series. For more family support resources please visit: www.theiacp.org/ICPRlawenforcementfamily

The IACP's Institute for Community Police Relations (ICPR) is designed to provide guidance and assistance to law enforcement agencies looking to enhance community trust, by focusing on culture, policies, and practices.

For more information, contact us at...

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Resiliency 2

Instructional Goals:

This course is designed to:

1. Enhance a new officer's awareness of job-related stressors
2. Develop a new officer's understanding of potential strategies for addressing stressors to maintain their emotional, physical and mental health
3. Develop a new officer's ability to self-assess or reflect on their self-care strategies

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Recognize symptoms of trauma and/or job-related stress
2. Identify factors that contribute to the stress and associated trauma of a career in public safety
3. Articulate healthy ways to address potential trauma or stress to maintain whole health

Content Outline

Review 16 Week Log

- Insights
- Challenges
- Resources developed

Overview of Stress

- Physiological Reactions to Stress
- Emotional Reactions to Stress
- Cognitive Reactions to Stress
- Cumulative Stress



Review 16-week log

You are halfway through the academy – congratulations! You have received a lot of information in a short period. You can see the light at the end of the tunnel – GRADUATION and beginning your law enforcement career with your agency. This has been a lot of work, and you should feel a sense of pride and growing confidence that you have entered into the second phase of the academy.

Over the last eight weeks, you have had the opportunity to keep a log in six areas. Now is the time to reflect on the information you have recorded to date. You may remember from the Resiliency 1 class that an essential part of having a long professional career AND a good quality of life is having a strong foundation. A strong foundation increases your resiliency when you are challenged with both the daily stress you experience at work and home, as well as during times of intense stress.

What is the information from the log telling you? Let's take a closer look:

Healthy Eating

In Week 1 you had a Nutrition class. In the Nutrition class, you kept a ten-day nutrition journal. Some questions to think about:

What was one piece of new information that you learned from the class and/or the nutrition journal that you did not know before?



Were you able to apply that knowledge over the last seven weeks?

Sleeping

Which of the sleep hygiene practices did you use in the last seven weeks?

Is there an additional one that you would be willing to try in the next seven weeks? If yes, indicate which one.

Stress

During the last seven weeks, the topic of stress has been discussed in several classes. Today, we will look at stress in more detail. Below are some questions for you to review as you reflect on the last seven weeks in the area of stress:



STATE OF OREGON
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
Basic Police

What part of your daily life did you notice you experienced stress (academic, physical, home, relationships, financial)?

When you review the positive technique/skill that you used every week, is there one that you used the most? Did you try different techniques/skills?

What insight do you have about your stress over the last seven weeks, and your ability to identify it and apply a stress-reduction technique?

What adjustments will you make in the next seven weeks based on the insight(s) you have?



Thinking Errors

In Resiliency 1, we looked at thinking errors that can have a significant impact on us. Everyone experiences one or more of these thinking errors, and it is the ability to recognize them and adjust the thinking that keeps us from getting into a downward spiral. The thinking errors we discussed were:

- | | | |
|----------------------------|-------------------------------------------|------------------|
| All or Nothing Thinking | Super Powers | Labeling |
| Overgeneralizing | Jumping to conclusions or catastrophizing | Self-blame/Blame |
| Magical Thinking | Emotional Reasoning | Others/Guilt |
| Disqualifying the Positive | | |

As you reflect on the last seven weeks, were you aware of experiencing a thinking error? Which one(s)?

Was there one specific thinking error you found you experienced more than any other? If yes, is this a thinking area that you realize you experienced in your life before the academy and was just now aware of it?



Once you were aware of the thinking error, what did you do to change your thought process?

What insight can you apply to the next seven weeks to thinking errors?

Support Systems

Having a support system is one of the most powerful protective factors you can have for resiliency. The support systems you brought with you to the academy are the ones that will be there for you when you leave. As you reflect over the past seven weeks:

Did you use more than one support system, or did you primarily use one?

Were you able to build a new support system from your classmates? Roommate? Other classes?



What insight do you have that you can apply to the next seven weeks for support systems?

Resources

Having resources is the key to a robust and enduring resiliency plan. Building a realistic directory of resources so that you can access them when you need them is proactive. As you reflect over the last seven weeks:

Were you able to add a new resource every week?

Did you learn of new resources in class? From other students? From the media or the internet?
Other sources?



What insight into developing resources will you take forward and apply to the next seven weeks?

Overview of Stress

Stress is no new experience for you. Attending the academy is expected to be stressful, and in some areas, it is designed to create stress. As you know, stress is not a bad thing. When you physically stress a muscle, it causes the muscle to get stronger, and depending on the amount of stress; the muscle can grow. It is when stress causes a negative impact that you need to make adjustments.

Here is a brief list of how stress affects people:

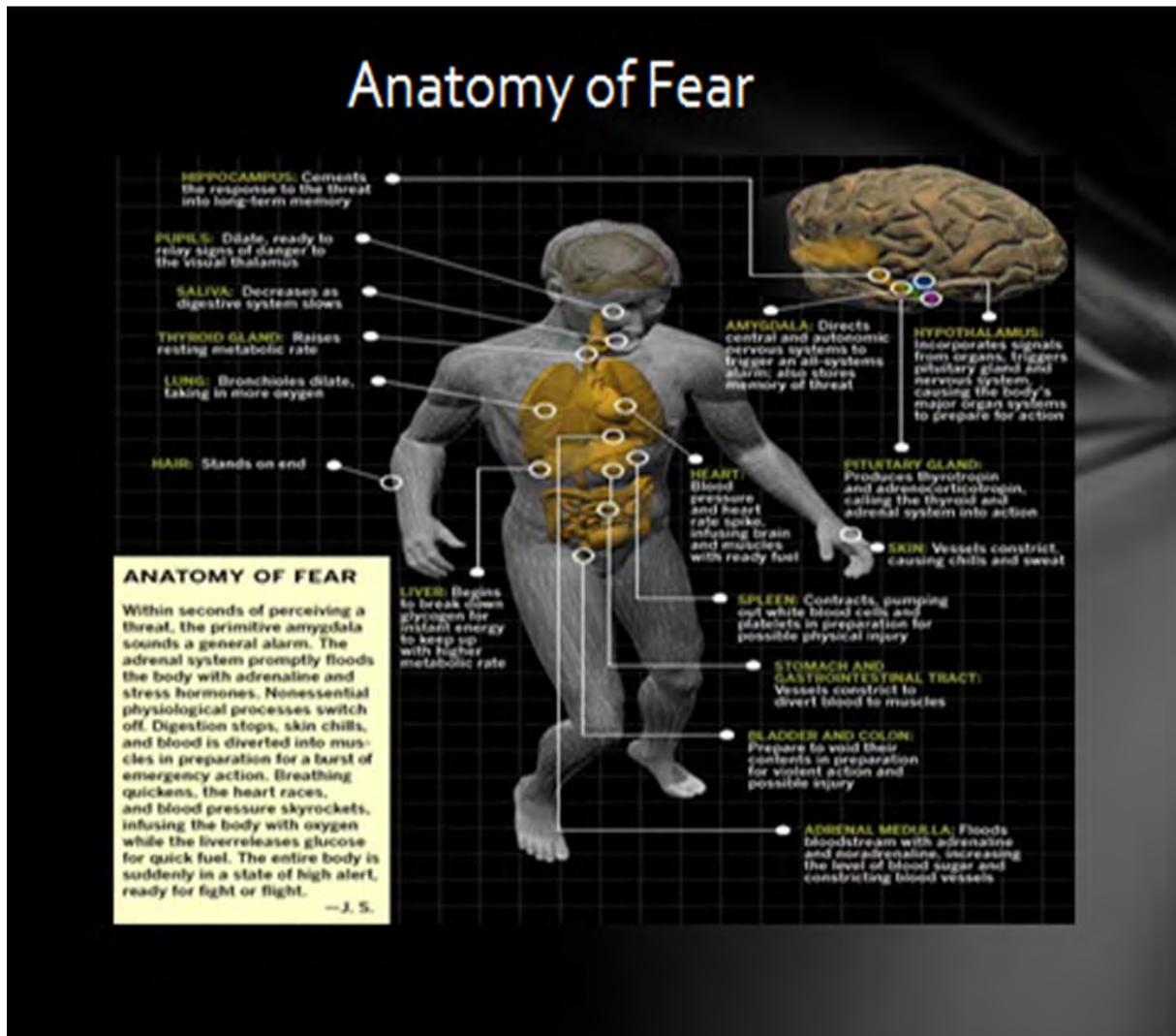
- Apathetic
- Angry
- Decision Making
- Disillusioned
- Erratic Behavior
- Fatigue
- Health Effects: Tension/Headaches, Blood Pressure, Cardiovascular Health, GI Problems,
- Substance Abuse, Illness/Suicide
- Increased Conflict
- Loss of Coordination
- Malcontent/Disgruntled
- Performance
- Personal/Family Issues
- Quality of Life
- “Us vs. Them”



Stress has an impact in all areas of our lives, physiological, emotional, and cognitive. We will take a more in-depth look at these three areas.

Physiological Reactions to Stress

Our bodies will physically experience stress. When the brain receives signals that we are in an immediate stress situation, it may interpret it as a danger signal to your safety and respond. Review the visual below and note all the areas that can be impacted when you have a stressful experience.





You can see the extent of the body's response to a stressful experience that it interprets as causing a potential threat to your safety. In the Behavioral Health Awareness class, you learned how a person responds to a crisis. When you experience elevated stress exposure, your body interprets that as a crisis.

When you continue to have stress responses to stressful situations, we can develop prolonged stress. Some of the symptoms of prolonged stress include:

- Loss of coordination
- Erratic Behavior
- Fatigue

These are signs we can be aware of in ourselves and our co-workers. The sooner we can identify signs of possible maladaptive responses, the easier it will be to neutralize them and return to a normal baseline.

Emotional Reactions to Stress

We can experience a full range of emotions when we react to a stressful situation.

- Agitation
- Apprehension
- Anger
- Anxiety
- Delayed Response to Calls for Service (Last One to Arrive)
- Depression
- Denial
- Emotional Outbursts
- Feeling Abandoned
- Feeling Lost
- Feeling Isolated
- Feeling Numb
- Fear
- Grief
- Guilt
- Inappropriate Emotional Response
- Irritability
- Loss of Emotional Control
- Panic
- Sadness
- Shame
- Startled
- Worry About Others
- Wanting to Hide
- Wanting to Limit Contact with Others

Source: Adapted from the International Critical Incident Stress Foundation



Stress can have an impact on our thinking (cognitive) reactions:

Cognitive Reactions to Stress

- Blaming Someone
- Change in Awareness of Surroundings
- Confusion
- Difficulty Calculating
- Difficulty Concentrating
- Difficulty Making Decisions
- Difficulty Problem Solving
- Disorientation (especially time and place)
- Heightened or Lowered Alertness
- Hypervigilance
- Intrusive Images
- Memory problems
- Nightmares/Distressing Dreams
- Poor Abstract Thinking
- Poor Attention Span
- Slowed thinking
- Seeing the event over and over
- Suspiciousness
- Uncertainty

Critical Incident Stress Reactions

A definition of a “**critical incident**” is that it can be any event that has a stressful impact sufficient enough to overwhelm the usually effective coping skills of an individual. Critical incidents are abrupt, powerful events that fall outside the range of ordinary human experiences. These events can have a strong emotional impact, even on the most experienced officer or deputy. (Officer.com October 15, 2007)

Critical Incident Stress Reactions, in many cases, can be less intensive when a person is aware of what to expect. The stress reactions you have listed above can be part of critical incident stress reactions. Please review the handout in your resource on Critical Incident Stress Reactions. Review the “things to try” portion of the list. Each department will have policies and procedures in place that you will learn about if you are involved in a critical incident.



Cumulative Stress

Cumulative stress is the stress that builds up over time. This stress may be caused by repeated exposure to crises and traumatic events on the job as well as events that occur in our personal life. While law enforcement officers are trained professionals, it is expected they will experience times in their professional careers when stress levels will exceed basic stress. Cumulative stress can have a significant impact on an officer's resiliency and productivity. Cumulative stress is challenging since it is hard to recognize. Something that seems minor to others may cause a severe stress reaction in someone who is experiencing cumulative stress.

Work/Life Balance

In the last unit on resiliency, we will look at creating a work/life balance at the start of your career. If you have a strong work/life balance, you will have a healthier and better quality of life both professionally and personally. You will also have a strong foundation to transition to retirement or your "next" career at the end of your law enforcement profession. Over the next seven weeks, think about how you are balancing the demands of the academy, your agency, and your personal life. In the next unit, you will be able to use your insights to help develop a long term resiliency plan moving forward.

Resiliency 3

In week 16, you will have Resiliency 3. At that time, you will have the opportunity to do a final review of your 16-week log. You will get a chance to reflect on the skills you have practiced and identify which ones worked best for you that you can take forward. We will get to meet some amazing people who will share their experiences around resiliency and how important it is to actualize the information into practice for your career. You will develop a plan for you and your family that you can take with you. You will have an opportunity to use your experience at the academy for future students and "pay it forward."



Resiliency 3

Instructional Goals:

This course is designed to:

1. Enhance a new officer's awareness of job-related stressors
2. Develop a new officer's understanding of potential strategies for addressing stressors to maintain their emotional, physical and mental health
3. Develop a new officer's ability to self-assess or reflect on their self-care strategies

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Recognize symptoms of trauma and/or job-related stress
2. Identify factors that contribute to the stress and associated trauma of a career in public safety
3. Articulate healthy ways to address potential trauma or stress to maintain whole health

Content Outline

- Awareness of Five Personality Characteristics
- Police Suicide
- Coping with Stress
- Grounding
- Work/Life Balance
- 16-Week Log
- Success Plan



Congratulations! You have completed the academy and will soon be recognized for your achievement in your upcoming graduation. This is a significant accomplishment, and it is essential to continue the positive momentum as you transition full time to your agency. You have constructed the foundation for a strong resiliency plan that you can implement and build on to ensure you will have a long and satisfying career in your chosen profession.

Awareness of 5 Potential Characteristics that can Occur

There are many reasons someone may choose the field of law enforcement. The common thread that connects all the reasons is the desire to help others and to make a difference. When Law Enforcement gets involved in a person's life, it is usually because the person is experiencing a crisis or creating an unsafe situation by violating the law. The daily exposure to the negative side of our world will take a toll on an individual. Five negative responses have been identified as the most common and can be a sign that an officer may be at risk for a stress reaction. Being aware of these negative responses can help an officer, their family, and their support system develop protective factors that will increase their resiliency.

Being aware of some of the frequently seen warning signs. Awareness can help officers and their families or support systems build protective factors to increase resiliency. The five most common warning signs that officers may experience are:

- Loss of Innocence
 - “The primary price that I think I’ve paid was something of a loss of innocence, seeing things that I never wanted to see and doing things that I never wanted to do. That loss of innocence has been devastating.”

- Cynicism
 - “Society’s social problems are much worse than we can repair.”
 - “We are just here to pick up the pieces time and time again.”
 - “Cops aren’t the ones that are going to fix the system. It has to be someone else.”
 - “We’re screwed!”



- **Constricted Affect**
 - “The only emotion that you can show effectively is anger. That’s acceptable. All others are weak, so you live on the anger, and you live on the jokes, you adopt gallows humor that keeps you going.”
 - “You drink over it, have sex over it, party over it, buy more toys, or work a lot, rather than face our feelings.”
- **Loneliness**
 - “I was the loneliest man in the world. I felt like there was nowhere to go but down. It was just like life was just too hard to live.”
- **Isolation**
 - “I feel like I’m alone in a room full of people because I don’t have anything in common with them.”
 - “Can only hang out with other cops because nobody else understands” This may be true, but “civilians” have a lot to offer in our quest to be “normal.”

Police Suicide

Suicide rates for law enforcement are higher than the general population. The impact of trauma exposure, cumulative stress, and Post Traumatic Stress Disorder can potentially lead to suicide. Awareness of the risk to law enforcement officers is increasing, and agencies are responding. Providing education and resources to officers starting at the academy and continuing when the officer returns to their agency is an essential part of reducing suicide. Peer support is a critical component in creating a robust and healthy environment for officers. Recognizing the warning signs of suicide raises awareness for an officer, for their co-workers, and provides information to the officer’s family.



In the Mental Health Awareness class, we learned about suicide and warning signs. As we review the signs, put them in the context of a law enforcement setting. How might these signs look if you were experiencing them or observed them in a co-worker?

- Threaten to harm self
- Prior suicide attempt(s)
- Disturbance in sleep/appetite/weight
- Constricted thinking, all or nothing, black or white
- Increased risk-taking behavior
- Has plan and means for suicide
- Emotionless/numb
- Angry/agitated
- Sad/depressed
- Hopeless, not future-oriented, giving away valued possessions
- Problems at work/home
- Recent loss (status, loved one)
- Under investigation
- Socially isolated/withdrawn
- Increased consumption of alcohol/drugs

Post-Traumatic Growth

Over the last sixteen weeks, we have looked at the impact trauma, and trauma exposure has on an individual. In the Resiliency series, we have looked at the impact trauma exposure can have directly on law enforcement. You have been provided information to help you build skills and develop strong resiliency plans for a solid foundation. There is relatively recent research that suggests that individuals who experience trauma may also report positive change and growth that has resulted as part of their trauma exposure.

Post-traumatic growth is defined as the “experience of individuals whose development, at least in some areas, had surpassed what was present before the struggle with crises occurred. The individual has not only survived, but has experienced changes that are viewed as important, and that goes beyond the status quo” (Tedeschi and Calhoun, 2004). Individuals have described profound changes in their view of “relationships, how they view themselves, and their philosophy of life (Joseph and Linley, 2006).



Coping with Stress

As we have learned over the past 16 weeks, stress has an impact on all areas of your life. In class, we will have a facilitated discussion on what coping can be applied to the four main areas of stress. Below is a section for each area of stress that will be discussed, and you may want to use this area to record suggestions of coping skills that you may be interested in utilizing.

Physical

I would use the following coping methods for physical stress:

Cognitive

I would use the following coping methods for cognitive stress:

Emotional

I would use the following coping methods for emotional stress:



Spiritual

I would use the following coping methods for spiritual stress:

Stress Coping Techniques and Grounding Skills

In Resiliency 2, you were introduced to several different types of grounding. In the Veterans Awareness class, you were able to practice five senses (physical) grounding. In your weekly log over the past 16 weeks, did you use a grounding technique in the Stress column? Is there a grounding technique that you found felt natural and was most helpful?

List of Grounding Techniques:

- Breathing
- Mental Grounding
- Physical Grounding
- Soothing Grounding
- Reflection
- Visualization

List three grounding techniques below that you are able to incorporate into your life as you move forward:

1. _____
2. _____
3. _____



Work/Life Balance

When you start to work full time as a law enforcement officer, it is exciting. It is not dull, and each new day brings new experiences. There are “highs” in your days that produce adrenalin, and you are building close relationships with your peers who are sharing your experiences. You will develop a sense of humor and connection to specific circumstances that you share only with a select few individuals that also experience them. This is part of a professional phase known as The Academy and Probation and the Honeymoon Phases. These are fun and rewarding times. These are also the most critical time for you to establish a work/life balance. If you have a strong work/life balance, you will have a healthier and better quality of life both professionally and personally. You will also have a strong foundation to transition to retirement or your “next” career at the end of your law enforcement profession.

In your sixteen-week log, you identified your support systems. It is essential to have support systems outside the profession of law enforcement. You will naturally develop support systems within the profession. When you are outside of work, it is important to be fully present in your life. Set up a clear boundary with yourself that when you are not at work, you will not be distracted by work and focus on engaging in your life. If you are on an on-call status, let the people in your life know that you may need to respond to work. This will help you to engage and stay connected to your life and respond to work if and when required.

Part of a work/life balance is attending to the needs you have in a balanced way so that no one area takes over. You already have work covered in this wonderful career you have chosen. Let’s take a look at the Life side.



- **Family** – how are you connected to your family? If you have a relationship, what can you do to ensure that you have open communication and experiences you share outside of your work life? Working on projects, sharing interests (books, movies, and physical activity), social interactions with friends all are areas that you and your relationship can share. If you have children, taking an interest in their stage of development and being involved in their lives is important and rewarding. Having regular contact with your parents and siblings and other family members helps keep the connections strong and valued. Everyone’s family will look different, but think of ways that you can stay involved in the relationships with family members.
- **Friends** – Having friends outside of law enforcement is an essential strategy that helps us with our perspective and can keep things in context. One way of balancing desensitization is having people in our lives that are not part of the profession. It helps us keep an eye on our barometer and recognize there aren’t “bad guys” around every corner or behind every closed door.
- **Interests/Hobbies** – Think about what you liked to do before you entered into law enforcement. Is that something that you can re-activate and keep in place? Are there new hobbies/interests that you would like to begin?
- **Personal Care** – What can you do just for yourself for personal care? When we can have some time just for ourselves, it allows us to “recharge.” We are better able to engage in our lives and our responsibilities when we have had some time to take care of ourselves.



Success Plan

The one thing that you have learned over the last 16 weeks is that you will change as you enter and grow in your law enforcement career. Having a Resiliency Success Plan is a proactive way of anticipating what you will need. Please look at the Resiliency Success Plan template at the end of this section. You can start to make entries into the sections that you want in place for a Resiliency Success Plan. You have the log you have been working on and the experiences you brought with you to inform what you want to put into this plan. The plan is meant to and will change over time as you grow. Who do you want to share the plan with? Think of the support system you have developed to date. Who would you feel safe and confident would be able to talk to you if they see an area of the Resiliency Success Plan that was in jeopardy? Select at least one and up to three people you want to give a copy of the plan.

When you look at the template for the Resiliency Success Plan here is what a sample entry could look like:

Physical

- What I will do:
 - Enroll in a gym membership and go three times a week.
- How will I know it is working?
 - I will work out at the gym three times a week
- How will I know it is NOT working?
 - I will start missing days at the gym and go less than three times a week. I will have different excuses for why I am not able to go.
- What do I want my support person to say?
 - You wanted to go to the gym three times a week, and it looks like you may have changed that plan? Did you decide to do something else for physical activity? Is there anything I can do to help?



Summary

Over the last sixteen weeks, you have received three Resiliency courses. You have been provided information on the profession, areas where there are strengths, and where there may be some challenges. You have been offered a variety of different skill suggestions that you can personalize to your use. The most important learning is that you have a plan for resiliency so that you will have a healthy and quality career and life after the academy. Congratulations again on your accomplishment!



Resiliency Success Plan

Physical

What I will do:

1.

2.

How will I know it is working?

1.

2.

How will I know it is NOT working?

1.

2.

What do I want my support person to say to check in on this area with me?

1.

2.



Cognitive

What I will do:

1.

2.

How will I know it is working?

1.

2.

How will I know it is NOT working?

1.

2.

What do I want my support person to say to check in on this area with me?

1.

2.



Emotional

What I will do:

1.

2.

How will I know it is working?

1.

2.

How will I know it is NOT working?

1.

2.

What do I want my support person to say to check in on this area with me?

1.

2.



Spiritual

What I will do:

1.

2.

How will I know it is working?

1.

2.

How will I know it is NOT working?

1.

2.

What do I want my support person to say to check in on this area with me?

1.

2.



Additional Resources

Books:

- Bulletproof Spirit
Captain Dan Willis
- Emotional Survival For Law Enforcement
Kevin M. Gilmartin, Ph.D.
- I Love A Cop
Ellen Kirschman, Ph.D.
- Increasing Resilience in Police and Emergency Personnel
Stephanie M. Conn

Roles & Responsibilities

BASIC POLICE ACADEMY



IN THE
SERVICE
OF
MANKIND

GLENN L. WATKINS 1960-1980
JAMES D. WRIGHT
GILBERT H. HORTON
CHARLES H. BASYE
ROBERT ALLEN LIBKE

THEY NEED



Roles and Responsibilities

Instructional Goals:

This course is designed to:

1. Develop a new officer's understanding of sources of authority and legitimacy in their role as a law enforcement officer.
2. Develop a new officer's understanding of various police functions, the corresponding authority, and mindset for effective policing.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify sources of authority and legitimacy.
2. Articulate responsibilities and duties as a law enforcement officer.
3. Explain the significance of building partnerships with the community for a law enforcement officer.
4. Identify proactive policing techniques that can help build partnerships or solve problems in the community.

Content Outline:

Role/Responsibility/Authority/Duty

Primary Categories of Police Functions

Service Delivery

Order Maintenance

Law Enforcement

Mindset-The Warrior and The Guardian

The Role of Community in Policing

Community Partnerships

Organizational Transformation

Problem-Solving



Part 1

Policing is complex; ordinary humans are given a role and tasked with responsibilities that exceed ordinary. In this role, you are trusted with a tremendous amount of power, the power to arrest, the power to use force (even deadly force). You are trusted to be an ethical and effective decision-maker. You are often given the discretion to decide how to handle a situation. That same discretion impacts perceptions of fairness. You will learn more about discretion when you cover implicit bias. You are expected to manage all of these responsibilities in a particular way, and every decision you make will be scrutinized by others (media, courts, communities, your peers, and your superiors). You must undertake these tasks in a manner that is legal and respectful to community members and is in keeping with local priorities.

Discretion-
 The decision-making power afforded to police officers that allows them to decide a course of action.

Before you can get started learning about all the various tasks that you will need to become proficient in, you must first develop a strong foundation for who you are as a person and a strong understanding of your role and responsibilities in law enforcement.

Role	Responsibility	Authority	Duty
The function assumed or part played by a person in a particular situation.	The state or fact of having a duty to deal with something or having control over someone. The state or fact of being accountable or blameworthy for something. The opportunity or ability to act independently and make decisions without authorization.	The power or right to give orders, make decisions, and enforce obedience.	A moral or legal obligation, a responsibility. A task or action that someone is required to perform.

How do you know what your roles and responsibilities are in policing? Where is your instruction manual? Who dictates these?



The first source dictating your roles and responsibilities is the law (Federal and State). Both the United States Constitution, as well as the Oregon State Constitution, provides you the framework by which you operate. You will need to develop a comprehensive understanding of both as well as stay informed of case law as it is generated. You are responsible for performing your various roles and responsibilities in a way that protects everyone's constitutional rights. You will cover more about this in your law classes, in particular Civil Rights and Liabilities.

The public's perceptions about the lawfulness and legitimacy of law enforcement are an important criterion for judging policing in a democratic society. Lawfulness means that police comply with constitutional, statutory and professional norms. Legitimacy is linked to the public's belief about the police and its willingness to recognize police authority.

National Institute of Justice

The second (and related) source is that the community dictates your roles and responsibilities. As an officer, you are a servant of the community, all of the community, not just the favorable sections. This relationship is more than the "I pay your salary" bit; public trust and cooperation are critical to effective policing and are lost when police engage in unconstitutional or unprofessional conduct. Your actions impact officers everywhere.

Legitimacy is a quality possessed by an authority, a law, or an institution that leads others to feel obligated to obey its decisions and directives.

Always remember that it is a privilege to serve in this role. You were called out of many to serve your community. Serve with humility.



Let's begin by examining three primary categories of police functions.

Service Delivery/ Customer Service	Order Maintenance/ Peacekeeping	Law Enforcement
<p>Police are public servants, and this carries a huge weight of responsibility.</p> <p>Some duties include:</p> <ul style="list-style-type: none"> ● Non-enforcement based conversations ● Providing education ● Helping stranded motorists ● Giving directions ● Locating missing persons ● Aid <p>Community Caretaking (ORS 133.033)</p>	<p>Police establish order in two ways, including:</p> <ol style="list-style-type: none"> 1. Preventing disorder 2. Restoring order when it has been disrupted. <p>Some duties include:</p> <ul style="list-style-type: none"> ● Intervening in situations that threaten public order ● Enforcing civil ordinances ● Directing traffic ● Settling disputes ● Patrol 	<p>Enforcing a law means to ensure the law is followed.</p> <p>Some general duties include:</p> <ul style="list-style-type: none"> ● Detect ● Investigate ● Apprehend ● Detain

Strategies to accomplish these objectives will vary by agency. One way to distinguish between the strategies is to compare reactive vs. proactive policing.

Reactive Policing	Proactive Policing
<p>Police respond to citizen calls for assistance</p> <p>Patrol is routine and unstructured</p> <p>911 calls drive police activity</p> <p>Dispatch section dictates police activity</p> <p>Emphasis on solving crimes</p>	<p>Police seek crime solutions before the crimes occur</p> <p>Targeted patrol</p> <p>Crime patterns drive police activity</p> <p>Records Management/Research dictates police activity</p> <p>Emphasis on preventing crimes</p>



Mindset- Warrior vs. Guardian

Even within a shared understanding of policing responsibilities, there is considerable debate over the mindset that goes into the role. You have likely heard at least murmurings about a discussion: Warrior or Guardian mindset? Both mindsets seek to protect the communities they serve, but they go about it in different ways. Does it matter? Is it one or the other? How can you have an emotionally intelligent discussion about this topic?

The Warrior	
<p>What is the warrior mindset? It refers to the mental tenacity and attitude that officers, like soldiers, are taught to adopt in the face of a life-threatening struggle. In this context, the warrior mindset refers to a bone-deep commitment to survive a bad situation no matter the odds or difficulty, to not give up even when it is mentally and physically easier to do so.</p> <p style="text-align: right;"><i>Harvard Law Review</i></p>	
Supporters Say	Critics Say
<p>There is no such thing as a routine call. Any encounter can turn violent.</p> <p>Training should emphasize safety and tactics.</p> <p>Moving away from this mindset puts officers at risk.</p>	<p>The warrior mindset has morphed into mentality. Officers are demonstrating an attitude (that should be displayed in physically dangerous situations) in every aspect of the job.</p> <p>Encounters with the public don't often turn violent.</p> <p>Training focusing too heavily on the risk (that anyone can kill you) creates fear and affects the way officers interact with civilians and is a barrier to true community policing.</p> <p>An aggressive approach in individual interactions can exacerbate underlying social tensions.</p> <p>The assertive manner in which officers set the tone of encounter can also set the stage for a negative response or a violent interaction that was, from the start, avoidable. An officer who needlessly aggravates a situation doesn't just increase the risk he faces in that encounter. He also increases the risk that other officers face in other encounters.</p>



The Guardian	
<p>The guardian mindset takes both a broader view and a longer view of how to achieve the goal of protecting the community. The guardian mindset prioritizes service over crime-fighting, and it values the dynamics of short-term encounters as a way to create long-term relationships.</p> <p style="text-align: right;"><i>Harvard Law Review</i></p>	
Supporters Say	Critics Say
<p>Officers should be instructed that their interactions with community members must be more than legally justified; they must also be empowering, fair, respectful, and considerate.</p> <p>The guardian mindset emphasizes communication over commands, cooperation over compliance, and legitimacy over authority. In the use-of-force context, it emphasizes patience and restraint over control, stability over action.</p> <p>Defensive tactics are essential, but police should be trained in ways to defuse conflict without force.</p>	<p>Critics of "guardian" see the concept as a challenge to the fundamental role of the police. They often associate "guardians" with politics and agendas that detract from their ability to do their job.</p> <p>Critics see an officer's safety concern when minimizing the dangers of policing in training. They express officer safety concerns when a training emphasis is placed on implicit bias and cultural diversity, whereas the "anyone can have a plan to kill you" training creates the best chance for officer survival.</p>

What goes on in our head impacts our actions; our thoughts and feelings influence how we react. You may recall this from Emotional Intelligence. Understanding the many dynamics of your role and developing a solid understanding of yourself, including your default mindset, will help you navigate the challenges of this career. There is no expectation that you know this today, but throughout this Academy, you will strengthen your mindset towards the goal of being an effective officer.

You need to be able to think critically about your role and responsibilities. It is also your responsibility to become educated on current matters regarding your profession. DPSST promotes the use of research and data in policing, and throughout this Academy, you will be encouraged to look at the research and make informed decisions.



Part 2

The Role of the Community in Policing

Several times now, the role of the community has been brought up. Why? What role does the community play in public safety?

It is the job of the police to cope with problems, not just respond to incidents.

Community Policing | National Police Foundation.

<https://www.policefoundation.org/projects/community-policing/>

As previously covered, those problems include community livability issues and disorder as well as crime. Police must work cooperatively with the community to improve livability and reduce crime and disorder.

The support of the community is a critical factor in the ability of the police to do their job effectively. Whether there will be support or not is dependent on the relationship between the police and the communities they serve. These relations are strengthened or weakened by every police-community interaction.

The importance of police-community relations was first articulated with the "Nine Principles of Policing," made famous by Sir Robert Peel and the London Metropolitan Police Department in 1829. These principles are still widely accepted as the foundation for professional policing.

This philosophy is called community policing. It is not a program delegated to a special team and ignored by the rest. It is a philosophy embodied, valued, and encouraged by an organization. Community policing is what policing is; it is not an "extra" duty. As previously covered in part 1, you work for the people. You are part of the community. Every interaction by every member of an organization impacts the relationship between that organization and the community. Every member of that organization is responsible for community policing.

What does it look like? It varies from one community to the next. Community policing includes aspects of traditional law enforcement as well as prevention, problem-solving, community engagement, and partnerships. Whereas a large metropolitan agency may utilize foot patrols as a means of officers



interacting with its community, that isn't feasible for a rural agency. Some agencies may use crime analysts to help with problem-solving, but for others, it is up to the officers themselves. Community policing will take different forms depending on the context and the involvement of the community.

So who has time for this when calls are stacked up? Community policing balances reactive responses to calls for service with crime prevention and proactively addressing the root causes of crime and disorder (reactive vs. proactive policing). Make the time; you cannot be effective without community support. Community policing comprises three key components:

- **Community Partnerships:**
Collaborative partnerships between the law enforcement agency and the individuals and organizations they serve to develop solutions to problems and increase trust in the police
- **Organizational Transformation:**
The alignment of organizational management, structure, personnel, and information systems to support community partnerships and proactive problem solving
- **Problem Solving:**
The process of engaging in the proactive and systematic examination of identified problems to develop and evaluate effective responses



*Source: Community Policing Defined - Community Oriented Policing
<https://cops.usdoj.gov/RIC/Publications/cops-p157-pub.pdf>*



Community Partnerships

Police rarely can solve public safety problems alone. Community Policing encourages interactive partnerships with relevant stakeholders. The range of potential partners is broad, and these partnerships can accomplish the two interrelated goals of developing solutions to problems through collaborative problem solving and improving public trust.

In community policing, citizens are viewed by the police as partners who share responsibility for identifying priorities and developing and implementing responses. Accurate surveying of customer needs and priorities is required under community policing to determine the problems that drive police services and give the public ownership of the problem-solving process.

The police are only one of the many local government agencies responsible for responding to community problems. Under community policing, other government agencies are called upon and recognized for their abilities to respond to and address crime and social disorder issues. Community-based organizations are also brought into crime prevention and problem-solving partnerships with the police. Vital to the success of these efforts is the support and leadership of elected officials and coordination of the police department at all levels.

Stakeholders:

- Other Government Agencies
- Community Members/Groups
- Nonprofits/Service Providers
- Private Businesses
- Media

Think about non-traditional partnerships as well.



Organizational Transformation	<p>The community policing philosophy focuses on the way that departments are organized and managed and how the infrastructure can be changed to support the philosophical shift behind community policing.</p> <p>Community policing emphasizes changes in organizational structures institutionalize its adoption and infuse it throughout the entire department.</p> <p>Including:</p> <ul style="list-style-type: none">● Culture● Leadership● Policies● Transparency● Geographic Assignment of Officers● De-specialization● Resources● Recruitment, Hiring, and Selection● Personnel Supervision/Evaluations● Training● Communication/Access to Data● Quality and Accuracy of Data
Problem Solving	<p>Community policing emphasizes proactive problem-solving systematically and routinely. Rather than responding to crime only after it occurs, community policing encourages agencies to proactively develop solutions to the immediate underlying conditions contributing to public safety problems.</p> <p>Infuse problem-solving into all police operations and guide decision-making efforts. Agencies are encouraged to think innovatively about their responses and view making arrests as only one of a wide array of potential responses.</p> <p>You will cover more about this in Problem-Oriented Policing, which will include a model for helping you think about problem-solving in a structured and disciplined way (the SARA: scanning, analysis, response, and assessment) model.</p>

Source: Problem Solving | COPS OFFICE. <https://cops.usdoj.gov/problemsolving>



Some people criticize community policing because several studies have found that its impact on crime prevention is limited and that it has little effect on reducing citizens' fear of crime. Community policing was initially intended to emphasize the non-crime-fighting roles of the police, such as build community trust and to increase citizen satisfaction with and confidence in the police. Studies have found that community policing is associated with significant increases in citizen ratings of satisfaction with the police and also has positive benefits for police legitimacy and citizen perceptions of disorder.

SOURCE: Evidence Assessment on 21st Century Policing Report

Engaging Diverse Communities

Community Policing in the United States appeared in the 1960s as a result of race riots and concerns that police had lost contact with minority groups. Unfortunately, police/minority relationships are still an issue of interest today. You will learn more about why this is, as well as explore strategies to try and help improve this later in your Community Competency Class.

IACP produced the following steps which can be found in the Communities of Color Toolkit- Bridging the Gap <http://www.theiacp.org/Communities-of-Color/steps-to-build-trust>

- Treat every member of the community with respect and treat non-enforcement engagements as an opportunity to build trust.
- Get out of your patrol vehicle. Build relationships through non-enforcement interactions.
 - Participate in community events, seek out mentorship opportunities with youth, serve as a community coach for youth sports. Look for opportunities, particularly in areas where police enforcement is ever-present.
- Use favorable discretion by issuing verbal warnings to low-level offenders
 - Traffic offenses or criminal activity.
- Articulate why actions are being taken to make the public aware and create trust.



- Engage the youth in high-crime areas.
- Use community festivals, sporting events, and holiday celebrations to engage in dialogue with diverse community members and increase cultural competencies.
- Encourage community stakeholders to participate in programs that increase community trust.

Community Policing Summary

- Community policing emphasizes having the police engage the community in the policing process.
- Community policing implies that responses to problems will involve some sort of collaborative or cooperative working relationship between the police and the community.
- Community policing strongly emphasizes organizing and mobilizing the community.



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<https://harvardlawreview.org/2015/04/law-enforcements-warrior-problem/>



Academy to FTEP/PTO Transition Final Project Evaluation Rubric

Student Name: _____

Class: _____

	NEEDS IMPROVEMENT (0 EACH)	ACCEPTABLE (1 EACH)	EXCELLENT (2 EACH)
Familiarization with Community	<p>Does not include information about the community.</p> <p style="text-align: right;">0 Points</p>	<p>Describes 2-3 of the following:</p> <ul style="list-style-type: none"> • Physical Layout and/or Geography • Demographics • Types of Problems • Resources Available • What is Important to Learn <p style="text-align: right;">1 Point</p>	<p>Describes 2-3 of the following:</p> <ul style="list-style-type: none"> • Physical Layout and/or Geography • Demographics • Types of Problems • Resources Available • What is Important to Learn <p>AND</p> <p>Provides some analysis of what this information means regarding challenges, concerns, etc.</p> <p style="text-align: right;">2 Points</p>
Identify Strengths	<p>Does not self-identify any strengths.</p> <p style="text-align: right;">0 Points</p>	<p>Self-identifies and describes at least 3 of the following:</p> <ul style="list-style-type: none"> • Knowledge • Skills • Emotional Intelligence • Confidence • Scenario Performance • Comfort with Difficult Topics/Situations • Problem-Solving <p style="text-align: right;">1 Point</p>	<p>Self-identifies and describes at least 3 of the following:</p> <ul style="list-style-type: none"> • Knowledge • Skills • Emotional Intelligence • Confidence • Scenario Performance • Comfort with Difficult Topics/Situations • Problem-Solving <p>AND</p> <p>Provides some analysis of what these strengths mean about recruits preparation for FTEP/PTO.</p> <p style="text-align: right;">2 Points</p>



	NEEDS IMPROVEMENT (0 EACH)	ACCEPTABLE (1 EACH)	EXCELLENT (2 EACH)
Identify Gaps	<p>Does not self-identify any gaps.</p> <p style="text-align: right;">0 Points</p>	<p>Self-identifies and describes 2-3 of the following:</p> <ul style="list-style-type: none"> • Knowledge • Skills • Emotional Intelligence • Confidence • Scenario Performance • Comfort with Difficult Topics • Problem-Solving <p style="text-align: right;">1 Point</p>	<p>Identifies and describes 2-3 of the following:</p> <ul style="list-style-type: none"> • Knowledge • Skills • Emotional Intelligence • Confidence • Scenario Performance • Comfort with Difficult Topics • Problem-Solving <p>AND</p> <p>Provides some analysis of what these gaps mean about recruits preparation for FTEP/PTO.</p> <p style="text-align: right;">2 Points</p>
Develop a Plan	<p>Does not identify any steps, processes, or plans to prepare for duty.</p> <p style="text-align: right;">0 Points</p>	<p>Identifies 2-3 of the following ways to further prepare self for duty:</p> <ul style="list-style-type: none"> • Bridge Gaps in Knowledge, Skills, and/or Abilities • Prepare Self for the Emotional Demands • Prepare Self for the Physical Demands <p style="text-align: right;">1 Point</p>	<p>Identifies 2-3 specific ways to further prepare self for duty:</p> <ul style="list-style-type: none"> • Bridge Gaps in Knowledge, Skills, and/or Abilities • Prepare Self for the Emotional Demands • Prepare Self for the Physical Demands <p>AND</p> <p>Provides some analysis which references the following:</p> <ul style="list-style-type: none"> • Feedback Received • Resiliency Plan • Individual Reflections <p style="text-align: right;">2 Points</p>



STATE OF OREGON
 DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
 Basic Police

	NEEDS IMPROVEMENT (0 EACH)	ACCEPTABLE (1 EACH)	EXCELLENT (2 EACH)
Presentation Overall	Presentation demonstrates little effort made to complete task as intended. 0 Points	Presentation demonstrates effort made to complete task. 1 Point	Presentation demonstrates extra effort and pride in work. 2 Points
SUB-TOTAL	0	_____ / 5	_____ / 10
TOTAL	_____ / 10 <i>*Passing score is 5*</i>		

Evaluator Feedback:

Evaluator: _____

Sexual Assault Investigations

BASIC POLICE ACADEMY





Sexual Assault Investigations

Instructional Goal:

This series is designed to introduce a new officer to basic factors related to sexual assault response and investigations using a victim centered and trauma informed approach.

Learning Outcomes:

Upon completion of instruction, student will be able to:

1. Demonstrate victim centered and offender focused interactions.
2. Analyze a situation and determine if there is an applicable ORS offense represented.

Content Outline:

- Module 1: Introduction and what is Sexual Assault?
- Module 2: Media and Culture
- Module 3: Neurobiology of Trauma
- Module 4: Victim Interviewing and Report Writing
- Module 5: Medical Forensics and SARTS



Introduction

The mission of the Oregon Attorney General's Sexual Assault Task Force (OAGSATF) is to facilitate support for a collaborative, victim-centered approach to the prevention of and response to adolescent and adult sexual violence.

The Oregon Attorney General's Sexual Assault Task Force is a private, non-profit, non-governmental statewide agency operating three programs and coordinating over 100 multi-disciplinary members who serve as advisors on our task force committee: Campus, Criminal Justice, Legislative & Public Policy, Medical-Forensic, Men's Engagement, Offender Management, Prevention Education, and Victim Response.

In organizing and maintaining a membership body, the Oregon Attorney General's Sexual Assault Task Force seeks to facilitate cross-discipline collaboration and cultivate victim-centered approaches to sexual assault primary prevention, victim advocacy, medical forensic care, criminal prosecution, and sex offender management and treatment.

This course content was developed by OAGSATF law enforcement faculty and staff.



Module 1: Introduction and what is Sexual Assault?

Law Enforcement's Role in Violence Prevention

Law enforcement's role in the prevention of sexual violence is to create systems that allow victims to feel safe and supported when coming forward to report crimes. Consider what you have already learned about supporting victims, communication, emotional intelligence, and more. What are some specific actions you as an officer can take to help a victim feel safe and supported when reporting?

- Make the criminal justice system accessible for everyone in your community.
- Develop relationships with community partners to have a collaborative, consistent response for survivors.
- On-going education and training on community outreach.

In Class Activity: Shifting Focus

- What are some specific actions that an officer can take to help a victim feel safe and supported when reporting?



Victim Centered/Offender Focused

Victim Centered	Offender Focused
Giving time and consideration to the victim's needs and wants throughout the medical, advocacy, and criminal justice process.	Paying attention to the behaviors and actions of the offender, not the victim. Investigate the offender, not the offense.

In-Class Activity: What Did You Hear?

Please Listen to the 911 call and answer the following questions:

- How did the dispatcher do:
- What did the caller remember? What did she not remember?
- Was she alone?
- When did she seem the most emotionally overwhelmed?

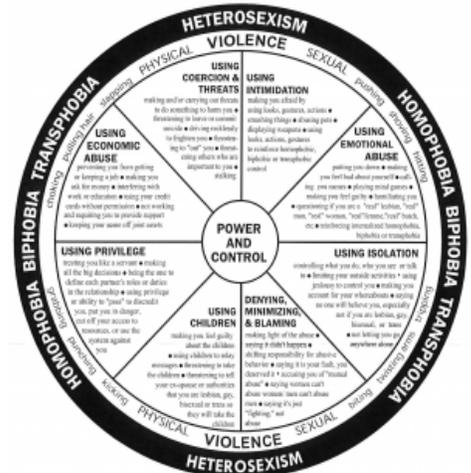


What is Sexual Assault?

Just as you learned in the Domestic Violence series, sexual assault is about power and control.

Consent

Consent is an agreement between participants to engage in sexual activity. Consent also plays an important role in determining if act is legally considered a crime.



In-Class Activity: What is Consent?

What is consent? We often discuss consent in the context of physical or sexual interactions. But we give and gain consent for activities every day in many different places and situations. In this activity we ask you to think about consent.

Part 1- Think of a non-sexual situation where you give consent. Please complete the following questions and discuss them with your small group.

- What does consent sound like?
- What does consent feel like?
- What does consent look like?

Part 2- Think of a sexual situation where you give consent. Please complete the following questions and discuss them with your small group.

- What does consent sound like?
- What does consent feel like?
- What does consent look like?



Justice Gap

Of 100 rapes committed, an estimated 5 - 20 are reported to police, 0.4 - 5.4 are prosecuted, 0.2 - 5.2 result in a conviction, ND 0.02 - 2.8 lead to incarceration.

Source: The 'Justice Gap' for Sexual Assault Cases: Future Directions for Research and Reform, K.A. Lonsway & J. Archambault, Violence Against Women, 2012, 18(2), 145-168.

Who are Victims of Sexual Assault?

Victims are chosen because they are

- Vulnerable, or can be made to seem so.
- Accessible, or can be made to seem so
- Seeming to lack in credibility, or can be made to seem so.

Examples:

- Children
- Adolescents
- Women, especially women of color
- People with developmental & physical disabilities
- People with communication impairments
- People who have a mental illness
- ANY dependent, institutionalized or incarcerated person
- Non-English speaking people
- People who are undocumented
- Sex workers
- People who are poor, especially the homeless
- People on the fringe of crime
- People who are drunk or on drugs
- Sexual minorities
- People with non-dominant gender identity and/or expression
- Nonwhite people/racial minorities



In-Class Activity: What Do Perpetrators Look For?

Part 1

Perpetrators target certain individuals. In this activity we take a closer look at what makes certain populations vulnerable, accessible and appear to lack credibility. Your small group will be assigned a particular population that experiences sexual assault at higher rates than the general public.

Please complete the worksheet below for this population.

- Vulnerable:

- Accessible:

- Appear to Lack Credibility:

Part 2

Individuals can experience multiple identities at once. With your group please consider a person who is experiencing the overlapping identities provided to you by the facilitators. How might these overlapping identities make this person vulnerable, accessible, and appear to lack credibility?

- Vulnerable:

- Accessible:

- Appear to Lack Credibility:






The Benefits of Prevention in Oregon

A Benefit Analysis of Comprehensive Prevention Efforts

"I have learned what consent is and that if someone does not give their consent, it is not okay to pressure someone..."
- Josephine County HS Student

Effective violence prevention efforts, that address the root causes of violence, address risk factors that can also lead to multiple forms of violence, suicidal ideation, substance abuse, economic stress, gang involvement, mental health concerns, and many others.¹⁰

Sexual violence is preventable and we all play a role and have a responsibility in preventing it.

"I learned a lot and it was relevant because now I can see if others are feeling bad or want help and try to help/offer support."
- Wasco County HS Student

76% Students reported increased knowledge regarding signs of an unhealthy relationship.³

64% Students Less Likely to Commit Sexual Violence³

59% Students report increased knowledge of healthy communication skills and awareness of how they communicate with others.³

54% Students Less Likely to Experience Victimization by a Dating Partner¹

86% Students understand that oppression increases vulnerability to experiencing violence.⁹

86% Students are able to identify ways to support and show respect for people of all gender identities, gender expressions, and sexual orientations.¹

"I have my first boyfriend so I will really think about how I should be treated and treat him."
- Clackamas County HS Student

"I am brought to [prevention] because I want to be part of a cultural change on our campus - replacing coercion culture with consent culture."
- Southern Oregon University Student

Effective Violence Prevention Strategies¹



CDC Identified Effective Prevention Strategies¹

3625 River Rd N, Suite 275, Keizer, OR 97303-5985 | Phone: (503) 990-6541 | Email: taskforce@oregonsatf.org | Web: www.oregonsatf.org

10. Taylor, B., & Blum, R. (Eds.). (2006). Survey of Secondary-School Students: 2005. Princeton, NJ: Center for Communications Programs, Princeton University. 11. Centers for Disease Control and Prevention. (2010). National Campaign on Dating Violence. 12. Centers for Disease Control and Prevention. (2010). National Campaign on Dating Violence. 13. Centers for Disease Control and Prevention. (2010). National Campaign on Dating Violence. 14. Centers for Disease Control and Prevention. (2010). National Campaign on Dating Violence. 15. Centers for Disease Control and Prevention. (2010). National Campaign on Dating Violence. 16. Centers for Disease Control and Prevention. (2010). National Campaign on Dating Violence. 17. Centers for Disease Control and Prevention. (2010). National Campaign on Dating Violence. 18. Centers for Disease Control and Prevention. (2010). National Campaign on Dating Violence. 19. Centers for Disease Control and Prevention. (2010). National Campaign on Dating Violence. 20. Centers for Disease Control and Prevention. (2010). National Campaign on Dating Violence.



SATF OREGON The Cost of Violence in Oregon

A Benefit Analysis of Comprehensive Prevention Efforts

22% Females
12% Males
37% Nonbinary

Oregon 11th graders identify having considered suicide during the last year

* Oregon Healthy Teens Survey

Women who experienced IPV who also experienced at least one (PTSD) symptom

63%

* The National Intimate Partner and Sexual Violence Survey

Youth said they were **not discouraged** by negativity from other people, but that they do **need more support** from the adults in their lives, they feel that they are not taken seriously enough and that their voices often go unheard.

* El Programa Hispano Cálculo

Men who have experienced IPV have **significantly higher** prevalence of frequent headaches, **chronic pain**, difficulty sleeping, activity limitations, and consider their physical and mental health to be poor.

* The National Intimate Partner and Sexual Violence Survey

20% Females
3% Males
15% Nonbinary

Oregon 11th graders identify having given in to sex because of pressure

* Oregon Healthy Teens Survey

Estimated lifetime costs of violence in the USA:

Intimate Partner ²	Rape ⁵	
\$2.1 Trillion	\$1.2 Trillion	Medical Costs
\$1.3 Trillion	\$1.6 Trillion	Lost Productivity (Victims & Perpetrators)
\$73 Billion	\$234 Billion	Criminal Justice Activities
\$62 Billion	\$36 Billion	Other Costs
\$3.6 Trillion	\$3.1 Trillion	TOTAL



Up to \$124,000

Estimated Costs to each Survivor for an Incident of IPV or Rape

Nearly \$2.3 Trillion

Estimated Total Costs for IPV and Rape to Government Sources

75% of students who complete only "some college" have debt exceeding \$10,000.⁶ Survivors who leave during a semester because of violence can incur costs of up to **\$30,000** in lost tuition on top of student loan interest.⁷

↑ 122%

Increase in number of students choosing to report on Oregon college and university campuses since passage of victim/advocate privilege in 2015.⁸



Non-Stranger Sexual Assaults

According to 2010 National Intimate Partner and Sexual Violence Survey, only 15% of all sexual assaults are perpetrated by someone that is a stranger to the victim.

Perpetrator Dynamics

Sexual violence is about Power and Control over the victim. It is not about sex, attractiveness, uncontrolled desire. Fifty-one percent of survivors, reported being sexually assaulted by their intimate partner.

Sexual Assault Protection Orders (SAPOs)

SAPO's are an order that a victim of sexual assault can apply for as long as the respondent is over 18 years of age, and is not subject to any other protective order (FAPA, APPWDPA, Stalking Order, or Restraining Order). The victim can apply by themselves if they are 12 and over. If they are under 12 they need a parent/guardian or guardian ad litem



Getting a Sexual Abuse Protective Order (SAPO) Version 11/2019

INSTRUCTIONS

Procedures vary from court to court. Check with your local court for filing instructions.

WHAT IS A SEXUAL ABUSE PROTECTIVE ORDER (SAPO)?

A Sexual Abuse Protective Order (SAPO) is a court order that tells the person who hurt you (Respondent) to leave you, your children, and your family alone. It can order the Respondent not to enter a reasonable area around your residence. You can ask the judge to add other conditions (listed in the protective order) that you think will help keep you safe.

WHO CAN HELP ME DECIDE WHETHER TO ASK FOR A SAPO?

You can call your local Victims' Assistance Program (VAP) or community-based (non-profit) sexual assault or domestic violence program to get help in deciding whether to ask the court for a SAPO and to do safety planning. Advocates can discuss information that may be important for you to consider in deciding whether to seek a SAPO. Advocates can also provide you information about what to expect during a SAPO hearing, which is open to the public. For information regarding sexual violence resources, please ask court staff for information about resources or visit the following websites:

Sexual Violence Resources and Programs: <http://oregonsatf.org/help-for-survivors/>

Victims' Assistance Programs: <https://www.doj.state.or.us/crime-victims/>

Nonprofit Advocacy Programs: <http://www.ocadsv.org/find-help>

If you have questions about how the law works or what it means, you should talk to a lawyer. For help finding a lawyer, call the Oregon State Bar's Lawyer Referral Service at 503.684.3763 or 800.452.7636. If you believe you cannot afford a lawyer, ask court staff if your area has a legal services (legal aid) program that might help you. You also can go to: www.oregonlawhelp.org.

WHAT ARE THE REQUIREMENTS FOR GETTING A SEXUAL ABUSE PROTECTIVE ORDER?

1. Relationship (If you are an Adult, 18 or older):

- You and Respondent cannot be "family or household members" as defined by ORS 107.705. This means that the person who abused you is NOT:
- your husband, wife, or Registered Domestic Partner,
- your former husband, wife, or Registered Domestic Partner,
- an adult with whom you are living (or did live) in a sexual relationship,
- an adult with whom you have been in a sexual relationship in the last two years,
- an adult related to you by blood, marriage, or adoption, or
- the parent of your child.

(If you and Respondent are "family or household members," you may be able to apply for a Family Abuse Prevention Act (FAPA) Restraining Order. For more information ask the court clerk or visit:

<http://www.courts.oregon.gov/programs/family/domesticviolence/Pages/restraining.aspx>)



If you are a Minor (under 18):

You may ask for a SAPO as long as the Respondent is 18 or older.

If you are under the age of 12, a parent or guardian must file for you. A *guardian ad litem** can also be appointed. You may file for a Sexual Abuse Protective Order on your own if you are at least 12 years of age.

If you are filing for a protective order on behalf of a minor, fill out the form as if you were the minor.

* A *guardian ad litem* is a person appointed by the court to make decisions only about the court case.

IT IS IMPORTANT FOR YOU TO UNDERSTAND

Judges are required by law to report abuse of minors. If you are a minor (under age 18) and file a request with the court for a SAPO, the judge is likely to make a report to the Department of Human Services, unless one has already been made.

Staff in law enforcement and district attorneys' offices are also required to report abuse of minors to the Department of Human Services. If you are a minor and you seek help completing this paperwork from an advocate program in those offices, they are likely to make a report, unless one has already been made.

2. Other Orders

To be eligible for a Sexual Abuse Protective Order, Respondent must NOT already be prohibited from contacting you by:

- a restraining order from another state, Indian tribe, or territory,
- a stalking protective order,
- an Elderly Persons and Persons With Disabilities Abuse Prevention Act restraining order,
- a no contact order entered in a criminal case, or
- a restraining order entered in a juvenile court dependency case.

3. Sexual Abuse

The person who sexually abused or assaulted you must have:

- made you have sexual contact without your consent; or
- made you have sexual contact when you were not capable of consenting.

4. Ongoing Fear

You are in reasonable fear for your physical safety.



There is no time frame in which the abuse must have occurred in order to apply for a SAPO. You are not required to have called the police in order to get a SAPO. The judge will not consider whether you reported the abuse to law enforcement when deciding to give you the SAPO.

WHERE DO I FILE FOR A SEXUAL ABUSE PROTECTIVE ORDER AND HOW MUCH DOES IT COST?

You must file for a SAPO in the courthouse in the county where either you or the Respondent lives. Getting a SAPO is free.

HOW DO I FILL OUT THE PAPERS TO GET A SEXUAL ABUSE PROTECTIVE ORDER?

Use a blue or black ballpoint pen and write clearly. Answer each question carefully and tell the truth. Do not write in the part of the papers that say "Judge's Initials." If available, a court facilitator or advocate may be able to help you with the forms. They cannot answer legal questions or give you legal advice.

WHAT HAPPENS AFTER I FILL OUT THE PAPERS?

A time will be set for the judge to look over your papers. The judge may ask you some questions. If the judge gives you the SAPO, court staff will make copies for you. You should keep a copy of your Order with you at all times.

You will need to have one of the copies hand-delivered to the Respondent. A sheriff's deputy can do that (free in Oregon). A private process server or any adult can also serve the papers, as long as the server lives in the state where the papers are served. You cannot serve the papers yourself. Talk to the court clerk about ways to get the Respondent served. The server is required to complete and file with the court a certificate of service. If the server is unable to serve the papers, you can request the court to allow you to use an alternative method of service. The packet includes a form for service, but some servers use their own forms. **The Respondent cannot be punished for violating (not following) the SAPO until after service.**

WILL A HEARING BE SCHEDULED?

The Respondent has 30 days from the date of service to ask for a hearing contesting (disagreeing with) the SAPO. If the Petitioner is an adult and the Respondent does not ask for a hearing, the SAPO will stay in effect for five years from the date it was issued, unless the court issued a permanent order.

If a Petitioner is a minor, and the Respondent does not ask for a hearing, either:

- The Order will remain in effect permanently, if the court issued a permanent order; or
- The Order will stay in effect until the Petitioner's 19th birthday or five years from the date it was issued, whichever is later.

If the Respondent does ask for a hearing, the court will schedule it within 21 days of the request. The court will send you notice of the time and date of the hearing in the mail. If there is not enough time to mail you a notice, the court may contact you by telephone. **Be sure the court always has your current contact addresses and contact phone numbers so you get notice of any hearing.** Use safe contact addresses and contact phone numbers. You also can call the court to ask if a hearing has been set.



You must go to the hearing or the Order will probably be terminated (dropped). If you cannot go to the hearing due to an emergency, call the court clerk right away. It may be helpful to have an attorney represent you at the hearing, but it is not required. If you did not have enough notice of the hearing, you may ask the judge to extend the date of the hearing for up to five days so that you may get a lawyer.

You may ask the judge in writing, ahead of time, to appear by telephone or other method, such as videoconferencing. It is up to the judge to decide whether to allow this.

WHAT HAPPENS AT THE HEARING REQUESTED BY THE RESPONDENT?

The purpose of the hearing is to decide whether or not the SAPO will remain in effect, and if it does remain in effect, if the Order will stay the same or change in some way. The judge may decide not to change the Order even if both sides agree that they want the same changes.

At the hearing, you must prove that you have been sexually abused and that you reasonably fear for your physical safety. You should be ready to give your own testimony, have witnesses testify if there are any, and give the judge any evidence you have (such as photos of your injuries or text messages from Respondent). If you are worried about your safety, you may ask the court for a sheriff's deputy to be present in the courtroom.

HOW LONG DOES A SEXUAL ABUSE PROTECTIVE ORDER LAST?

The length of time a SAPO is in effect depends on the facts of your case. A SAPO lasts for five years unless one of the following applies:

- If you are under 18 years of age at the time the Order is entered, then the order lasts for five years or until you turn 19, whichever occurs later, or
- The court enters a permanent Sexual Abuse Protective Order, or
- The Order is renewed, modified, or terminated.

The Order can be renewed for five years at a time if the judge finds it is objectively reasonable for a person in your situation to fear for their physical safety if the Order is not renewed. **To renew the Order, you must file the court paperwork before the Order ends.**

WHAT CAN I DO IF THE RESPONDENT VIOLATES (DOES NOT OBEY) THE SEXUAL ABUSE PROTECTIVE ORDER?

You can call the police. The officer must arrest the Respondent if there is probable cause (a good reason) to believe a violation has happened. The Respondent can be charged with contempt of court. If the court finds the Respondent to be in contempt, the Respondent can be fined, placed on probation, or put in jail. It is best that you carry a copy of the SAPO with you at all times and that you not contact the Respondent. A SAPO does not guarantee your safety. You can take other steps to stay safe. A Victims' Assistance Program (VAP) or a community-based (non-profit) sexual assault or domestic violence program can help.

For information regarding sexual violence resources, please visit the following website:

<http://oregonsatf.org/help-for-survivors/>

WHAT IF I WANT TO DROP THE PROTECTIVE ORDER?

You must file papers at the courthouse to ask the judge to drop (terminate) the Order. The Order remains in effect until the judge terminates (ends) it. It may take a few days for law enforcement to get notice of the termination.



DO I NEED A LAWYER?

You are not required to have a lawyer to get a SAPO. You can have a lawyer represent or help you if you wish. However, the law does not allow the court to appoint a lawyer for you.

If the Respondent asks for a hearing to modify or terminate the Order and is represented by a lawyer, you can ask the judge to extend the date of the hearing for up to five days so that you may get a lawyer.

If you need help finding a lawyer, call the Oregon State Bar's Lawyer Referral Service at 503.684.3763 or 800.452.7636. If you believe you cannot afford a lawyer, ask court staff if your area has a legal services (legal aid) program that might help you. You also can go to: www.oregonlawhelp.org.

WHAT IF I NEED AN ACCOMMODATION OR AN INTERPRETER?

If you have a disability and need an accommodation, or you need a foreign language interpreter, you must tell the court as soon as possible, but at least four days before your hearing. Tell the clerk that you have a disability and what type of assistance you need or prefer, or which language you speak.

IMPORTANT NOTE

INFORMATION THAT MUST BE KEPT CONFIDENTIAL

You must keep certain information ("confidential personal information") out of any papers you file or submit to the court and, instead, provide that information in a Confidential Information Form (CIF). "Confidential Personal Information" includes Social Security number; date of birth; former legal names; driver license numbers; and employer's name, address, and telephone number. It also applies to information regarding a party or a party's child. On the pleading or document where that confidential personal information would otherwise appear, you must note that the information has been separately provided under UTCR 2.130. (UTCR refers to the Uniform Trial Court Rules that apply across the state). The CIF is included as part of the forms packet for the SAPO.

Relevant Rules and Forms

UTCR 2.130 – Confidential Personal Information in Family Law and Certain Protective Order Proceedings
Confidential Information Form for Protected Person (Petitioner) for Sexual Abuse Protective Order Cases
Confidential Information Form for Person Restrained (Respondent) for Sexual Abuse Protective Order Cases
Notice of Filing of Confidential Information Form for Sexual Abuse Protective Order Cases



IN THE CIRCUIT COURT OF THE STATE OF OREGON
 COUNTY OF _____

Petitioner	Case No: _____
(Parent/Guardian of Minor Petitioner) (use full names)	PETITION FOR SEXUAL ABUSE PROTECTIVE ORDER
v.	ORS 163.760 to 163.777
Respondent (full name of person restrained)	

NOTICE TO PETITIONER

You must provide complete and truthful information. If you do not, the court may dismiss the protective order and may also hold you in contempt.

Contact Address and Telephone Number: If you wish to have your residential address or telephone number withheld from Respondent, use a safe contact address and telephone number so the court and the sheriff can reach you if necessary. *NOTE: It is important for you to keep the court and sheriff's office advised of your most current contact information while an Order is in effect.*

I am the Petitioner and I state that the following information is true (if parent or guardian of minor petitioner, use the minor's information):

I am a resident of _____ County, Oregon. I am _____ years old.

Respondent is a resident of _____ County, State of _____.

At the hearing, I will need an interpreter in the _____ language.

At the hearing, I will need Americans with Disabilities Act accommodations.

1. ELIGIBILITY FOR ORDER (You must complete either paragraph 1A or paragraph 1B)

1A. I AM AN ADULT. Respondent is 18 years old or older. Respondent is _____ years old **and RESPONDENT AND I ARE NOT FAMILY OR HOUSEHOLD MEMBERS.** This means:

- we are **not** husband, wife, or Registered Domestic Partners (current or former);
- we are **not** adults related by blood, marriage, or adoption;
- we have **never** cohabited (lived together in a sexually intimate relationship);



- we have **not** been involved in a sexually intimate relationship in the last two years; and
- we are **not** the unmarried parents of a child.

1B. I AM A MINOR OR I AM FILLING THIS OUT ON BEHALF OF A MINOR (UNDER THE AGE OF 18). Respondent is 18 years old or older. Respondent is _____ years old.

2. RESPONDENT IS NOT PROHIBITED FROM CONTACTING ME BY ANY OF THE FOLLOWING KINDS OF RESTRAINING, PROTECTIVE, OR NO CONTACT ORDERS:

- a restraining order from another state, Indian tribe, or territory,
- a stalking protective order,
- an Elderly Persons and Persons With Disabilities Abuse Prevention Act restraining order,
- a no contact order entered in a criminal case, or
- a restraining order entered in a juvenile court dependency case.

3. SEXUAL ABUSE,

- 3A. Respondent has subjected me to sexual abuse including (*check all that apply*):
- Sexual contact without my consent
 - Sexual contact when I was not capable of consenting, *and*
- 3B. I reasonably fear for my physical safety.

4. DESCRIBE HOW THE RESPONDENT SEXUALLY ABUSED YOU (START WITH THE MOST RECENT ABUSE):

Date: _____, County/State: _____: _____

Date: _____, County/State: _____: _____

Date: _____, County/State: _____: _____



Additional pages attached labeled “*Paragraph 4: Description of Sexual Abuse*”

5. I REASONABLY FEAR FOR MY PHYSICAL SAFETY BECAUSE (DESCRIBE OR EXPLAIN):

6. IN ANY OF THE ABOVE INCIDENTS:

- 6A. Were weapons involved? Yes No Describe: _____
-
- 6B. Were the police called? Yes No
- 6C. Was the Respondent arrested? Yes No

7. FIREARMS PROHIBITION AND DISPOSSESSION

- Petitioner is a minor, and
- Petitioner and Respondent have a QUALIFYING RELATIONSHIP:
- current or former spouses/Registered Domestic Partners or cohabitants
 - currently or formerly in a sexually intimate relationship
 - co-Parents
 - otherwise related by blood or marriage
- I ask the court to order that Respondent be prohibited from possession of firearms and ammunition and to surrender all firearms and ammunition currently in their possession.

8. BASIS FOR A PERMANENT ORDER:

The Order will be in effect for five years or until I turn 19, whichever is later unless the court makes the Order permanent.

- I am requesting the Order be permanent, because (check all that apply):
- Respondent has been convicted of a sex crime against me;
 - For the reasons explained below, I fear for my physical safety and the passage of time or a change in circumstances will not lessen my fear.

These reasons could include: Respondent has a history of engaging in sexual abuse or domestic violence; Respondent is related to me by blood or marriage and I am under 18; any vulnerabilities that are not likely to change over time; or any other information the court should consider.



Additional pages attached labeled "Paragraph 8: Basis for a Permanent Order"

I ASK THE COURT TO ORDER MY REQUESTS AS MARKED ON THE PROTECTIVE ORDER.

I hereby declare that the above statements are true to the best of my knowledge and belief. I understand they are made for use as evidence in court and I am subject to penalty for perjury.

Submitted by:

 Date

 Signature of Petitioner, Parent or Guardian
 of Minor Petitioner

 Print Name, Petitioner, Parent, or Guardian of Minor Attorney for Petitioner
 OSB No. (if applicable)

 Contact Address
 Use **Safe** Contact Address

 City, State, Zip

 Contact Telephone Number
 Use **Safe** Contact Number



IN THE CIRCUIT COURT OF THE STATE OF OREGON
 COUNTY OF _____

Petitioner	Case No: _____
(Parent/Guardian of Minor Petitioner) (use full names)	PROTECTIVE ORDER TO PREVENT SEXUAL ABUSE
v.	
Respondent (full name of person restrained)	

NOTICE TO RESPONDENT:

- You must obey all of parts of this Sexual Abuse Protective Order, even if Petitioner contacts you or gives you permission to contact them.
- Violation of this Sexual Abuse Protective Order may result in your arrest and in civil and/or criminal penalties. This Order is enforceable in every county in Oregon, all 50 states, the District of Columbia, and all tribal lands and territories of the United States. Review this Order carefully.
- **See the attached “NOTICE TO RESPONDENT/REQUEST FOR HEARING” for more information about your rights to a hearing.**

The Court, having reviewed the Petition and heard testimony, makes the following findings:

	Judge’s Initials
<p>1. Petitioner is an adult and Respondent is at least 18 years of age.</p> <p>Petitioner and Respondent are not family or household members under ORS 107.705.</p> <ul style="list-style-type: none"> • They are not husband, wife, or Registered Domestic Partners (<i>current or former</i>); • They are not adults related by blood, marriage, or adoption; • They have never cohabited (lived together in a sexually intimate relationship); • They have not been involved in a sexually intimate relationship in the last two years; and • They are not the unmarried parents of a child. 	<p>1. _____</p>
<p>2. Petitioner is a minor and Respondent is at least 18 years of age.</p>	<p>2. _____</p>



Judge's Initials

- 3. Respondent has subjected Petitioner to sexual abuse as defined by ORS 163.760. It is objectively reasonable for a person in Petitioner's situation to fear for their physical safety if an order is not entered. 3. _____
- 4. Respondent is not prohibited from contacting Petitioner by a foreign restraining order as defined in ORS 24.190, an order issued under ORS 30.866, 124.015, 124.020, 163.738, or 419B.845, or an order entered in a criminal action. 4. _____

IT IS HEREBY ORDERED THAT:

Petitioner's Request (check all that apply):

- 1. Respondent is restrained (prohibited) from contacting Petitioner and from intimidating, molesting, interfering with or menacing **Petitioner**, or attempting to contact, intimidate, molest, interfere with or menace Petitioner. 1. _____
- 2. Respondent is restrained (prohibited) from contacting Petitioner's **children or family or household members**. 2. _____
- 3. Respondent is restrained (prohibited) from intimidating, molesting, interfering with or menacing any **children or family or household members** of Petitioner, or attempting to intimidate, molest, interfere with or menace any **children or family or household members** of Petitioner. 3. _____
- 4. Respondent is restrained from **entering or attempting to enter, or remaining in, the area within 150 feet unless otherwise specified here: Other Distance: _____ feet of the building and land at the following locations: (include names/addresses unless withheld for safety reasons)** 4. _____
 - a. Petitioner's current or future **residence**: _____
 - b. Petitioner's current or future **business or place of employment**: _____
 - c. Petitioner's current or future **school**: _____
 - d. **Other locations**: _____
- 5. Respondent must not knowingly be or stay within 150 feet unless otherwise specified here: Other Distance: _____ feet of Petitioner unless otherwise ordered by the Court as follows: 5. _____



Nothing in this Order prevents Respondent from appearing at or participating in a court (or administrative) hearing or other related legal process as a party or witness in a case involving Petitioner. At these times, Respondent must stay at least _____ feet away from Petitioner and follow any additional protective terms ordered in that case. Further, nothing in this Order prevents Respondent from serving or providing documents related to a court (or administrative) case to Petitioner in a manner permitted by law. However, Respondent may not personally deliver legal documents to Petitioner.

Judge's Initials

6. Except as otherwise set out in this Order, Respondent is restrained (prohibited) from: 6. _____
- a. Contacting, or attempting to contact, Petitioner **in person** directly or through third parties.
 - b. Contacting, or attempting to contact, Petitioner **by mail, or e-mail, any other electronic transmission, or delivery service.**
 - c. Contacting, or attempting to contact, Petitioner by **telephone**, including **cell phone** or **text messaging** directly or through third parties.

7. (FOR COURT USE ONLY) FIREARMS PROHIBITION AND DISPOSSESSION

	<u>Judge's Initials</u>
<input type="checkbox"/> Petitioner is a Minor	_____
<input type="checkbox"/> Petitioner and Respondent have a QUALIFYING RELATIONSHIP <i>(current or former spouses/Registered Domestic Partners, related by blood or marriage, current/former cohabitants, current/former sexually intimate relationship, unmarried parents of a minor child)</i>	_____
<input type="checkbox"/> Respondent presents a CREDIBLE THREAT to Petitioner's physical safety	_____
<input type="checkbox"/> The court orders that Respondent is PROHIBITED from possessing firearms or ammunition <i>(Event: FQOR)</i>	_____
<input type="checkbox"/> Respondent is ordered to SURRENDER all firearms and ammunition in their possession according to the attached <i>Firearms Surrender Terms</i>	_____

Other orders regarding firearms (for court use only): _____



8. Other relief necessary for safety and welfare: _____ 8. _____

FIREARMS NOTIFICATION

If the firearms prohibition in Paragraph 7 is initialed by the judge, it is not lawful for Respondent to possess or purchase a FIREARM, including a rifle, pistol, or revolver, and AMMUNITION. (ORS 163.765(1)(b)(E)). Talk to a lawyer if you have questions about this.

IT IS FURTHER ORDERED that the SECURITY AMOUNT for violation of any provision of this Order is **\$5,000** unless otherwise specified here: Other Amount: \$ _____

Unless the Order is terminated, modified, or renewed, the above provisions of this Sexual Abuse Protective Order are:

- in effect for a period of five years from the date of judge’s signature;
- in effect until Petitioner reaches age 19; or
- permanent.



**CERTIFICATE OF COMPLIANCE WITH
 VIOLENCE AGAINST WOMEN ACT (This is not a Brady Certificate)**

FULL FAITH AND CREDIT PROVISIONS: This Sexual Abuse Protective Order meets all full faith and credit requirements of the Violence Against Women Act. (18 USC § 2265). This court has jurisdiction over the parties and the subject matter. The Respondent is being afforded notice and timely opportunity to be heard as provided by the law of this jurisdiction. This Order is valid and entitled to enforcement in this and all other jurisdictions.

IT IS HEREBY ORDERED that:

- The Petition for Sexual Abuse Protective Order is **GRANTED** as set forth above.
 - The order lasts for five years
 - The order lasts until the minor petitioner turns 19 (because the petitioner is a minor under the age of 14): _____
 - The order** is permanent

- The Petition for Sexual Abuse Protective Order is **DENIED** and **DISMISSED** because:
 - Petitioner did not establish a claim for relief.
 - Other: _____

- The Petition for Sexual Abuse Protective Order is **DISMISSED** because Petitioner did not appear at the time set for the *ex parte* hearing on their petition.

Judge Signature:

The proposed order is ready for judicial signature under UTCR 5.100 because service of this order is not required by statute, rule, or otherwise.

Submitted by:

 Date Signature of Petitioner, Parent or Guardian of Minor Petitioner

 Print Name, Petitioner, Parent or Guardian of Minor Petitioner Attorney for Petitioner
 OSB No. (if applicable)

 Contact Address City, State, Zip Contact Telephone Number
 Use **Safe** Contact Address Use **Safe** Contact Number



SERVICE INFORMATION

PETITIONER: _____
Name

Residence/Contact Address (Use a **safe** address):

Number, Street and Apt. Number (if applicable)

City _____ County _____ State _____ Zip _____

Telephone/Contact Telephone Number _____ (Use **safe** contact number)

Birth Date _____ (see CIF) Age _____ Gender _____ Race/Ethnicity _____

Height _____ Weight _____ Eye Color _____ Hair Color _____

***Respondent will receive a copy of this information. If you wish to have your residential address or telephone number withheld from Respondent, use a contact address in the state where you reside or a contact telephone number so the Court and the Sheriff can reach you if necessary. Please check for mail at this address frequently.

You will need to fill out a Notice of Filing of Confidential Information Form and a Confidential Information Form if you do not want to include certain information (“confidential personal information”) on this form. Information that can be protected includes birth dates. Where that information would otherwise appear on this form, you must note that the information has been separately provided under UTCR 2.130. You can ask the court clerk how to get the forms you need.

RESPONDENT: _____
Name

Residence Address _____

Telephone Number _____

Birth Date _____ (see CIF) Age _____ Gender _____ Race/Ethnicity _____

Height _____ Weight _____ Eye Color _____ Hair Color _____

**PLEASE FILL OUT THIS INFORMATION
 TO AID IN SERVICE OF THE SEXUAL ABUSE PROTECTIVE ORDER**

Where is the Other Party most likely to be located?

- Residence Hours _____ Address _____
- Employment Hours _____ Address _____ (see CIF)
- Other Hours _____ Address _____

Description of Vehicle _____

Is there anything about the other party’s character, past behavior, or the present situation that indicates that they may be a **danger** to others? to themselves? EXPLAIN: _____

Does the other party have any **weapons, or access to weapons**? EXPLAIN: _____

Has the other party ever been arrested for or convicted of a **violent crime**? EXPLAIN: _____



IN THE CIRCUIT COURT OF THE STATE OF OREGON
 COUNTY OF _____

 Petitioner

Case No: _____

 (Parent/Guardian of Minor Petitioner)
 (use full names)

CERTIFICATE OF SERVICE

(Sexual Abuse Protective Order)

v.

 Respondent
 (full name of person restrained)

I, (name) _____, declare that I am a resident of the State of _____.

I am a competent person 18 years of age or older. I am not a party to or lawyer in this case, and not the employee of a party.

I certify that on (date) _____ at (time) _____ (am/pm), I served the Respondent named above by delivering the following documents in person to (address or location of service):_

I served true copies of the original (check all that apply):

- Protective Order to Prevent Sexual Abuse **or** Order Renewing Protective Order
- Petition for Order to Prevent Sexual Abuse **or** Petition to Renew Protective Order
- Notice to Respondent/Request for Hearing
- Instructions for Contesting a Sexual Abuse Protective Order (SAPO)
- Notice of Confidential Information Form (CIF) Filing
- Other (name all forms or documents served): _____

I hereby declare that the above statement is true to the best of my knowledge and belief. I understand it is made for use as evidence in court and I am subject to penalty for perjury.

 Date

 Signature of Server

 Print Name

If person serving is NOT a sheriff or sheriff's deputy, address and phone number of server:



CONTESTING A SEXUAL ABUSE PROTECTIVE ORDER (SAPO)

INSTRUCTIONS

Procedures vary from court to court. Check with your local court for filing instructions.

WHAT IF I DISAGREE WITH SOME OR ALL OF THE PROTECTIVE ORDER?

The judge granted the Sexual Abuse Protective Order (SAPO) based on input from the Petitioner. If you disagree with information given to the judge, or you disagree with all or part of the Order, you have a right to appear in court and give the judge your input.

HOW DO I OBJECT TO THE PROTECTIVE ORDER?

If you want a judge to consider whether the SAPO should remain in effect, or change some of the things in the Order, you must fill out the form called "Request for Hearing." The "Request for Hearing" form is part of the court papers that says "Notice to Respondent/Request for Hearing" on the top, right hand side of the page. You should have received a copy of this form when you were served with the SAPO. If you did not receive one, you may download the Request for Hearing form from the state website, <http://www.courts.oregon.gov/programs/family/domestic-violence/Pages/sexual-abuse.aspx> or contact the court that issued the Order.

You have 30 days after you are served with the SAPO to ask the judge to dismiss or change the order, by filing a "Request for Hearing." **The Request for Hearing must be filed with the court within 30 days from the date you were served.**

If it has been more than 30 days since the date you were served, you can only ask that the court modify the terms of the SAPO. You cannot ask for the court to dismiss the SAPO. Either party may ask for this type of hearing to modify. You may ask for such a hearing by asking the clerk at the courthouse for the forms needed to "modify" a SAPO. The judge may schedule a hearing to decide whether or not to change the Order. The judge may decide not to change the Order even if both sides agree that they want the same changes.

WHAT HAPPENS IF I DO NOT OBJECT?

If you do not ask for a contested hearing within the first 30 days after you receive the court papers, the Order will continue as ordered by the judge, but for at least 5 years from the date the judge signed it. If the Order is not permanent, it can also be renewed for at least five years at a time.

WHEN WILL THE CONTESTED HEARING BE HELD?

The court must hold the hearing within 21 days of your request. If the hearing is scheduled more than a few days away, the court will send you notice of the time and date of the hearing in the mail. If there is not enough time to mail you a notice, the court may contact you by telephone. **Be sure the court always has your current contact addresses and contact phone numbers so you get notice of any hearing.** You can also call the court to ask if a hearing has been set.

If you do not go to the hearing, you will lose your chance to ask the judge to dismiss or change the SAPO. If you cannot go to the hearing due to an emergency, call the court clerk right away. It may be helpful to have an attorney represent you at the hearing, but it is not required.

You may ask in writing, ahead of time, to appear by telephone or other two-way electronic communication device, such as video-conferencing.



WHAT WILL HAPPEN AT THE HEARING I REQUEST?

The purpose of the hearing is to decide whether or not the SAPO will remain in effect, and if it does remain in effect, if the Order will stay the same or change in some way.

FIREARMS PROHIBITIONS MAY APPLY TO YOU.

If the firearms prohibition in Paragraph 7 of the Order is initialed by the judge:

- it is immediately unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, and ammunition under ORS 163.765(1)(b)(E).
- you could be subject to criminal penalties or contempt of court for violation of the firearms prohibition as soon as you are served with the Order.

Criminal Penalties for Firearms Possession ([ORS 166.255\(1\)\(a\)](#))

You could be subject to criminal penalties for possessing firearms or ammunition effective the earlier of:

- (1) 30 days after you were served with the Order

Or, if you request a hearing:

- (2) the date of the hearing if the Order is not dismissed *or*
- (3) the date of the hearing if you fail to appear at the hearing *or*
- (4) the date you withdraw your request for a hearing

You may also be prohibited from:

- Serving in the Armed Forces of the United States or being employed in law enforcement. If you have any questions about how these laws apply to you, talk to a lawyer.
- Traveling across state lines or tribal land lines with the intent to violate this Order and then violating this order.
- Causing Petitioner to cross state lines or tribal land lines for the purpose of violating the order.

DO I NEED A LAWYER?

If you have questions about how the law works or what it means, you may need to talk to a lawyer. You are not required to have a lawyer to contest the SAPO, but you can have a lawyer represent or help you if you wish. The law does not authorize the court to appoint a lawyer for you in this case. If you need help finding a lawyer, you may call the Oregon State Bar's Lawyer Referral Service at 503.684.3763 or 800.452.7636. If you believe you cannot afford a lawyer, ask court staff if your area has a legal services (legal aid) program that might help you. You also can go to: www.oregonlawhelp.org.

WHAT IF I NEED AN ACCOMMODATION OR AN INTERPRETER?

If you have a disability and need an accommodation, or you need a foreign language interpreter, you must tell the court as soon as possible, but at least four days before your hearing. Tell the clerk that you have a disability and what type of assistance you need or prefer, or which language you speak.



IMPORTANT NOTE

INFORMATION THAT MUST BE KEPT CONFIDENTIAL

You must keep certain information ("confidential personal information") out of any papers you file or submit to the court and, instead, provide that information in a Confidential Information Form (CIF). "Confidential Personal Information" includes Social Security number; date of birth; former legal names; driver license numbers; and employer's name, address, and telephone number. It also applies to information regarding a party or a party's child. On the pleading or document where that confidential personal information would otherwise appear, you must note that the information has been separately provided under UTCR 2.130. (UTCR refers to the Uniform Trial Court Rules that apply across the state). The CIF is included as part of the forms packet for the Sexual Abuse Protective Order.

Relevant Rules and Forms

UTCR 2.130 – Confidential Personal Information in Family Law and Certain Protective Order Proceedings
Confidential Information Form for Protected Person (Petitioner) for Sexual Abuse Protective Order Cases
Confidential Information Form for Person Restrained (Respondent) for Sexual Abuse Protective Order Cases
Notice of Filing of Confidential Information Form for Sexual Abuse Protective Order Cases



IN THE CIRCUIT COURT OF THE STATE OF OREGON
 COUNTY OF _____

Petitioner	Case No: _____
(Parent/Guardian of Minor Petitioner) (use full names)	NOTICE TO RESPONDENT/ REQUEST FOR HEARING
v.	(Sexual Abuse Protective Order)
Respondent (full name of person restrained)	

THIS FORM MUST BE ATTACHED TO ALL COPIES OF THE SEXUAL ABUSE PROTECTIVE ORDER

TO RESPONDENT: A SEXUAL ABUSE PROTECTIVE ORDER HAS BEEN ISSUED BY THE COURT WHICH AFFECTS YOUR RIGHTS. THIS ORDER IS NOW IN EFFECT.

You have the right to contest this Sexual Abuse Protective Order as set out in the paragraphs below.

If you want to contest (object to) any terms of this order you must complete the attached "REQUEST FOR HEARING" form (on Pages 3 and 4) and mail or deliver it to the address on the bottom of Page 2 below. A REQUEST FOR HEARING must be made within 30 days after you receive the Order. You must include your address and telephone number with your request for a hearing. The hearing will be held within 21 days. At the hearing, a judge will decide whether the order should be terminated, changed, or continued. **If you do not go to the hearing, the Protective Order may be upheld (continued) and all matters decided against you. If you do not ask for a hearing within 30 days after you receive this Order, this Protective Order will continue in effect as issued.**

Enforceability of the Sexual Abuse Protective Order

The Sexual Abuse Protective Order you have received is in effect and remains in effect until the court modifies (changes) it, terminates (ends) it, or until it expires. The order may also be renewed if the court finds that it is objectively reasonable for a person in Petitioner's situation to fear for their physical safety if the order is not renewed. If you are arrested for violating this order, the security amount (bail) is \$5,000 unless a different amount is ordered by the court.

This Sexual Abuse Protective Order, or any Order continuing or changing this Order, is enforceable in every county in Oregon. It is also enforceable in all 50 states, the District of Columbia, tribal lands, and territories of the United States.

Violation of the Sexual Abuse Protective Order

Violation of any part of this Sexual Abuse Protective Order, or any Order continuing or changing this Order, constitutes contempt of court, punishable by a fine of up to \$500 or one percent of your annual gross income, whichever is greater, or a jail term of up to six months, or both. Other consequences may also be imposed for contempt.



FIREARMS PROHIBITIONS MAY APPLY TO YOU

If the firearms prohibition in Paragraph 7 of the Order is initialed by the judge:

- it is immediately unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, and ammunition under ORS 163.765(1)(b)(E).
- you could be subject to criminal penalties or contempt of court for violation of the firearms prohibition as soon as you are served with the Order.

Criminal Penalties for Firearms Possession (ORS 166.255(1)(a))

You could be subject to criminal penalties for possessing firearms or ammunition effective the earlier of:

- (1) 30 days after you were served with the Order

Or, if you request a hearing:

- (2) the date of the hearing if the Order is not dismissed or
- (3) the date of the hearing if you fail to appear at the hearing or
- (4) the date you withdraw your request for a hearing

FIREARMS NOTIFICATION: As a result of this Order, or any Order continuing or changing this Order, it may be unlawful for you to possess or purchase a firearm, including, a rifle, pistol, or revolver, or ammunition under federal, state, and local laws. 18 USC § 922(g)(8); ORS 166.250 to 166.270; and local law. This Order also may negatively affect your ability to serve in the Armed Forces of the United States or to be employed in law enforcement. If you have any questions about whether these laws make it illegal for you to possess or purchase a firearm, talk to a lawyer. (42 USC §3796gg(4)(e) requires this notice).

You may also be prohibited from:

- Serving in the Armed Forces of the United States or being employed in law enforcement. If you have any questions about how these laws apply to you, talk to a lawyer.
- Traveling across state lines or tribal land lines with the intent to violate this Order and then violating this order.
- Causing Petitioner to cross state lines or tribal land lines for the purpose of violating the order.

OTHER LAWS MAY ALSO APPLY TO YOU

Whether or not a *Sexual Abuse Protective Order* is in effect, federal law may prohibit you from:

- Traveling across state lines or tribal land lines with the intent to injure Petitioner and then intentionally committing a crime of violence causing bodily injury to Petitioner.
- Causing Petitioner to travel across state lines or tribal land lines if your intent is to cause bodily injury to Petitioner or if the travel results in you causing bodily injury to the Petitioner.

IF YOU COMPLETE THE REQUEST FOR HEARING FORM, YOU MUST MAIL OR DELIVER IT TO (*address of court*): _____



REQUEST FOR HEARING
(To Be Completed By Respondent Only)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
 COUNTY OF _____

 Petitioner

Case No:

 (Parent/Guardian of Minor Petitioner)
(use full names)

REQUEST FOR HEARING
(Sexual Abuse Protective Order)

v.

 Respondent
(full name of person restrained)

I am the Respondent in the above-referenced action, and I request the following:

1. I am requesting a hearing to contest (object to):

- All of the order, **or**
- Other: _____

2. I will will not be represented by an attorney at the hearing. The name and Bar Number of the attorney (if known) are: _____

3. I will will not need the following accommodations:

- I will need _____ language interpretation services at the hearing
- I will need Americans with Disabilities Act accommodations at the hearing

Notice of the time and place of the hearing can be mailed to me at the address below.

Submitted by:

 Date

 Signature



STATE OF OREGON
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
Basic Police

Print Name, Respondent Attorney for Respondent OSB No. (*if applicable*)

Contact Address
Use a **Safe** Contact address

City, State, Zip

Contact Telephone Number
Use a **Safe** Contact number



IMPORTANT: Except as modified or amended, all portions of the Sexual Abuse Protective Order remain in effect.

SECURITY AMOUNT for VIOLATION OF THIS ORDER IS \$5,000 unless a different amount is specified here: OTHER SECURITY AMOUNT: \$_____

- THIS ORDER CONTAINS A FIREARMS PROHIBITION:** This Order (or the original Order that is continued) contains a firearms and ammunitions prohibition. It is unlawful for Respondent to possess FIREARMS or AMMUNITION under **state law**. (ORS 163.765(1)(b)(E)).

FIREARMS PROHIBITION AND DISPOSSESSION (FOR COURT USE ONLY IF FIREARMS PROHIBITION WAS NOT PREVIOUSLY ORDERED)

	<u>Judge's Initials</u>
<input type="checkbox"/> Petitioner is a Minor	_____
<input type="checkbox"/> Petitioner and Respondent have a QUALIFYING RELATIONSHIP <i>(current or former spouses/Registered Domestic Partners, related by blood or marriage, current/former cohabitants, current/former sexually intimate relationship, unmarried parents of a minor child)</i>	_____
<input type="checkbox"/> Respondent presents a CREDIBLE THREAT to Petitioner's physical safety	_____
<input type="checkbox"/> The court orders that Respondent is PROHIBITED from possessing firearms or ammunition (Event: FQOR)	_____
<input type="checkbox"/> Respondent is ordered to SURRENDER all firearms and ammunition in their possession according to the attached <i>Firearms Surrender Terms</i>	_____

CERTIFICATE OF COMPLIANCE
WITH THE VIOLENCE AGAINST WOMEN ACT

NOTICE TO RESPONDENT: If you have questions about whether federal or state laws make it illegal for you to possess or purchase a firearm, or whether this Order affects your ability to serve in the military or be employed in law enforcement, talk to a lawyer.

FULL FAITH AND CREDIT PROVISIONS: This Order meets all full faith and credit requirements of the Violence Against Women Act.(18 USC § 2265). This court has jurisdiction over the parties and the subject matter. Respondent was or is being afforded notice and timely opportunity to be heard as provided by Oregon law. This Order is valid and entitled to enforcement in this and all other jurisdictions.

Judge Signature:



STATE OF OREGON
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
 Basic Police

This proposed order is ready for judicial signature under UTCR 5.100 because service of this order is not required by statute, rule, or otherwise.

Submitted by:

 Date Signature of Petitioner, Parent or Guardian of Minor Petitioner

 Print Name, Petitioner, Parent or Guardian of Minor Petitioner Attorney for Petitioner
 OSB No. (if applicable)

 Contact Address City, State, Zip Contact Telephone Number
 Use **Safe** Contact Address Use **Safe** Contact Number



IN THE CIRCUIT COURT OF THE STATE OF OREGON
 COUNTY OF _____

 Petitioner **Case No:** _____

 (Parent/Guardian of Minor Petitioner) **PETITIONER'S MOTION AND**
 (use full names) **AFFIDAVIT FOR TERMINATION**
 (Sexual Abuse Protective Order)

v.

 Respondent
 (full name of person restrained)

MOTION AND AFFIDAVIT

Petitioner, _____, being first duly sworn, moves this court for an order allowing the voluntary withdrawal and termination of the Sexual Abuse Protective Order on file herein for the following reasons:

STATEMENT OF POINTS AND AUTHORITIES

ORS 163.775 authorizes the court to terminate a Sexual Abuse Protective Order upon the request of the Petitioner.

Submitted by:

 Date Signature of Petitioner, Parent of Guardian
 of Minor Petitioner

 Print Name, Petitioner, Parent or Guardian of Minor Petitioner Attorney for Petitioner
 OSB No. (if applicable)

 Contact Address City, State, Zip Contact Telephone Number
 Use a **Safe** Contact address Use a **Safe** Contact number

STATE OF OREGON)
)
 County of _____)



STATE OF OREGON
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
Basic Police

This instrument was acknowledged before me this _____ day of _____, 20_____
by _____

(Print Name of Petitioner)

NOTARY PUBLIC FOR OREGON/COURT CLERK
My commission expires: _____



IN THE CIRCUIT COURT OF THE STATE OF OREGON
 COUNTY OF _____

 Petitioner **Case No:** _____

 (Parent/Guardian of Minor Petitioner)
 (use full names) **TERMINATION ORDER**
 (Sexual Abuse Protective Order)

v.

 Respondent
 (full name of person restrained)

ORDER

Petitioner's Motion for Termination is:

- Granted (LEDS Staff CPO)
- Denied
- Other: _____

Judge Signature:

This proposed order is ready for judicial signature under UTCR 5.100 because service of this order is not required by statute, rule, or otherwise.

Submitted by:

 Date Signature of Petitioner, Parent or Guardian of
 Minor Petitioner

 Print Name, Petitioner, Parent or Guardian of Minor Petitioner Attorney for Petitioner
 OSB No. (if applicable)

 Contact Address City, State, Zip Contact Telephone Number
 Use a **Safe** Contact address Use a **Safe** Contact number



IN THE CIRCUIT COURT OF THE STATE OF OREGON
 FOR _____ COUNTY

 Petitioner Case No: _____

 (Parent/Guardian of Minor Petitioner)
 (use full names) **NOTICE OF FILING OF**
 CONFIDENTIAL
INFORMATION FORM
(CIF)
 AMENDED CIF

v.

 Respondent
 (full name of person restrained) *(Sexual Abuse Protective Order)*

NOTICE: Confidential Information Form Has Been Filed

- Uniform Trial Court Rule (UTCRC) 2.130 requires that parties to domestic relations or other specified types of cases place certain information about themselves and other parties in a CIF when such information is required in a document filed with the court.
- The CIF is not available for public inspection except as authorized by law.
- Parties are allowed to see a CIF that contains information about them.
- A party who wants to see a CIF that contains information about another party must ask for permission from the court or the other party by following the procedures set out in UTCRC 2.130.

I am the *(check one)* Petitioner Respondent in the above-entitled action.

I filed Confidential Information Forms with the court about the following parties to this case *(complete a section for each party for whom you have filled out a CIF)*:

1) Name (Last, First, Middle): _____
 Petitioner Respondent

Confidential Personal Information contained in CIF *(check all that apply)*:
 party's date of birth employer's name, address, telephone number

2) Name (Last, First, Middle): _____
 Petitioner Respondent

Confidential Personal Information contained in CIF *(check all that apply)*:
 party's date of birth employer's name, address, telephone number

NOTICE RE: FILING OF CONFIDENTIAL INFORMATION FORM (SAPO)-UTCRC
2.130 - Page 1 of 2
 (SAPO 11/2019)



STATE OF OREGON
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
Basic Police

I hereby declare that the above statements are true to the best of my knowledge and belief and that I understand they are made for use as evidence in court and I am subject to penalty for perjury.

Submitted by:

Date Signature of Petitioner, Parent or Guardian of Minor Petitioner
 Respondent Signature

Print Name, Petitioner, Parent or Guardian of Minor Petitioner Respondent
 Attorney for Petitioner Attorney for Respondent OSB No. (if applicable)

Contact Address City, State, Zip Contact Telephone Number
Use **Safe** Contact Address Use **Safe** Contact Number

NOTICE RE: FILING OF CONFIDENTIAL INFORMATION FORM (SAPO)-UTCR
2.130 - Page 2 of 2
(SAPO 11/2019)



IN THE CIRCUIT COURT OF THE STATE OF OREGON
 FOR _____ COUNTY

_____ Petitioner

Case No: _____

(Parent/Guardian of Minor Petitioner)
 (use full names)

**CONFIDENTIAL INFORMATION
 FORM (CIF) FOR PROTECTED
 PERSON (PETITIONER)**

v.

_____ Respondent
 (full name of person restrained)

(Sexual Abuse Protective Order)

Amended CIF

**This document is not accessible to the public or other parties.
 Exceptions may apply. See UTCR 2.130.**

ATTENTION COURT STAFF: THIS IS A CONFIDENTIAL DOCUMENT.

The information below is about Petitioner.

Name (Last, First, Middle): _____

The names of the parties are NOT confidential.

Date of Birth of Petitioner: _____

I hereby declare that the above statements are true to the best of my knowledge and belief and that I understand they are made for use as evidence in court and I am subject to penalty for perjury.

Submitted by:

 Date Signature of Petitioner, Parent or Guardian of Minor Petitioner
 Respondent Signature

 Print Name, Petitioner, Parent or Guardian of Minor Petitioner Respondent
 Attorney for Petitioner Attorney for Respondent OSB No. (if applicable)

**CONFIDENTIAL INFORMATION FORM FOR PETITIONER IN SEXUAL ABUSE
 PROTECTIVE ORDER-UTCR 2.130 - Page 1 of 2**
 (SAPO 11/2019)



NOTE TO COURT STAFF: This Confidential Information Form is not available to the opposing party or their attorney, or to the public; except for the state and law enforcement. See UTCR 2.130.

NOTICE TO PETITIONER:

The Sheriff is required by law to provide you with a true copy of the proof of service which shows when the Protective Order has been served.

If you would like to also receive an email message and/or cell phone text message advising you of when the Protective Order has been served on the Respondent and another message 30 days before the Order expires, please provide the information requested below. This information will be given to the sheriff's office in the county where the Protective Order was obtained.

This is voluntary—you are not required to provide this information.

Your cell phone number: _____

Your cell phone carrier (AT&T, Verizon, etc.): _____

Your email address: _____

Note: If this information changes, you must notify the Sheriff's office of the new information in order to receive the notice by email or cell phone text message.



IN THE CIRCUIT COURT OF THE STATE OF OREGON
 FOR _____ COUNTY

Petitioner	Case No: _____
(Parent/Guardian of Minor Petitioner)	CONFIDENTIAL INFORMATION FORM (CIF) FOR PERSON RESTRAINED (RESPONDENT)
<i>(use full names)</i>	
v.	
Respondent	<i>(Sexual Abuse Protective Order)</i>
<i>(full name of person restrained)</i>	<input type="checkbox"/> Amended CIF

**This document is not accessible to the public or other parties.
 Exceptions may apply. See UTCR 2.130.**

ATTENTION COURT STAFF: THIS IS A CONFIDENTIAL DOCUMENT.

The information below is about Respondent.

Respondent's Name (Last, First, Middle): _____

The names of the parties are NOT confidential.

Respondent's Date of Birth:
Employer's Name, Address, and Telephone Number:

I hereby declare that the above statements are true to the best of my knowledge and belief and that I understand they are made for use as evidence in court and I am subject to penalty for perjury.

Submitted by:

**CONFIDENTIAL INFORMATION FORM FOR RESPONDENT IN SEXUAL ABUSE
 PROTECTIVE ORDER-UTCR 2.130 - Page 1 of 2
 (SAPO 11/2019)**



STATE OF OREGON
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
Basic Police

Date Signature of Petitioner, Parent or Guardian of Minor Petitioner
 Respondent Signature

Print Name, Petitioner, Parent or Guardian of Minor Petitioner Respondent
 Attorney for Petitioner Attorney for Respondent OSB No. (*if applicable*)

**NOTE TO COURT STAFF: Unless ordered or authorized under
UTCR 2.130, this Confidential Information Form is not available
to the opposing party or their attorney, or to the public; except
for the state and law enforcement.**

**CONFIDENTIAL INFORMATION FORM FOR RESPONDENT IN SEXUAL ABUSE
PROTECTIVE ORDER-UTCR 2.130 - Page 2 of 2**
(SAPO 11/2019)



**NOTICE TO PETITIONERS RECEIVING ELECTRONIC NOTICE
 ABOUT SEXUAL ABUSE PROTECTIVE ORDERS**

USE THIS FORM IF:

- You have already provided your e-mail address or cell phone number to the sheriff's office in the county to receive electronic notice when your *Sexual Abuse Protective Order* has been served or is about to expire
 AND
- Your e-mail address or cell phone number has changed.

DO NOT FILE THIS FORM WITH THE COURT

The information below must be provided to the Sheriff's Office where the *Sexual Abuse Protective Order* was obtained.

If your contact address or phone number has changed, you must separately inform the court where you obtained this Order.

A common time for use of this form is when you are RENEWING or MODIFYING your Protective Order. This form can be used ANYTIME your *Sexual Abuse Protective Order* is in effect and you have changed your e-mail address or cell phone number and still want to receive electronic notice from the Sheriff's Office about service or expiration.

This is voluntary—you are not required to provide this information. You are not required to participate in the electronic notice program.

**PETITIONER'S NOTICE TO SHERIFF'S OFFICE
 OF CHANGE OF CONTACT INFORMATION**

Petitioner's Name: _____

Respondent's Name: _____

Court Case Number: _____

County Where Order Obtained: _____

Your Cell Phone Number: _____

Your Cell Phone Carrier (AT&T, Verizon, etc.): _____

Your E-mail Address: _____



Module 2: Media and Culture

The purpose of this module is to develop awareness of the role of culture and media in yourself as well as how it impacts victims of sexual assault.



Vicious Assault Shakes Texas Town

By James C. McKinley Jr.

March 8, 2011

CLEVELAND, Tex. The police investigation began shortly after Thanksgiving, when an elementary school student alerted a teacher to a lurid cellphone video that included one of her classmates.

The video led the police to an abandoned trailer, more evidence and, eventually, to a roundup over the last month of 18 young men and teenage boys on charges of participating in the gang rape of an 11-year-old girl in the abandoned trailer home, the authorities said.

Five suspects are students at Cleveland High School, including two members of the basketball team. Another is the 21-year-old son of a school board member. A few of the others have criminal records, from selling drugs to robbery and, in one case, manslaughter. The suspects range in age from middle schoolers to a 27-year-old.

The case has rocked this East Texas community to its core and left many residents in the working-class neighborhood where the attack took place with unanswered questions. Among them is, if the allegations are proved, how could their young men have been drawn into such an act?



The exterior of an abandoned trailer where an 11-year-old girl was assaulted. Eighteen suspects were held. Michael Stravato for The New York Times

“It’s just destroyed our community,” said Sheila Harrison, 48, a hospital worker who says she knows several of the defendants. “These boys have to live with this the rest of their lives.”

The attack’s details remained unclear. The police have declined to discuss their inquiry because it is continuing. The whereabouts of the victim and her mother were not made public.

The allegations first came to light just after Thanksgiving, when a child who knows the victim told a teacher she had seen a videotape of the attack on a cellphone, said Stacey Gatlin, a spokeswoman for the Cleveland Independent School District.

The school district’s security department interviewed the girl, 11, who is a student at Cleveland Middle School, and her mother. The security department determined that a rape had taken place, but not on school property, and then handed the matter over to the police, Ms. Gatlin said.

On Dec. 9, the police obtained a search warrant to go through a house on Travis Street and a nearby trailer that had been abandoned for at least two years. An affidavit filed to support the search warrant said the girl had been forced to have sex with several men in both places on Nov. 28 and cited pictures and videos as proof, according to The Houston Chronicle.



7/19/2021

Gang Rape of Schoolgirl, and Arrests, Shake Texas Town - The New York Times

The affidavit said the assault started after a 19-year-old boy invited the victim to ride around in his car. He took her to a house on Travis Street where one of the other men charged, also 19, lived. There the girl was ordered to disrobe and was sexually assaulted by several boys in the bedroom and bathroom. She was told she would be beaten if she did not comply, the affidavit said.



The interior of the trailer. Michael Stravato for The New York Times

A relative of one of the suspects arrived, and the group fled through a back window. They then went to the abandoned mobile home, where the assaults continued. Some of those present recorded the sexual acts on their telephones, and these later were shown among students.

Residents in the neighborhood where the abandoned trailer stands known as the Quarters said the victim had been visiting various friends there for months. They said she dressed older than her age, wearing makeup and fashions more appropriate to a woman in her 20s. She would hang out with teenage boys at a playground, some said.

“Where was her mother? What was her mother thinking?” said Ms. Harrison, one of a handful of neighbors who would speak on the record. “How can you have an 11-year-old child missing down in the Quarters?”

Cleveland, a town of 9,000, lies about 50 miles northeast of Houston in the pine country, near the picturesque Sam Houston National Forest. The town’s economy has always rested on timber, cattle, farming and oil. But there are pockets of poverty, and in the neighborhood where the assault occurred, well-kept homes sit beside boarded-up houses and others with deteriorating facades.

The abandoned trailer where the assault took place is full of trash and has a blue tarp hanging from the front. Inside there is a filthy sofa, a disconnected stove in the middle of the living room, a broken stereo and some forlorn Christmas decorations. A copy of the search warrant was on a counter in the kitchen next to some abandoned family pictures.

The arrests have left many wondering who will be taken into custody next. Churches have held prayer services for the victim. The students who were arrested have not returned to school, and it is unclear if they ever will. Ms. Gatlin said the girl had been transferred to another district. “It’s devastating, and it’s really tearing our community apart,” she said. “I really wish that this could end in a better light.”



In-Class Activity: What Do Victims See?

In this activity we are going to look at the implicit and explicit messages about sexual assault shared by the media with our community. Please look at the two images on the screen and answer the following questions.

- What is the explicit message of this image?

- What is the implicit message of this image?

- How would these images resonate with victims?



Impact of Culture

Bias

You have covered the potential impact of bias throughout the academy. It is also possible to carry some biases into investigations of sexual assault cases. Consider some beliefs one might hold about “true” victims, such as how they should look, act, and react.

Myths and Victim Blaming

1. True victims are chaste, pure, non-sexual, without life experience, and they definitely do not drink.
2. True victims fight their attacker (because there is always physical force involved).
 - a. There will always be physical and/or visible injury to the victim.
3. True victims report what happened to them right away and tell everything that happened to them.

To mitigate harm, take steps to interrupt any victim blaming that occurs. Additionally, normalize the impact of trauma for the victim. Remember back to your Supporting Victims of Crime class, that first interaction is important.

Barriers to Reporting

In your Domestic Violence series, you covered reasons a person might not report being the victim of abuse. These barriers are similar in sexual assault cases. The closer the relationship, the less likely someone is to report. Other barriers include:

- Self-Blame/Shame – “I am the only one”
- Doesn’t want to be responsible for destroying family
- The victim loves the perpetrator
- Victim doesn’t identify as a victim/that what happened was sexual assault



Module 3: Neurobiology of Trauma

You have covered trauma throughout the academy. In Behavioral Health, you learned that trauma is anything that overwhelms one’s ability to cope. SAMHSA explains individualized trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or threatening, and that have lasting adverse effects on the individual’s functioning and physical, social, emotional, or spiritual well-being.

Trauma can be experienced as an individual, as a family, as a community, and as generational trauma.

How we experience trauma is very individualized, and we need not judge a person’s response to a traumatic experience. Examples of trauma symptoms from the DSM5 include:

Re-experiencing	Avoidance	Negative cognitions and mood	Arousal
Nightmares, flashbacks, intrusive thoughts	Persistent and effortful avoidance of distressing trauma-related stimuli, such as distressing memories, thoughts, feelings, or external reminders of the event.	Represents myriad feelings, from a persistent and distorted sense of blame of self or others to estrangement from others or markedly diminished interest in activities, to an inability to remember key aspects of the event.	Marked by aggressive, reckless, or self-destructive behavior, sleep disturbances, hyper-vigilance, or related problems. (American Psychiatric Association)



Examples of Observable Behaviors of Trauma Survivors

- Substance Use (Alcohol, Drugs)
- Addictive Behaviors (Eating Disorders, Gambling, Sex Addiction)
- Irritable, anger, rage, violence
- Isolation, Loner
- Jumpy, nervous, easily startled, over-reactive to noises, anxious
- Children – magical thinking (hide under a blanket and I will be invisible)
- Physical symptoms
- Depression
- Self-Harm
- Suicidal thoughts and actions

In Behavioral Health, you learned responses to trauma exposure might include fight, flight, freeze, or faint. Here we add the concept of mental defeat. Mental defeat is characterized by the perceived loss of all physiological autonomy, accompanied by the sense of not being human any longer (Ehlers et al, 1998). This could appear as the person seeming:

- Uncertain
- Inconsistent
- Tense
- Disjointed
- Having closed off body language
- To have a lack of eye contact
- That their emotions don't match the experience

Another type of trauma is vicarious trauma. Different than trauma experienced by victims, vicarious trauma impacts those who are repeatedly exposed to other people's trauma. This can include you, the officer. Throughout your Resiliency series, you have and will continue to learn strategies for coping with vicarious trauma and other stressors.



Why Rape and Trauma Survivors Have Fragmented and Incomplete Memories

James Hopper and David Lisak | Dec. 9, 2014

IDEAS *James Hopper, Ph.D., trains investigators, prosecutors, judges and military commanders on the neurobiology of sexual assault. David Lisak, Ph.D., is a forensic consultant, researcher, national trainer and the board president of iin6.*

In the midst of assault, the brain's fear circuitry takes over while other key parts are impaired or even effectively shut down. This is the brain reacting to a life-threatening situation just the way it is supposed to

A door opens and a police officer is suddenly staring at the wrong end of a gun. In a split second, his brain is hyper-focused on that gun. It is very likely that he will not recall any of the details that were irrelevant to his immediate survival: Did the shooter have a moustache? What color was the shooter's hair? What was the shooter wearing?

The officer's reaction is not a result of poor training. It's his brain reacting to a life-threatening situation just the way it is supposed to—just the way the brain of a rape victim reacts to an assault. In the aftermath, the officer may be unable to recall many important details. He may be uncertain about many. He may be confused about many. He may recall some details inaccurately. Simultaneously, he will recall certain details – the things his brain focused on – with extraordinary accuracy. He may well never forget them. All of this, too, is the human brain working the way it was designed to work.

Last week, [Rolling Stone](#) issued a note about their story of a gang rape at the University of Virginia after reports surfaced of discrepancies in the victim's accounting. We cannot comment on that particular and clearly complex case without knowing the facts. But in our training of police investigators, prosecutors, judges, university administrators and military commanders, we've found that it's helpful to share what's known about how traumatic experiences affect the functioning of three key brain regions.

First, let's consider the prefrontal cortex. This part of our brain is responsible for "executive functions," including focusing attention where we choose, rational thought processes and inhibiting impulses. You are using your prefrontal cortex right now to read this article and absorb what we've written, rather than getting distracted by other thoughts in your head or things going on around you. But in states of high stress, fear or terror like combat and sexual assault, [the prefrontal cortex is impaired](#) – sometimes even effectively shut down – by a surge of stress chemicals. Most of us have probably had the experience of being suddenly confronted by an emergency, one that demands some kind of clear thinking, and finding that precisely when we need our brain to work at its best, it



The Phi Kappa Psi fraternity house is seen on the University of Virginia campus on December 6, 2014 in Charlottesville, Virginia.
Jay Paul—Getty Images



seems to become bogged down and unresponsive. When the executive center of the our brain goes offline, we are less able to willfully control what we pay attention to, less able to make sense of what we are experiencing, and therefore less able to recall our experience in an orderly way.

Inevitably, at some point during a traumatic experience, fear kicks in. When it does, it is no longer the prefrontal cortex running the show, but the brain's fear circuitry – especially the amygdala. Once the fear circuitry takes over, it – not the prefrontal cortex – controls where attention goes. It could be the sound of incoming mortars or the cold facial expression of a predatory rapist or the grip of his hand on one's neck. Or, the fear circuitry can direct attention away from the horrible sensations of sexual assault by focusing attention on otherwise meaningless details. Either way, what gets attention tends to be fragmentary sensations, not the many different elements of the unfolding assault. And what gets attention is what is most likely to get encoded into memory.

The brain's fear circuitry also alters the functioning of a third key brain area, the hippocampus. The hippocampus encodes experiences into short-term memory and can store them as long-term memories. Fear impairs the ability of the hippocampus to encode and store "contextual information," like the layout of the room where the rape happened. Fear also impairs its ability to encode time sequencing information, like whether the perpetrator ripped off a shirt before or after saying "you want this."

Our understanding of the altered functioning of the brain in traumatic situations is founded on decades of research, and as that research continues, it is giving us a more nuanced view of the human brain "on trauma." Recent studies suggest that the hippocampus goes into a super-encoding state briefly after the fear kicks in. Victims may remember in exquisite detail what was happening just before and after they realized they were being attacked, including context and the sequence of events. However, they are likely to have very fragmented and incomplete memories for much of what happens after that.

These advances in our understanding of the impact of trauma on the brain have enormous implications for the criminal justice system. It is not reasonable to expect a trauma survivor – whether a rape victim, a police officer or a soldier – to recall traumatic events the way they would recall their wedding day. They will remember some aspects of the experience in exquisitely painful detail. Indeed, they may spend decades trying to forget them. They will remember other aspects not at all, or only in jumbled and confused fragments. Such is the nature of terrifying experiences, and it is a nature that we cannot ignore.

James Hopper, Ph.D., is an independent consultant and Instructor in Psychology in the Department of Psychiatry at Harvard Medical School. He trains investigators, prosecutors, judges and military commanders on the neurobiology of sexual assault. David Lisak, Ph.D., is a forensic consultant, researcher, national trainer and the board president of in6, a non-profit that provides information and services to men who were sexually abused as children.

Read next: [*It's Women Who Suffer When We Don't Ask Questions*](#)



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THE IMPORTANCE OF UNDERSTANDING TRAUMA-INFORMED CARE AND SELF-CARE FOR VICTIM SERVICE PROVIDERS

July 30, 2014

If you are reading this, the chances are great that you know from personal experience – as a survivor, as someone who works day in and day out with survivors, as someone who witnessed abuse - that sexual assault, domestic violence, dating violence, and stalking are deeply traumatic crimes that can cause severe damage to survivors’ emotional, spiritual, and psychological well-being. You probably also know that far too many survivors are harmed or retraumatized by insensitive, uninformed, or inadequate community and criminal justice system responses. And, far too often, first responders, including rape crisis counselors, domestic violence advocates, and police officers, are unaware of the impact trauma can have on their own lives.

At OVW, we know the critical importance of service providers who are trained to recognize and understand the impact of trauma on survivors of sexual assault, domestic violence, dating violence, and stalking, what is referred to as trauma-informed care. Trauma-informed care emphasizes creating services and programs that are sensitive and directly responsive to the trauma that many survivors experience after a violent crime. Trauma-informed care programs identify and limit potential triggers to reduce their retraumatization and protect their mental and emotional health. OVW has a long history supporting a number of [trauma-informed care programs](#) that provide culturally and linguistically competent services and a space for healing based on empowerment and hope.

Understanding trauma can be complicated. For victims of sexual assault, domestic violence, dating violence, and stalking, trauma can stem from an isolated incident, from repeated incidents over a lifetime, or from a pattern of ongoing violence. And, this violence and trauma can be compounded by multi-generational and/or historical trauma. Exposure to “cumulative emotional and psychological wounding over the lifespan and across generations, emanating from massive group trauma experiences” such as colonization, war, or genocide, can magnify an already devastating crime. It is important for services providers to remember that because of historical trauma, many survivors of violent crime, such as those from African American, immigrant and American Indian/Alaska Native communities, are forced to confront multiple layers of traumatic experiences as they recover and heal.

OVW grantees and technical assistance providers are increasing the availability of safe and destigmatizing community and law enforcement programs that are sensitive to trauma. One grantee, the National Sexual Violence Resource Center (NSVRC), is using OVW funding to develop and promote a new and innovative course for service providers, “[The Brain, Body, and Trauma](#) .” This online course covers the psychological and neurobiological impacts of sexual violence related trauma and gives victim service providers the skills necessary to offer trauma-informed services. OVW also supports trainings and information on supporting survivors recovering from historical trauma. For example, in 2012 OVW’s [Tribal Domestic Violence and Sexual Assault Coalitions Grant Program](#) funded 13 trainings for professionals to improve their ability to address historical trauma experienced by American Indian and Alaska Native survivors.



STATE OF OREGON
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
Basic Police

The Importance of Understanding Trauma-Informed Care and Self-Care for Victim Service Providers | OVW | Department of Justice

1/8/20, 9:02 PM

We have also learned that law enforcement is most effective in combating violence against women when officers and staff have been trained to recognize and address the truly devastating mental and emotional trauma that many survivors experience in the aftermath of sexual assault, domestic violence, dating violence, or stalking. That's why OVW is proud to support the International Association of Chiefs of Police (IACP) to provide law enforcement agencies with on-site Trauma Informed Sexual Assault Investigation trainings. These trainings provide a comprehensive look at how law enforcement agencies can be sensitive to survivors' needs and avoid retraumatization while employing the most effective methods to investigate crimes. Too often, a lack of understanding about how victims of violence react to trauma leads police officers to wrongly dismiss the accounts of survivors, which is why IACP's trainings also include detailed lessons on how trauma can negatively impact survivors' memory, reactions, and demeanor when recounting how they were abused or attacked.

Providing trauma-informed services for survivors highlights the closely related issue of vicarious trauma experienced by many service providers, law enforcement personnel, and others who work with victims and survivors of violence. Vicarious trauma, sometimes called 'provider fatigue,' 'compassion fatigue,' or 'secondary trauma,' has been described as the "experience of having exhausted hearts, minds, bodies, and souls from helping survivors through their painful experiences." Over the course of months or years the effects of vicarious trauma can accumulate, and, if left unaddressed, can do serious damage to the mental and emotional wellbeing of providers and other who work to support survivors.

As we approach the middle of summer, it is important for *all* of us who work to support survivors to remember to take time to rest and care for ourselves. Simple and effective self-care strategies are available to address the negative effects of vicarious trauma. These strategies can include steps as simple as setting aside time to read, take a walk, or practice mindful meditation. It is important to remember that taking care of ourselves is not a selfish act; in fact, *effectively managing stress can make each of us a more effective caregiver and service provider*. If left unaddressed, vicarious trauma can cause severe stress, anxiety, anger, and insomnia, all of which can limit our effectiveness and ability to do our jobs well. Many people who work on violence against women issues will eventually 'burn out' because of poorly managed stress and fatigue, often leaving this line of work, creating critical resource and knowledge gaps in our field. Managing stress and taking care of mental and emotional health is an important investment in our ability to continue to do this vital work over the long-term.

OVW recognizes the importance of self-care for all those who work with survivors, which is why OVW supported the development of information and trainings by technical assistance providers on how service providers can take care of themselves, along with the people they serve. These OVW funded trainings and publications center around simple and effective tools and best practices that both professionals and volunteers can use to manage stress and stay healthy. **One OVW grantee, the National Center on Domestic Violence Trauma and Mental Health, will be offering a free webinar on "Caring for Others While Caring for Ourselves" on July 30 from 2:00 – 3:30pm (CDT).** This webinar will offer strategies for dealing with stress on the job, increasing awareness of the issue of vicarious trauma, and developing organizational support to help sustain and support service providers and caregivers. OVW also supported the development of an online guide on "Self-Care and Trauma Work" by NSVRC. This guide includes the common signs of vicarious trauma and information on how to build workplace cultures that can combat stress.

While we are continually increasing awareness of the traumatic effects of violence on survivors and service providers and the importance of trauma informed care, it is vital to recognize the effect that direct and vicarious trauma can have on all those affected by violent crime. All of us at OVW remain committed to ensuring that support is available for both the survivors of these crimes and the incredible service providers, law enforcement officials, judges, prosecutors, and other professionals and volunteers who work to help survivors heal.



Component(s):

[Office on Violence Against Women](#)

RELATED BLOG POSTS

[Transitional Housing Programs and Empowering Survivors of Domestic Violence](#)

November 1, 2019

Courtesy of [Laura L. Rogers, Acting Director, Office on Violence Against Women](#)

As Domestic Violence Awareness Month comes to a close, I want to take a moment to highlight the importance of Transitional Housing and wrap around services for victims of domestic violence. On average, nearly 20 people per minute are physically abused by an intimate partner in the United States.

[Join OVW in Demanding Zero Tolerance for Female Genital Mutilation](#)

February 6, 2019

Courtesy of [Acting Director, Katharine Sullivan, Office on Violence Against Women](#)

February 6th is the International Day of Zero Tolerance for Female Genital Mutilation (FGM). Female Genital Mutilation is a horrific crime of violence against women and girls and can cause extreme and long-term physical and psychological effects. There must be Zero Tolerance for this crime!

[Measuring the Effectiveness of Grants](#)

February 10, 2017

Courtesy of [Deputy Director, Nadine M. Neufville, Office on Violence Against Women](#)

The Office on Violence Against Women consistently gives priority to proven strategies that further the common goal of ending domestic and sexual violence. Every two years, we submit a report to congress about the specific ways grants are impacting communities. This message summarizes the report.

[Honoring Sexual Assault Awareness Month](#)

April 24, 2019

Courtesy of [Acting Director, Katharine Sullivan, Office on Violence Against Women](#)

This has been an incredible month with so many groups and individuals raising awareness for Sexual Assault Awareness Month.

[MORE BLOG POSTS »](#)

Updated April 27, 2017



Module 4: Victim Interviewing and Report Writing

In your Investigative Interviewing class, you learned the following about victim interviewing:

- The officer must keep in mind the person they are speaking with has just been through a difficult experience.
- The victim's health and personal safety must be the officer's primary concern.
- The victim may be angry, afraid, or even traumatized.
- Intense emotions may be projected onto the officer.
- Building rapport is critical.
- Memories from a traumatic experience are fragmented and not recalled in a linear way.
- Peripheral details may not have received the same attention as details perceived necessary for survival, for example, a suspect's face versus the suspect's weapon.

The victim should be asked to describe what happened to them in as much detail as possible. Allow them to tell their story without interruption. After they have told their story, go back through their statement chronologically and ask follow up questions.

Cognitive Interviewing Methods (*Review from Investigative Interviewing*)

- Acknowledge the victim's trauma and/or pain
 - Be empathetic, compassionate, and patient
- Ask the victim/witness what they are able to remember about their experience
 - Use questions like "tell me more," "help me understand," and "describe."
 - Give victims the ability to say, "I don't know" or "I don't remember."
- Ask the victim/witness about their thought process at particular points during their experience
 - Prevent re-victimization, don't ask, "Why didn't you fight back?"
 - Instead, ask about thought processes to help you understand actions/inactions
- Ask about tactile memories before, during, and after the incident
 - Sights, sounds, smells, feelings (physical and emotional), and taste
- Ask how the experience has impacted them physically and emotionally
- Ask the victim/witness what the most difficult part of the experience was for them
- Ask the victim/witness what they cannot forget about the experience



- Clarify other information and details after the cognitive interview
 - Who, what, when, where, how?
- Close the interview as empathically as it began

In-Class Activity: Ava- What Did You Hear?

Please watch the Ava video and answer the following questions.

- How does the interviewer compare to the interviewer we would want or our loved one?
- Who decided what happened?
- Based on what we discussed regarding trauma, what do you think of this interview?
- What stood out to you?



Assumptions that Are Barriers to a Good Interview

- “Good victim”
 - What makes a good victim for the perpetrator, makes a challenging victim for the criminal justice system.
 - Accessible, vulnerable, and lacking in credibility.

- Do you want a female officer?
 - What does this say to the victim?
 - What are we assuming?



In-Class Activity: Impact of Culture on Disclosures of Sexual Violence?

In this activity, we are comparing how behavior and attributes are treated differently for perpetrators and victims. Culture can affect the way we view same and similar behaviors of the victim and perpetrator, often to different outcomes.

Please compare these individual activities/attributes effect on victims and perpetrators. How might this impact the investigation? How might this impact their experience in the criminal justice system?

Victim	Perpetrator
Alcohol	Alcohol
Conventional Attractiveness	Conventional Attractiveness
Sexual History	Sexual History
Sexual Assault Accusations	Sexual Assault Accusations



Types of Questions

- Probing: Who, What, Where, When, How
- Closed: Invites “Yes” or “No” response
- Open ended “Tell...” “Describe...” “Talk to me about...”
- Leading: “You were drunk, right?”
- Forced choice: “Did you fight back, or did you just tell him no?”
- Opinion: “I wonder...” “I believe...”
- Multiple/Compound: More than one question at the same time.
- Clarification: For understanding

Ask	Don't Ask
Where would you like to start? Tell me what you are able to about your experience? Tell me more about.... Please help me to understand... What were you feeling when.... What were your thoughts when....	And then what happened? Explain to me... Why?



In-Class Activity: Reframing Our Questions

In this worksheet we are going to ask you to reframe typical interview questions. Without using Who, What, Where, When, How, or Why, how would you phrase the question to learn more about:

- The suspect description
- Delay in reporting
- Any injuries the victim or suspect sustained
- The lack of physical resistance
- The details of the assault
- Possible witnesses



Report Writing Language

Just as the words we use during an interview are important, so are the words used when writing reports. Consider the following:

- Use trauma-informed words
- Use the victim's language
- Document what the victim was thinking/feeling
- Use accurate and appropriate descriptive wording
- Avoid the language of consensual sex
- Use the statutory language
- Describe what the body parts did and in what manner

Thorough Report Writing

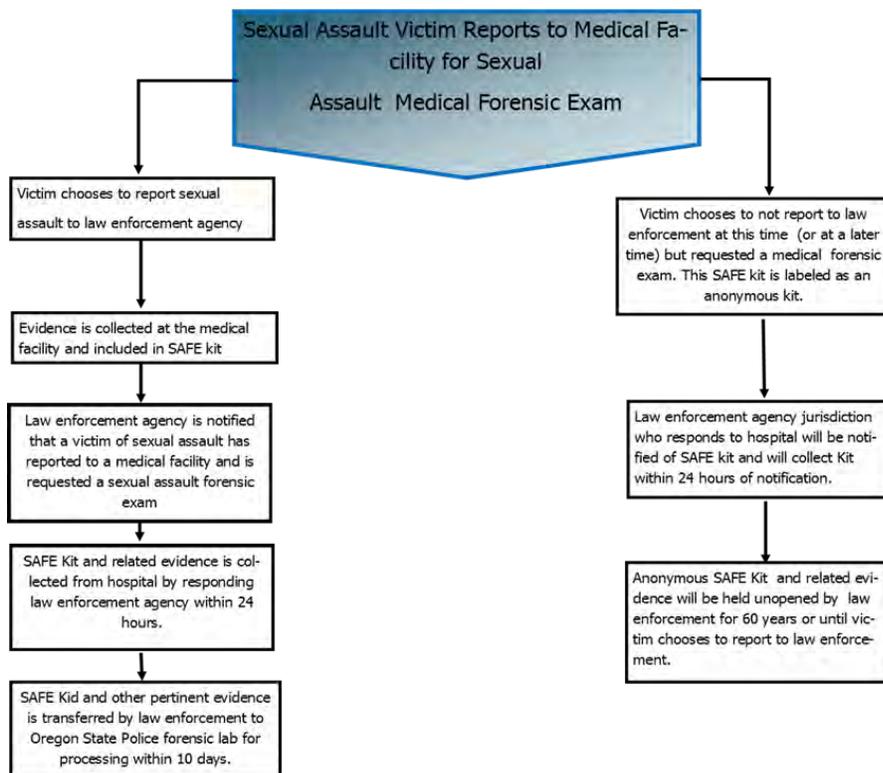
- If you didn't write it down, it didn't happen.
- What you write down, becomes fact.
- Let your interviews and investigative work speak for itself, do not include opinions/assumptions.
- Don't rely on the reader to put the pieces together, we have to connect the dots.
- Summarize all evidence, this is the only place the evidence can be placed in context.



Module 5: Medical Forensics and Sexual Assault Response Teams

Recommended Law Enforcement Policy Sexual Assault Forensic Examination Kits

The Criminal Justice Committee of the Attorney General’s Sexual Assault Task Force, comprised of law enforcement officers, prosecutors, advocates, and representatives of the Oregon Department of Public Safety Standards and Training, Oregon State Police Forensic Services Division, Oregon Youth Authority, Oregon Department of Justice, and the Oregon Crime Victims Law Center, developed the following policy for law enforcement agencies to successfully comply with the requirements of HB 25154 (2007), HB 2154 (2016), SB 1600 (2016) and SB 960 (2017). This is an accompanying document to the Sexual Assault Forensic Examination



For questions please contact us at web: oregonsatf.org | phone: 503-990-6547 | email: taskforce@oregonsatf.org

ORS 147.401 Sexual Assault Response Teams

ORS states that each county shall have a designated Sexual Assault Response Team (SART) organized by the District Attorney. The statute defines the membership makeup, meeting requirements, and requires each team to develop and adopt protocols for the response to adult and adolescent sexual assault victims.

Standardized Field Sobriety Testing and Drugs that Impair Driving

BASIC POLICE ACADEMY





Standardized Field Sobriety Testing- Legal

Instructional Goal:

This course is designed to introduce a new police officer to legal parameters regarding driving under the influence of intoxicants.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Identify the elements of driving under the influence of intoxicants.
2. Demonstrate documentation of a driving under the influence of intoxicants case.
3. Explain the parameters of a driving under the influence of intoxicants investigation.

Content Outline:

Elements of Driving Under the Influence of Intoxicants

Types of Cases

DUII Documentation

Searches

Field Sobriety Tests

Miranda Warnings

Horizontal Gaze Nystagmus



Elements of a DUII

A person commits the offense of DUII if the person drives a vehicle on a highway or premises open to the public while under the influence of intoxicants.

Drives/Operates ORS 801.370

Operation- Any operation, towing, pushing, movement, or otherwise propelling.

In interpreting statutes addressing driving under the influence, the Oregon Court of Appeals has held that "driving" is synonymous with "operation." Oregon law requires there to be some (even the slightest amount) to constitute driving. This includes a person in the passenger seat who takes hold of the steering wheel and presses the accelerator. If there is **NO** evidence of driving (circumstantial or otherwise), but a person is sitting in the driver's seat with the ignition on, you can consider citing for attempted DUII based on *State v. Baty*, 243 Or App 77 (2011). Implied consent does not apply to attempted DUII, but you can still get FST's and breath tests based on P.C. and exigency.

In the following cases, the court determined that an individual can be "driving" a vehicle even if he is not in the driver's seat:

Case Law:

State v. Cruz, 121 Or App 241 (1993) In this case, the defendant propelled the car by taking hold of the steering wheel and pressing accelerator as a passenger. The appeals court used the definition for "operates" from implied consent statute.

Moe v. MVD, 133 Or App 75 (1995) In *Moe*, a passenger turned on the ignition and reached for the window. Instead, the passenger hit the gear shift, lurched the car forward, and hit eight vehicles before stopping.

State v. Martinelli, 6 Or App 182, 187, 485 (1971). Driving usually understood to mean in motion.



Vehicle ORS 801.590

Vehicle- Any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.

Premises Open to the Public ORS 801.400

Premises Open to the Public includes any premises open to the general public for the use of motor vehicles, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises.

Examples of privately owned premises open to the public include business parking lots, commercial parking garages, and private roads that serve several property owners.

Privately owned premises NOT open to the public include individual private driveways and ranch roads not intended for public use.

Under the Influence of Intoxicants ORS 813.010

- .08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood
- OR
- Is under the influence of intoxicating liquor, a controlled substance, or an inhalant, or a combination of any.

BAC .08- Intoxilyzer or Blood Draw

BAC is typically measured using an Intoxilyzer, or a blood draw from a hospital. BAC is measured in grams of alcohol per 100 ml of blood or 210 l of breath. A BAC of .08 or greater is called per se impairment. This means that a .08 BAC legally constitutes impairment. Even though a .08 BAC is supposed to be impairment per se, it is not always enough to convince a jury that the defendant is impaired. Other factors contributing to the officer's belief that a defendant is impaired should be observed and documented. Give the example of rising BAC defense, .08 is not enough to convince the trier of fact.



Under the Influence Versus Drunk

Juries may have the perception that "under the influence" and "drunk" can be used interchangeably. The law does not put the standard at "drunk." The danger in this is that if the defendant does not fit the jury's definition of "drunk," then the jury may choose not to convict an impaired driver.

Drunk	Under the Influence
<p>The types of behavior members of a jury might typically consider signs of being "drunk" include:</p> <ul style="list-style-type: none"> • Commode Hugging • Staggering • Falling Down • Urinate in pants • Belligerent 	<p>Under the influence of intoxicating liquor includes not only the well-known and easily recognized conditions and degrees of intoxication but also any abnormal mental or physical condition that results from consuming intoxicating liquor, and that deprives the person of that clearness of intellect or control that the person would otherwise possess.</p>

Under the influence means: The defendant's mental or physical faculties were adversely affected by the use of intoxicating liquor to a noticeable and perceptible degree. Only one of the person's mental or physical faculties must be noticeably impaired to be guilty of DUII.

Officers should be ready to testify about an impaired individual's ability to safely operate a vehicle, even if the defendant does not exhibit extreme signs of intoxication.

Felony DUII ORS 813.010(5)

DUII is a class C felony if the defendant has been convicted of DUII in violation of this section or its statutory counterpart in another jurisdiction at least three times in the ten years prior to the date of the current offense and the current offense was committed in a motor vehicle.



BUII/Aircraft DUII ORS 813.010

Convictions for BUII (boating) ORS 830.325 or Prohibited Operation of an Aircraft ORS 837.080(1)(a), shall be considered a prior conviction of DUII.

Non-Driving DUII

There are times when officers will be called upon to investigate a DUII where the driver is no longer at the wheel. Circumstances may include:

- Crash scene
- Citizen complaint
- Abandoned vehicle

In these circumstances, officers may be able to file criminal charges for DUII by carefully investigating the scene, interviewing witnesses, and documenting their findings. Some techniques include:

- Developing a timeline to determine if the suspected driver could have reasonably been driving the vehicle. This includes determining the timeline from the call to contact.
- Locating and interviewing named witnesses.
- Determining if the suspected driver has consumed any alcohol since getting out of the car.
- Determining the level of impairment observed by the officer with the defendant's story.
- Determining what the suspected driver drank, when the drinking occurred, and where she drank it.
- Looking for damage to the vehicle that might indicate a prior crash.
- Noting additional items of evidence, including alcohol containers, seat position, bar receipts, identification, injuries to the suspected driver, and anything else that might indicate that the driver was operating the vehicle while impaired.



DUII Documentation

Part of the officer's job in any DUII investigation is to properly document statements made by drivers to ensure the successful prosecution of the offender. To this end, officers should obtain a variety of information from the driver, including:

Alcohol DUIIs	Drug DUIIs
<ul style="list-style-type: none">• Who were they drinking with?• What were they drinking?• When did they start drinking? When did they stop drinking?• Where were they drinking?• Why were they drinking? Was there a special occasion or celebration?• How much did they drink? How many drinks? How big were the drinks?	<p>Pill Bottles:</p> <ul style="list-style-type: none">• Was the right drug in the container?• What dose was prescribed?• How many pills are in the bottle, and what is the date of the prescription? Do these two figures add up?• Are these pills prescribed to the driver?• Is this a new prescription for the driver?• What does the warning label state? Does it tell the driver not to drive or operate machinery?• Seize the bottle as evidence or photograph the bottle. <p>Statements of Use:</p> <ul style="list-style-type: none">• Time Taken• Amount Taken



Searches

The case of *State v. Nagel* (320 OR 24, 1994) decided the issue of whether or not the administration of field sobriety testing constituted a "search." The court determined that FST's are a search within the meaning of the Constitution and that a warrant would normally be required except that a search without a warrant can be justified with probable cause and the exigent circumstances exception to the search warrant requirement.

In *State v. Nagel*, 320 Or 24, 880 (1994), the specific indicators that were used to develop probable cause were:

- The odor of alcohol
- Glassy eyes
- Fumbling to get driver's license

A driver has no legal right to refuse FSTs, per ORS 813.135. This is the basis of the Implied Consent law in Oregon. By virtue of operating "...a vehicle upon premises open to the public or the highways..." a person "...shall be deemed to have given consent to submit to field sobriety tests upon the request of a police officer...".

An officer can administer field sobriety testing under either of the following circumstances:

The investigating officer has probable cause to believe the person is DUII **and** exigent circumstances are present.
(*State v. Rutherford*)

The officer has obtained the voluntary consent of the person.

In the event the officer is not able to develop probable cause and is unable to gain voluntary consent from the person, the field sobriety tests cannot be performed. However, before allowing a driver to leave, an officer should ask if he or she feels safe, allowing this person to continue driving.



Administration of Field Sobriety Tests

In the 2000 Ohio case of *State v. Homan*, the officer did not follow the NHTSA standardized procedures while administering field sobriety testing. The court held that for the results of a field sobriety test to serve as evidence of probable cause to arrest, the police must have administered the test in strict compliance with standardized testing procedures. The court went so far in the opinion as to call FST's that were conducted in a manner that departs from established methods and procedures "inherently unreliable." The test battery contained in the Standardized Field Sobriety Testing was validated in a standardized manner and should be administered in the same standardized manner.

That is not to say that alternative tests are never of value. Alternative tests should be given if unusual conditions apply. For example, if the driver is overweight, has a false limb, is over 65 years old, or suffers from an injury or illness that would preclude the person from completing the SFST's, then the officer should consider administering alternative tests.

To determine if the person has any of these conditions, officers should ask pre-test questions designed to elicit this information. For example, asking if there is a medical condition that would keep the person from completing the walk and turn test can provide the officer with the information necessary for her investigation.

Officers should be sure to follow-up on the statements made by the person. As an example, a person claiming to have a physical defect should be asked exactly what the defect is if a doctor has diagnosed the defect, and what treatment the person is undergoing.

Horizontal Gaze Nystagmus Test

The 1995 Oregon case of *State v. O'Key* (321 OR 285) held that the Horizontal Gaze Nystagmus test is admissible as long as:

- The officer is properly trained;
- The test is properly administered; and,
- The test is recorded (officer notes).



O'Key also held that HGN could not be used in court to establish a blood alcohol concentration. Therefore, officers may not refer to any percentages they may have learned regarding the HGN test, even if such percentages are based on a SFST validation study.

Miranda Warnings

Typically, a DUII investigation is not custody for purposes of Miranda. The typical DUII investigation does not generally rise to the level of a custodial interrogation. However, providing a Miranda warning before asking probative questions may be a prudent course of action.

The Miranda warning must be given prior to custodial interrogation. However, an officer who asks a driver to perform FST's is not interrogating that individual. Also, questions relating to Intoxilyzer and breath test requests do not constitute an interrogation. Remember, though, that any questions asked after FST's may require Miranda if they are related to the circumstances of the offense. By practice, officers should give Miranda warnings after FST's (if not already done so at first contact).

Officers should also be aware that an extended traffic stop (one which takes longer than normal due to time spent waiting for other officers or resources to arrive on the scene) may develop into what the courts might consider a situation involving a custodial arrest of the driver. If in doubt as to whether or not this has occurred, officers should err on the side of caution and read Miranda.

Again, department policy and the requirements of your local District Attorney may dictate when the Miranda warning should be issued.

Verbal Portion of Field Sobriety Tests

The Oregon case of *State v. Fish* (321 OR 48) determined that verbal statements made by a subject stopped by the police are testimonial, and if compelled, could violate suspect's rights.

If a driver refuses to perform the SFST's, an officer cannot use that refusal in court UNLESS, the officer has excluded the speaking parts from the test battery.



Field Sobriety Test Refusal

The Oregon case of *State v. Rohrs* (157 OR App 494) provided officers with a method for handling FST refusals. According to the court's opinion, an officer can compel a driver to perform physical, nontestimonial testing if the officer demonstrates and describes which tests he will have the person perform and omits the verbal portions of the field sobriety testing from the instructions.

Only after these conditions are met, and the driver continues to refuse to perform FST can that refusal be used against the person in court.

The following example is taken verbatim from the Oregon Department of Justice's recommended language. Recognize that your locally elected District Attorney may have a preferred version for your agency's use. Please consult your District Attorney or your department's policies for the correct version for your agency.

Rohrs Admonition

I am going to ask you to submit to purely physical field sobriety tests. None of the tests I will ask you to perform will require you to reveal your thoughts, beliefs, or state of mind. The tests will include the horizontal gaze nystagmus test, the walk and turn test, and the one-leg stand test (briefly explain and demonstrate tests, excluding counting out loud). Do you have any questions regarding these tests or what I am asking you to do? Your refusal or failure to submit to these purely physical tests MAY be used against you in any criminal or civil proceeding.

Make sure when you are indicating that a refusal to perform tests can be used against the person that you use the word "MAY," not "will," and document that fact in your report.

A driver has no right to attorney contact (telephone, text, or otherwise) at the roadside prior to FST's. Additionally, a driver has no right to have her attorney present prior to an officer administering FST's.



The Arrest Decision

The decision to arrest is based upon the officer's belief that under the totality of the circumstances, it is more likely than not that the suspect is under the influence. This means that there usually is not just one particular piece of evidence or action that is the determining factor when making an arrest. Instead, the "totality of the circumstances" (the combination of evidence, statements, and behavior observed by the officer) leads the officer to reasonably believe that the driver is impaired.

Considerations:

The time of night, driving behavior, all evidence and statements at the scene and then form a belief based on training and experience.

Officers MUST be able to articulate probable cause to arrest for DUII.

Implied Consent

ORS 813.100- Any person who operates a motor vehicle upon premises open to the public or the highways of this state shall be deemed to have given consent, subject to the implied consent law, to a chemical test of the person's breath, or of the person's blood if the person is receiving medical care in a health care facility immediately after a motor vehicle accident, determining the alcoholic content of the person's blood if the person is arrested for driving a motor vehicle while under the influence of intoxicants in violation of ORS 813.010 (Driving under the influence of intoxicants) or of a municipal ordinance. A test shall be administered upon the request of a police officer having reasonable grounds to believe the person arrested to have been driving while under the influence of intoxicants in violation of ORS 813.010 (Driving under the influence of intoxicants) or of a municipal ordinance. Before the test is administered, the person requested to take the test shall be informed of consequences and rights as described under ORS 813.130 (Rights of and consequences for the person asked to take the test).

No chemical test of the person's breath or blood shall be given, under subsection (1) of this section, to a person under arrest for driving a motor vehicle while under the influence of intoxicants in violation of ORS 813.010 (Driving under the influence of intoxicants) or of a municipal ordinance, if the person refuses the request of a police officer to submit to the chemical test after the person has been informed of consequences and rights as described under ORS 813.130 (Rights of and consequences for the person asked to take the test).



If a person refuses to take a test under this section or if a breath test under this section discloses that the person, at the time of the test, had a level of alcohol in the person's blood that constitutes being under the influence of intoxicating liquor under ORS 813.300 (Use of blood alcohol percentage as evidence), the person's driving privileges are subject to suspension under ORS 813.410 (Suspension upon receipt of the police report on implied consent test). The police officer shall do all of the following:

- (a) Immediately take custody of any driver's license or permit issued by this state to the person to grant driving privileges.
- (b) Provide the person with written notice of intent to suspend, on forms prepared and provided by the Department of Transportation. The written notice shall inform the person of consequences and rights as described under ORS 813.130 (Rights of and consequences for the person asked to take the test).
- (c) If the person qualifies under ORS 813.110 (Temporary permit upon confiscation of license), issue to the person, on behalf of the department, a temporary driving permit described under ORS 813.110 (Temporary permit upon confiscation of license).
- (d) Within a period of time required by the department by rule, report action taken under this section to the department and prepare and cause to be delivered to the department a report as described in ORS 813.120 (Police report to department), along with the confiscated license or permit and a copy of the notice of intent to suspend.

If a blood test under this section discloses that the person, at the time of the test, had a level of alcohol in the person's blood that constitutes being under the influence of intoxicating liquor under ORS 813.300 (Use of blood alcohol percentage as evidence), the person's driving privileges are subject to suspension under ORS 813.410 (Suspension upon receipt of the police report on implied consent test). The police officer shall report to the department within 45 days of the date of arrest that the person failed the blood test.



Nothing in this section precludes a police officer from obtaining a chemical test of the person's breath or blood through any lawful means for use as evidence in a criminal or civil proceeding including, but not limited to, obtaining a search warrant. [1983 c.338 §591; 1985 c.16 §298; 1985 c.672 §19; 1993 c.305 §1; 1995 c.568 §1; 2013 c.642 §1]

Under the administrative side of Implied Consent, as it relates to DUII, the following applies:

- The person has a right to communicate with counsel or others;
- There is no right to privacy during this communication; and,
- The officer must give the defendant a "reasonable opportunity" to communicate.

However, this information should not be confused with rights the person has under the U.S. and Oregon Constitutions and the requirements of criminal law. According to these laws:

- The person has a right to counsel (does not include "others" but always let them talk to "others");
- The person has the right to speak privately with counsel prior to performing the breath test; and,
- The officer must give the person a "reasonable opportunity" to consult with counsel.

"Reasonable Opportunity" has been broadly defined as the officer providing the person with a working telephone and a phone book and the opportunity to consult with counsel. This opportunity to consult with counsel should not interfere with the effective administration of the breath test, meaning that officers are not expected to wait indefinitely while the person attempts to contact his attorney while evidence dissipates. The courts have indicated that officers are required to give the person 15-20 minutes to consult with his attorney.

If the officer ends the opportunity to communicate, whether it is under implied consent or whether it is communication with an attorney, the officer must articulate the reasons for ending the call in the report.

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 suspect 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 to consult 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 request 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.

If the person asks to call for a ride, the officer may simply tell the person they can call the person after the breath test is complete. Any other substantive request for a phone call should result in an opportunity to make a call.

If the person refuses SFSTs but does not ask to talk to an attorney, it is still good practice to give the person privacy and an opportunity to make a phone call. If the suspect asks to make a phone call to anyone, including an attorney, at any time before taking the breath test, read implied consent and the following before providing the person a telephone:

"I am providing you with a phone and privacy to make a phone call. This is your opportunity to attempt to communicate or consult with anyone you want, including an attorney. A phone book will be provided to you. You will have a reasonable amount of time-based on the circumstances to use the phone, up to 15 to 20 minutes".



Breath Test Refusal

Anything short of taking a completed test is a refusal, regardless of why the test is not completed. This includes any action or inaction. A suspect does not have the right to have an attorney present while the breath test is being conducted. The suspect also does not have the right to take a test other than the one requested. In other words, if an officer offers a breath test, the suspect does not have the right to refuse the breath test and instead submit to a blood test.

Examples:

- "Not until I talk to my attorney" is a refusal.
- Puffing, putting a tongue over the mouthpiece to block the flow of breath, and sucking rather than blowing are all refusals.
- In cases of real medical reasons for not completing the test, IT IS STILL A REFUSAL, and it is up to the suspect to prove medical problems at the hearing.

Department of Justice Recommendation for a Standard DUII

- Read Implied Consent then ask the person if they will take the breath test (document answer in quotes). If they agree, administer the test.
- If the person refuses a breath test, apply for a warrant.
- In crash cases where someone other than the defendant is injured, do an exigency draw and be sure to follow it up with a warrant. Make sure you articulate all the factors involved in the case that would give rise to exigency, including judge availability and the other officers' availability.
- If the defendant is injured, an added factor to support exigency is that the hospital will give fluids and/or drugs as part of treatment. There is a need to preserve the blood evidence to prevent dilution interference by other substances.



Department of Justice Recommendation for a Drug DUII

The Machuca case did not find that the presence of drugs indicates exigency by itself. More recent case law suggests that the presence of drugs creates exigency since drugs affect the body differently and leave the body at different rates. The officer must testify to the fact that there is no way to know what drug was taken when and in combination with any other drug.

Because of this, the Oregon DOJ recommends that for cases where impairment is suspected due to a controlled substance or an inhalant, the following procedure be followed:

- Follow the procedures already outlined for alcohol DUII cases.
- If the breathalyzer BAC does not match the level of impairment observed and you have a reasonable suspicion that impairment is caused by a controlled substance or inhalant, then call your DRE.
- If no DRE is available, read Section II of the suspension form prior to requesting urine
- If the defendant refuses urine, consider seeking a warrant.

Resources

Your best resource for prosecuting DUII cases in your jurisdiction is your local District Attorney's Office.

An excellent general resource for questions regarding the prosecution of DUII in Oregon the Oregon Department of Justice:

Deena Ryerson

deena.a.ryerson@doj.state.or.us

(503) 934-2030 or (503) 348-5942.

Amy Seely

Amy.seely@doj.state.or.us

(503) 378-6347

Supporting Victims of Crime

BASIC POLICE ACADEMY



IN THE
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ROBERT ALLEN LIBKE

THEY NEED



Supporting Victims of Crime

Instructional Goal:

This course is designed to develop a new officer's awareness surrounding victim's rights laws and practices.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Explain notification responsibilities for law enforcement related to victims
2. Given a circumstance, determine the need to provide victim's rights information to a victim

Content Outline:

Victim's Rights

- What are Victim's Rights?
- Law Enforcement Role
- Oregon Victim's Rights Laws
- Oregon Crime Victim's Bill of Rights
- Statutory Application
- Best Practice

Supporting Victims of Crime

- Major Needs of Victims
- Resources



Victim's Rights

The criminal justice system is our society's method of addressing crime and promoting public safety. It is designed to prevent and respond to crime; identify, apprehend, and prosecute persons charged with a crime; and incarcerate and supervise convicted offenders with efforts to rehabilitate them and hold them accountable for their criminal actions. The criminal justice system is a sequential process that includes numerous phases:

Law enforcement	Institutional corrections
Prosecution	Parole
Judiciary and courts	Appellate courts
Probation	

While the agencies in each phase have specific roles and responsibilities in promoting public and victim safety, often, their roles are shared and require on-going cooperation among agencies to ensure effective operations and collaborative responses to victims' rights and needs. They are responsible for protecting individual rights under state and federal constitutions and laws, and for implementing procedures that are fair and equitable to all parties involved. Throughout the phases of the criminal justice system, all justice agencies have a role and responsibility to:

<p>Provide information about and referrals to available crime victim services.</p>	<p>Provide information about the Crime Victim Compensation Program and professionals who can help victims of crime complete an application to cover out-of-pocket financial losses directly resulting from the crime.</p>
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What are victim's rights? Victims' rights are rights personally held by the victim that can be legally asserted during the criminal case. Victims have rights throughout the criminal process: pre-trial through post-trial, and there are a variety of services in place to assist them.



Oregon Victims' Rights Laws

Crime victims' legal rights are guaranteed by the Oregon Constitution and Oregon Revised Statutes.

Victims' right to justice includes the right to:

- Play a meaningful role in the criminal or juvenile justice process.
- Be treated with dignity and respect.
- Receive fair and impartial treatment.
- Receive reasonable protection from the offender.

Crime Victims' Rights apply to the adult criminal justice system and the juvenile justice system. Many of these rights go into effect automatically, while others must be requested through the local District Attorney's office or Juvenile Department.

Chapter 147 of the Oregon Revised Statutes is dedicated to Victims of Crime, including rights to compensation and the Oregon statutes on Victim's Rights.

Victim compensation is money paid from the government to a victim, usually to cover certain out of pocket costs incurred as a result of the crime.

There are numerous statutes pertaining to the various compensations, and it is NOT expected that police will know all of these. Most jurisdictions will have Victim's Rights Specialists (learn where yours are located) who are prepared to assist crime victims with these statutes. However, it IS required that police provide notification to victims of these rights.

ORS 147.365- Law Enforcement agencies to inform crime victims of the compensation procedure

- (1) All law enforcement agencies in this state shall deliver cards to victims of crime, stating the procedure to be followed in applying for compensation under ORS 135.905 and 147.005 to 147.367.
- (2) No law enforcement agency shall be civilly liable for a failure to comply with subsection (1) of this section.



Oregon Crime Victim's Bill of Rights

ORS 147.410 Purpose

We, the people of the State of Oregon, declare that victims of crime are entitled to fair and impartial treatment in our criminal justice system. The purpose of chapter 2, Oregon Laws 1987, is to declare to our legislature and our courts that victims' rights shall be protected at each stage of the criminal justice system. We reject the notion that a criminal defendant's rights must be superior to all others. By chapter 2, Oregon Laws 1987, we seek to secure balanced justice by eliminating unbalanced rules.

ORS 147.417 Victims to be notified of constitutional rights

- (1) As soon as is reasonably practicable in a criminal action in which there is a victim, a law enforcement agency shall notify a person who reasonably appears to be a victim of the offense of the person's rights under section 42, Article I of the Oregon Constitution. The notice may be oral or written. If exercise of any of the rights depends upon the victim making a request, the law enforcement agency shall include in the notice the time period in which the victim is required to make the request. A law enforcement agency satisfies the requirements of this section if the law enforcement agency:
 - (a) Provides notice to the victim named in the accusatory instrument, the victim's guardian or, in a homicide case, the victim's next of kin; and
 - (b) Presents, if written notice is given, the notice directly to the victim or sends the notice to the last address given to the law enforcement agency by the victim.
- (2) Failure by a law enforcement agency to properly notify the victim as required by this section:
 - (a) It is not grounds for setting aside a conviction.



(b) It does not affect the validity of a plea, except as provided by section 42 or 43, Article I of the Oregon Constitution.

(3) Nothing in subsection (2) of this section justifies a failure to notify the victim properly.

(4) (a) As used in this section, "law enforcement agency" means the police agency that initially responds in the case, the police agency that investigates the case or the district attorney who prosecutes the case.

(b) The district attorney shall determine if the notice required by this section has been given and, if not, shall provide the notice.

Statutory Application

ORS 147.365 and ORS 147.417 have in common, a legislative mandate to provide notice of certain victims' rights to crime victims. The duty to provide notice outlined in ORS 147.417 is a shared duty among the "law enforcement agencies" defined by that statute, with the DA serving as the final check on that responsibility.

The Oregon Department of Justice provides victims' rights notification cards, which set forth both the information victims need to inquire about possible compensation, as required by ORS 147.365, as well as the victim rights ensured by the Oregon Constitution, as required by ORS 147.417. The provision of this card to a crime victim would satisfy the obligations created by both statutes.



Victims' Rights

This brochure lists rights given to victims of crime in Oregon. **Please contact your local District Attorney or Juvenile Department** for more information about your rights or about upcoming hearings. See the Victim Services Contact Information in this brochure for other options.

Some victims' rights only become rights if you request them. Contact your local District Attorney's Office Victim Assistance Program or Juvenile Department if you want to request these rights.

For more information about your rights, including what to do if your rights have not been honored, contact your local District Attorney's office or visit:
www.doj.state.or.us/victims

This brochure is available in the following languages:

- | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • Hardcopy and On-line • English • Spanish • On-line Only • Korean • Russian • Vietnamese • Chinese |
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To receive additional copies of this brochure, please call:

503-378-5348
(Salem and surrounding areas)
800-503-7983
(statewide toll free)

Victim Services Contact Information

Oregon Department of Justice
Crime Victims' Services Division
1162 Court Street NE, Salem, OR 97301

503-378-5348
(Salem and surrounding areas)
800-503-7983
(statewide toll free)

www.doj.state.or.us/victims

Crime Victims' Compensation Program
800-503-7983

Statewide Legal Aid Information
www.oregonlawhelp.org

Oregon Crime Victim Law Center
503-208-8160

Oregon State Bar
800-452-7636
www.osbar.org/public

Oregon Board of Parole & Post-Prison Supervision
503-945-0907

Oregon Psychiatric Security Review Board
503-229-5596

Oregon State Police - Sex Offender Registry
503-934-1258

Oregon Youth Authority
503-373-7205

Call to Safety
Statewide Referral to Local Crisis Programs
888-235-5333

Catholic Charities Immigration Legal Services
503-542-2855

VINE: Victim Information Notification Everyday
877-674-8463
www.VINELINK.com



Department of Justice
State of Oregon

Crime Victims' Services Division
1162 Court St. NE
Salem, OR 97301
(503) 378-5348
(800) 503-7983

www.doj.state.or.us/victims

**Every victim, every crime,
every right, every time.**

Rev. 4/2014



In order to protect your rights, you must keep the District Attorney's office, or Juvenile Department updated with your contact information.

General Rights

- Your right to justice includes the right to a meaningful role in the criminal or juvenile justice process, to be treated with dignity and respect, to fair and impartial treatment, and to reasonable protection from the offender.
- Many victims' rights are automatic although you may need to "tell" someone you want to receive them.
- Other rights you must specifically **request** to receive the right. One way to do this is to contact your District Attorney to **request** these rights.
- You, your attorney, or, upon your **request**, the District Attorney, may assert your rights in court.
- You have the right to have a support person with you.
- If your case involved physical harm or death, you may be able to get financial help for counseling, medical or death related costs:

Crime Victims' Compensation Program
800-503-7983

- You can attend open court proceedings.
 - You can **get** a copy of a transcript or recording of open court proceedings if one is already made. You may be charged for the transcript or recording.
 - Most "**personal identifiers**" can usually be protected from an alleged offender. These include your phone number, address, social security number, date of birth, and bank account and credit card account numbers.
 - You can **get** confidential HIV testing, referrals for health care and counseling if the convicted person in your case tests positive for HIV.
 - You or the district attorney can **ask** the court to limit distribution of information and recordings in cases involving sexual or invasion of personal privacy offenses.
- Rights that must be requested:**
- To be notified of certain open court proceedings
 - To get criminal history information about the defendant, convicted criminal, alleged youth offender or youth offender.
 - That the person charged or convicted in your case get testing for HIV or other communicable diseases if the crime involved the transmission of bodily fluids.

Following An Arrest

Automatic Rights:

- The judge will consider your safety at a pre-trial release hearing
 - You can refuse to speak to an attorney or private investigator for the defendant or alleged youth offender.
 - You will be notified about early disposition programs that may apply to your case.
 - The prosecutor will consider any of your recommendations about defendant diversion.
- Rights that must be requested:**
- To be notified in advance about the release hearing.
 - To be consulted about the plea negotiations or final plea offer in a violent felony case.

If Your Case Goes to Trial and Sentencing

Automatic Rights:

- If a pre-sentence investigation report is ordered in your case, you can include a statement in it.
- The right to express your views at sentencing, in person or in writing.
- Rape shield laws may apply in your case.

Rights that must be requested:

- For the court to exclude media television, photography, or recording equipment during sex offense proceedings. The court may deny this request.

After Sentencing

Automatic Rights:

- Prompt restitution for your crime-related costs.
- To be heard at a hearing on a motion to set aside a conviction.

Rights that must be requested:

- To be notified of the release of a juvenile offender from an OYA Youth Correctional Facility. You must first provide your contact information to OYA.
- To receive 30 day notice about parole hearings in adult cases. First you must register with the parole board.
- To be notified when the convicted person is released from prison.
- To be notified of hearings where probation may be revoked.

- To receive information about the offender from the Psychiatric Security Review Board (PSRB) if under their jurisdiction. First you must register with the PSRB.

If your case is **appealed** you may have other rights.
For more information contact:
Oregon Department of Justice
Crime Victims' Services Division
800-503-7983

You have a right to not be contacted by the sex offender convicted in your case. For information about registered sex offenders call:

Oregon State Police - Sex Offender Information
503-934-1258

Other Legal Information

- You can ask for a restraining order if you are a victim of family, elder, or disabled person abuse or are threatened with such abuse, or if you are a victim of sexual abuse.
- You can go to the police or to court and ask for a stalking protective order if you have been a victim of stalking.
- If you are a victim of sexual assault, a hospital must give you accurate information and access to emergency contraception.
- If you are a victim of domestic violence, you may be able to get financial help from the Department of Human Services through their Oregon Temporary Assistance to Domestic Violence Survivors (TADVS) fund.
- If you are a victim of domestic violence, sexual assault, or stalking, you may be able to:
 - Take leave from work to attend court proceedings
 - Take leave from work for medical or counseling appointments
 - Get unemployment benefits
 - End a rental agreement early
 - Have your locks changed
 - Get special arrangements for public housing
 - Set up a payment plan with the phone company
 - Your immigration status should not affect your rights as a crime victim.
- Immigrant victims may have additional legal options.
- If your constitutional rights are not honored, you can assert a claim of violation of crime victims' rights. There are time limits for this right. For more information visit www.doj.state.or.us/victims



Supporting Victims of Crime

Everyone is affected by crime, either as a direct victim or a friend or family member of a victim. Even individuals who are not direct victims of crime can be negatively affected in a variety of ways, such as developing an increased fear of crime or experiencing the financial impact of crime (e.g., higher insurance rates, lost workdays). While primary victims of crime might be identified easily, secondary victims such as family and clan members may not be so readily identifiable and may not receive needed services. Identifying services offered for neighborhoods and communities can be even more difficult.

Another group affected by crime is first responders. These people typically are first on the scene or first to respond to crime, including police officers, firefighters, and emergency medical technicians. A vivid example of the impact of crime on first responders involves those who responded to the September 11, 2001, terrorist attacks. Descriptions of stepping through or on body parts while trying to find survivors illustrate the experiences that can cause long-term trauma to first responders. An officer interviewing a child sexual abuse victim may be reminded of her or his own child of the same gender and age. You will cover more about this topic in your Resiliency and Self-Care series.

Major Needs of Victims

Crime has significant, yet varying consequences, on individual crime victims, their families and friends, and communities. The impact of crime on victims results in emotional and psychological, physical, financial, social, and spiritual consequences.

The way people cope as victims of crime depends largely on their experiences and on how others treat them immediately after the crime. As a law enforcement officer, you are usually the first official to interact with victims. For this reason, you are in a unique position to help victims cope with the immediate trauma of the crime as well as to help them regain a sense of security and control over their lives.



The circumstances of a crime frequently dictate when and how responding officers first address victims and their needs. You may have to delay fully attending to victims as you juggle many tasks. Tasks may include: determining what other emergency services are needed and calling for them, evacuating people from the site, securing the crime scene, or advising other public safety personnel upon their arrival. As soon as the responding officer's most urgent tasks have been completed; however, attention can be focused on victims and their needs. At that point, how you approach and relate to victims, explain your various law enforcement responsibilities, and work with victims is crucial to their recovery.

Moreover, the responding officer's awareness of the needs of victims, the many dimensions and consequences of crime for victims, common responses to victimization, and the particular needs of distinct victim populations can help the officer avoid a re-victimization of victims.

For example:

- Inadvertently making comments or asking questions that are hurtful to victims by seemingly implying that victims are partially responsible for their own victimization.
- Forgetting to return property taken from victims as evidence.
- Or, in any other way, unknowingly being insensitive to victims.

By approaching victims in a respectful and supportive manner, officers can gain their trust and cooperation. Victims may then be more willing to provide detailed information about the crime to officers and later to investigators and prosecutors, which, in turn, will lead to the conviction of more criminals. But always remember that you are there for the victim; crime victims are not just witnesses who are there to assist you with your duties.

You can better respond to individual types of crime victims and specific types of criminal victimizations by first understanding the three primary needs most victims have after a crime has been committed:

- The need to feel safe
- The need to express their emotions, and
- The need to know "what comes next."



Victims' Need to Feel Safe	Victims' Need to Express Their Emotions	Victims' Need to Know "What Comes Next"
<p>People often feel helpless, vulnerable, and frightened by the trauma of their victimization.</p>	<p>Victims need to air their emotions and tell their story after the trauma of the crime. They need to have their feelings accepted, and their story heard by a nonjudgmental listener. In addition to fear, victims may have feelings of self-blame, anger, shame, sadness, or denial. Emotional distress may surface in seemingly peculiar ways, such as laughter or an expressionless face. Sometimes victims feel rage at the sudden, unexpected, and uncontrollable threat to their safety and lives. This rage can even be directed at the people who are trying to help them—including law enforcement officers.</p>	<p>Victims often have concerns about their role in the investigation of the crime and the legal proceedings. They may also be concerned about issues such as media attention on themselves and their ability to pay for medical care or property damage. Some of their anxiety may be alleviated if victims know what to expect in the aftermath of the crime. This information will also help victims prepare themselves for upcoming stressful events and disruptions in their lives related to the crime.</p>

Although it is important that the officer not give legal advice to victims, the officer should explain the investigation and arrest procedures. Additionally, explain the victim's responsibility as a witness to assist the grand jury and trial process. The victim will need to provide information and documentation of expenses, items damaged or stolen, etc. to further the investigation and seek restitution.



Be conscientious of the varying needs of victims, consider elderly versus children, or victims with disabilities or mental health issues. What happens when a victim is deaf or hard of hearing? How do you think a victim who is an immigrant might react? How does the type of crime relate? The victim of a sexual assault will be different than a victim of domestic violence, will be different than a victim of a drunk driving crash. What about a victim of a bias crime, what might they need?

Oregon Department of Justice Bias Crimes
Non-Emergency Hotline
1-844-924-BIAS
Hearing Impaired- Dial 711 for Oregon Relay
Monday through Friday 9 a.m. to 5 p.m.

Part of your on-going professional development should include attending additional training and educating yourself. Also, know your agency's policies and your jurisdiction's resources.

Resources

National Crime Victim Law Institute- Lewis and Clark

https://law.lclark.edu/centers/national_crime_victim_law_institute/

National Center for Victims of Crime

<http://www.victimsofcrime.org/>

Oregon Department of Justice- Crime Victims' Services

<https://www.doj.state.or.us/crime-victims/>

U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime

<https://ojp.gov/ovc/welcome.html>

U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime

First Response to Victims of Crime: A Guidebook for Law Enforcement Officers

<https://ojp.gov/ovc/publications/infores/pdftxt/FirstResponseGuidebook.pdf>

DPSST gratefully acknowledges the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice, for allowing us to reproduce, in part or in whole, the First Response to Victims of Crime: A Guidebook for Law Enforcement Officers (NCJ 217272, released in 2008).



Tactical Medicine

BASIC POLICE ACADEMY





Basic Tactical Medicine

Instructional Goal:

This course is designed to introduce a new officer to techniques for providing immediate care for victims in response to certain wounds.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Articulate critical factors in hemorrhage control.
2. Apply a tourniquet to self and others.

Content Outline:

- Why basic tactical medical training
- THREAT Response
- Hemorrhage Control
- Tourniquet Use
- Tactical Emergency Casualty Care Guidelines
- Resources
- Practical Application



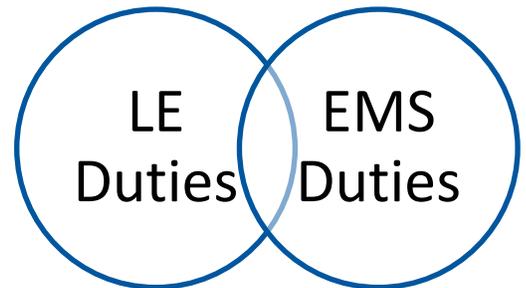
Even in times of utmost crisis, law enforcement officers are capable not only of performing traditional duties but also of providing care to individuals around them.

Source: www.bleedingcontrol.org

Representatives from law enforcement, fire, prehospital care, trauma care, and the military convened after the fatal shooting of children and staff at Sandy Hook Elementary School, followed by mass injuries in the Boston Marathon bombing. The representatives focused on identifying strategies to increase survivability in these situations. A concept document resulted from this convention and became known as the Hartford Consensus.

The Hartford Consensus insists that some form of basic “tactical” medical training is essential for every law enforcement officer. The rationale is simple: law enforcement officers will be the first responders to any mass injury incident involving violence.

Typically, in mass-casualty shootings, law enforcement’s initial focus is on the perpetrator. EMS is unable to attend to victims until the shooter has been neutralized, or law enforcement has declared the site of the event to be safe. This situation may cause a significant delay in treating survivable victims. Unfortunately, mass-casualty shooting may create scenes that remain unsafe for extended periods, increasing the likelihood that victims who are not immediately killed will die from a lack of medical care. Once the immediate threat is contained or stopped, law enforcement officers should play an essential role as the bridge between the law enforcement phase of the operation and the rescue response.



In addition to response during mass injury events, officers must be able to mitigate their injuries as well as those of fellow officers during dynamic or active threat environments.



To improve survivability in these circumstances (and others), the Hartford Consensus developed an acronym to describe the needed response. The acronym is **THREAT**:

- **T**hreat suppression
- **H**emorrhage control
- **R**apid **E**xtrication to safety
- **A**ssessment by medical providers
- **T**ransport to definitive care

The focus of this class will be on hemorrhage control.

Hemorrhage Control

Hemorrhage control is the highest priority in caring for an injured individual. Hemorrhage control must occur as soon as possible after the wounding event to be maximally effective. The window of opportunity to save a life by controlling major arterial bleeding from an extremity wound may be as short as five minutes. Unfortunately, uncontrolled hemorrhage remains the single most preventable cause of death after both military and civilian injuries.

Steps from Stop the Bleed *Source: bleedingcontrol.org*

- Find the source of bleeding
- Open or remove the clothing over the wound so you can see it. By removing clothing, you will be able to see injuries that may have been hidden or covered.
- Look for and identify “life-threatening” bleeding. Examples include:
 - Blood that is spurting out of the wound.
 - Blood that won’t stop coming out of the wound.
 - Blood that is pooling on the ground.
 - Clothing that is soaked with blood.
 - Bandages that are soaked with blood.
 - Loss of all or part of an arm or leg.
 - Bleeding in a victim who is now confused or unconscious.



Several methods can stop bleeding, and they all have one thing in common—compressing a bleeding blood vessel to stop the bleeding.

Direct pressure and gauze compression dressings can be useful in hemorrhage control; however, the lack of dedicated personnel to apply continuous, direct pressure, a less than-secure environment, and extremity injuries that could lead to exsanguination are all challenges.

Early use of tourniquets can largely prevent deaths from extremity bleeding. In 2016, the American Medical Association recommended that all law enforcement, firefighters, and the general public receive training in the appropriate use and application of a tourniquet. Tourniquets and hemostatic agents used by trained first responders are known to be quick and effective in stopping the bleeding from extremity and other severe wounds, and evidence shows emergency tourniquets are life-saving when used at the right time and in the right way

If you don't have a trauma first aid kit:	If you do have a trauma first aid kit:
<p>Direct pressure on the wound (Cover the wound with a clean cloth and apply pressure by pushing directly on it with both hands)</p> <ol style="list-style-type: none">1. Take any clean cloth (for example, a shirt) and cover the wound.2. If the wound is large and deep, try to “stuff” the cloth down into the wound.3. Apply continuous pressure with both hands directly on top of the bleeding wound.4. Push down as hard as you can.5. Hold pressure to stop bleeding. Continue pressure until relieved by medical responders.	<p>For life-threatening bleeding from an arm or leg and a tourniquet is NOT available OR for bleeding from the neck, shoulder or groin:</p> <p>Pack (stuff) the wound with a bleeding control (also called a hemostatic) gauze, plain gauze, or a clean cloth and then apply pressure with both hands</p> <ol style="list-style-type: none">1. Open the clothing over the bleeding wound.2. Wipe away any pooled blood.3. Pack (stuff) the wound with bleeding control gauze (preferred), plain gauze, or clean cloth.4. Apply steady pressure with both hands directly on top of the bleeding wound.



5. Push down as hard as you can.
6. Hold pressure to stop bleeding. Continue pressure until relieved by medical responders.

For life-threatening bleeding from an arm or leg and a tourniquet is available:

Apply the tourniquet

1. Wrap the tourniquet around the bleeding arm or leg about 2 to 3 inches above the bleeding site (be sure NOT to place the tourniquet onto a joint—go above the joint if necessary).
2. Pull the free end of the tourniquet to make it as tight as possible and secure the free end.
3. Twist or wind the windlass until bleeding stops.
4. Secure the windlass to keep the tourniquet tight.
5. Note the time the tourniquet was applied.

Definitions:

Proximal- Situated nearer to the center of the body or the point of attachment.

Distal- Situated away from the center of the body or the point of attachment.



Effective hemorrhage control does not stop with the initial tourniquet application:

Source: www.bleedingcontrol.org

- Waiting too long to place a tourniquet is a mistake.
- Tourniquets should be applied just proximal to the site of the severe bleeding and never placed directly over a joint.
- Tourniquets should be tightened as necessary to stop bleeding from the distal injury.
- If bleeding is not controlled with one tourniquet, a second tourniquet should be applied just proximal to the first.
- The need for a second tourniquet is especially applicable when applying tourniquets to generously sized lower extremities.
- The purpose of tourniquets is to stop arterial bleeding. If a distal pulse is still present, the tourniquet should be tightened or a second tourniquet applied just proximal to the first, and the pulse should be rechecked.
- If a tourniquet is used, it should be an effective arterial tourniquet and not an ineffective venous tourniquet, as the use of the latter can increase bleeding.
- Casualties with tourniquets in place should be rechecked periodically to ensure that the tourniquet is still working and that bleeding is controlled.
- Pulses distal to every tourniquet should be checked.
- Correctly applied tourniquets can cause significant pain, but this pain does not signify that the tourniquet has been misused or that it should be removed.
Pain should be managed with analgesics as appropriate, but not for patients in shock.



Mistakes regarding tourniquets include the following:

- Not having an effective commercial tourniquet available.
- Not using a tourniquet when one should be applied.
- Using a tourniquet for minimal or minor bleeding when one should not be used.
- Putting the tourniquet on too proximally.
- Not making the tourniquet tight enough to stop the bleeding effectively.
- Not using a second tourniquet if needed.
- Waiting too long to put the tourniquet on.
- Not reevaluating the tourniquet's effectiveness.
- Periodically loosening the tourniquet to allow blood flow into the injured extremity.

Tactical Emergency Casualty Care Guidelines

See TECC for complete lists- goals, principals, and guidelines

Source: Tactical Emergency Casualty Care (TECC) Guidelines.

http://c-tecc.org/images/content/TECC_Guidelines

Hot Zone	Danger	<u>T</u> hreat Suppression
Warm Zone	Not Secure	<u>H</u> emorrhage Control <u>R</u> apid <u>E</u> xtrication
Cold Zone	Safe	<u>A</u> ssess Patient <u>T</u> ransport to Hospital



Direct Threat / Hot Zone Care Principles:

1. Establish tactical supremacy and defer in-depth medical interventions if engaged in ongoing direct threat (e.g., active firefight, unstable building collapse, dynamic post-explosive scenario, etc.).
2. Threat mitigation techniques will minimize risk to casualties and providers. These should include techniques and tools for rapid casualty access and egress.
3. Defer triage to a later phase of care. Base prioritization for extraction on resources available and the tactical situation.
4. Minimal trauma interventions are warranted.
5. Consider hemorrhage control
 - a. Tourniquet application is the primary “medical” intervention to be considered in Direct Threat.
 - b. Consider instructing casualty to apply direct pressure to the wound if no tourniquet available or application is not tactically feasible.
6. Consider quickly placing or directing casualty to be placed in a position to protect the airway.



Indirect Threat / Warm Zone Care Principles:

1. Maintain tactical supremacy and complete the overall mission.
2. As applicable, ensure the safety of both first responders and casualties by rendering weapons safe and rendering any adjunct tactical gear safe for handling (flashbangs, gas canisters, etc.).
3. Conduct dedicated patient assessment and initiate appropriate life-saving interventions as outlined in the ITC guidelines. **DO NOT DELAY** casualty extraction/evacuation for non-life-saving interventions.
4. If encountering multiple casualties, consider establishing a casualty collection point.
5. Unless in a fixed casualty collection point, triage in this phase of care should be limited to the following categories:
 - a. Uninjured and/or capable of self-extraction
 - b. Deceased / expectant
 - c. All others
6. Establish communication with the tactical or command element and request or verify the initiation of casualty extraction/evacuation.
7. Prepare casualties for extraction and document care rendered for continuity of care purposes.



Evacuation / Cold Zone Principles:

1. Reassess the casualty or casualties.
2. Utilize a triage system/criteria per local policy that considers priority AND destination.
3. Utilize additional resources to maximize advanced care.
4. Avoid hypothermia.
5. Communication is critical, especially between tactical and non-tactical EMS teams.
6. Maintain situational awareness- In dynamic events, there is NO threat-free area (e.g., green or cold zone)



Police Training Resources

Tactical Combat Casualty Care (TCCC) The NAEMT Tactical Combat Casualty Care (TCCC) course is designed to teach strategies for the best trauma care on the battlefield. It is designed for combat EMS/military personnel. The course can be adapted for law enforcement special weapons and tactics and special response teams. TCCC guidelines, available at www.naemt.org/education/TCCC/TCCC_home.aspx, provide a foundation for the standardization of tactical emergency medical support protocols.

The Committee for Tactical Emergency Casualty Care (C-TECC) was formed in 2010 to adapt military TCCC principles to civilian high threat prehospital environments. The C-TECC does not offer courses but directs that its principles be used as written by educational partners. The C-TECC is a not-for-profit organization. Representatives from several federal agencies, including the Federal Emergency Management Agency, Department of Homeland Security Office of Health Affairs, and multiple federal law enforcement agencies, are involved with C-TECC. TECC is included in the Joint Counter Terrorism Workshop Series, which is a program to assist urban areas in preparing for mass casualty incidents. More information is available at:

<http://c-tecc.org/images/content/CTECC-Overview.pdf>

The Law Enforcement and First Response Tactical Casualty Care (LEFR-TCC) course is designed for public safety first responders (nonmedical) to provide them with skills for hemorrhage control and the use of gauze packs, topical hemostatic agents, and tourniquets. The course also emphasizes opening an airway. It conforms with the TECC guidelines and the recommendations of the Hartford Consensus. More information about this one-day course is available at:

www.naemt.org/education/LEFR-TCC/WhatIsLEFRTCC.aspx

The Bleeding Control Course (B-Con) is a course lasting two and a half hours to teach civilians with little or no medical training on how to respond before EMS personnel arrive. Examples of potential students include non-tactical law enforcement officers, firefighters, security personnel, and teachers. The course includes a lecture and skill stations for tourniquet application, wound packing, and jaw thrust. B-Con may be used along with a module about the Hartford Consensus to introduce the LEFR-TCC course to law enforcement personnel. More information is available at:

<https://www.bleedingcontrol.org/>



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Threat Assessment

BASIC POLICE ACADEMY





Threat Assessment

Instructional Goal:

This course is designed to introduce a new officer to basic factors related to preventing acts of targeted violence.

Learning Outcomes:

Upon completion of instruction, students will be able to:

1. Describe the role of police in targeted violence prevention.
2. Identify factors related to the pathway to targeted violence.
3. Describe key findings related to the behaviors of active attackers.

Content Outline:

- What is Threat Assessment?
- What is Targeted Violence?
- Pathway to Violence
- Typical Suspect
- Risk Factors
- Resources



Historically, traditional law enforcement techniques have focused on the apprehension and prosecution of violent offenders after violent crimes are committed. When police are given information that someone may potentially commit a crime or become violent in the future, their responsibilities, authorities, and available investigative tools are suddenly less clear.

The first and most fundamental potential barrier to engagement is lack of knowledge- knowledge about threat assessment and management itself, about risk factors and warning signs, about what goes into managing potential threats. This knowledge is a key to implementing viable strategies to reduce targeted violence. Without it, prevention efforts are far less effective because they may be guided by assumption and fear of the unknown rather than knowledge and experience.

Prevention is not and cannot be a passive process. It requires a strong and overt commitment by organizations and communities to prioritizing public safety and caretaking for those in need.

Source: Department of Justice and Federal Bureau of Investigation, Making Prevention a Reality: Identifying, Assessing, and Managing the Threat of Targeted Attacks

What is Threat Assessment?

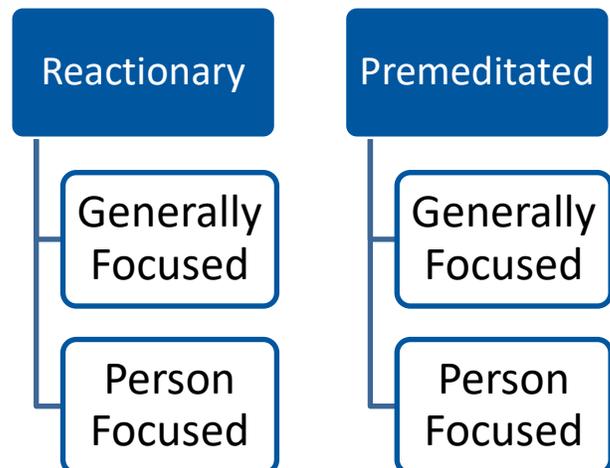
In general, threat assessment is the concept of utilizing given information to assess the threat a person imposes to themselves and/or others.

What is Targeted Violence?

Violence can be categorized in one of two ways:

1. Reactionary
2. Premeditated

These two types of violence are distinctly different.





Reactionary: Often an impulsive and emotionally charged event within a close time frame to a specific situation.

- **Generally Focused:** Can be primarily centered around a particular event, location, or entity.

An example could be a fight breaking out at a local nightclub between members of rival gangs, and someone pulls a gun.

- **Person Focused:** Usually is centered on a specific person, but others nearby may still be harmed in the attack.

An example might be an argument starting during a sporting event between two individuals, and one of them stabs the other with a concealed knife.

Premeditated: A significant amount of thought, planning, and effort has been put into implementing the violence.

- **Generally Focused:** Primarily centered around a particular event, location, or entity.

An example would be a particular group or person planning to attend a rally or protest in which they have planned to engage in violence (possibly with weapons) against the event and/or the opposite group.

- **Person Focused:** A specific person is the focal point, and most or all of the thought and planning has been centered on them. There may or may not be collateral injury or death as the plan is implemented.

An example may be a person who has been fired from their job and plans a violent attack against their boss at the place of work and kills a number of co-workers in the process.

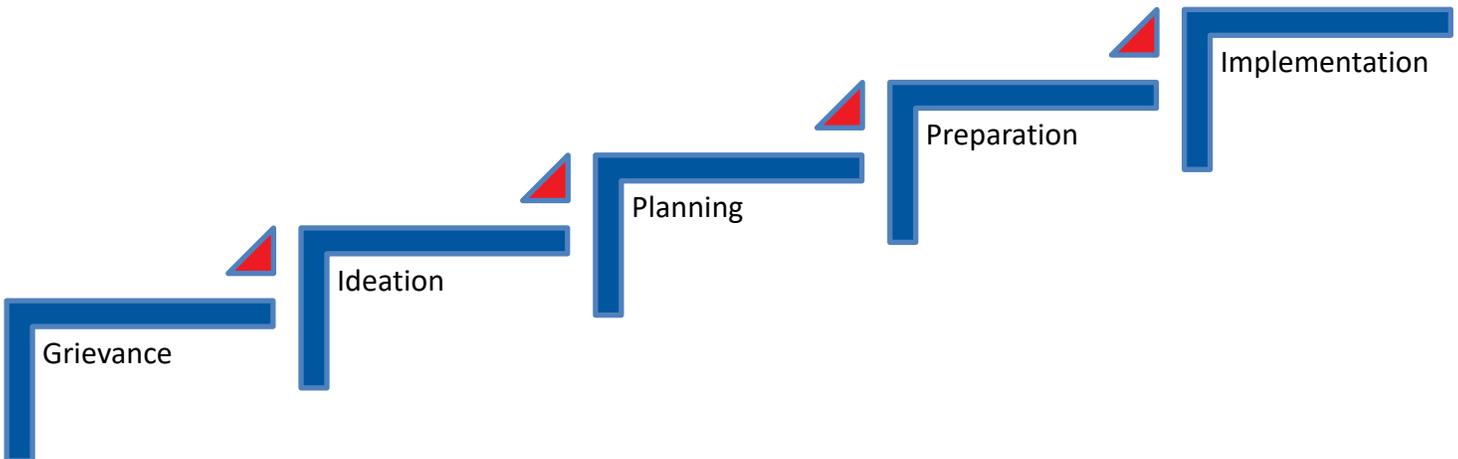


Clinical and forensic data on adult and adolescent mass murder reveal that virtually all of these acts are premeditated, rather than impulsive, violence. Two obvious signs indicate this: the planning and preparation for days, weeks, or months, sometimes recorded by these offenders and often observed by others, and the utter lack of emotion witnessed by survivors while the perpetrators committed their crimes.

Source: Department of Justice and Federal Bureau of Investigation, Making Prevention a Reality: Identifying, Assessing, and Managing the Threat of Targeted Attacks

Pathway to Targeted Violence

It is generally believed that persons intending to engage in targeted violent acts move along an identifiable pathway on their journey to attack. The progression may be rapid or slow and will not follow the same course from person to person. Pathways can exist in multiple and complex forms or may not exist at all in some cases. Both state of mind and the person's outward behaviors are inextricably intertwined—behavior is a manifestation of thought.





Grievance

This is the usual starting place. The potential suspect feels that they have been wronged or threatened in some way by someone or something. The focus of this perceived 'offense' can be a person, persons, or entity. To the outside observer, it may seem very trivial or even non-existent, but to the potential suspect, it can be very real and emotionally charged.

Ideation

The potential suspect begins having and dwelling on thoughts toward the use of violence as a way to handle the perceived offense. These are more than an occasional thought and can develop into fantasies. The thoughts and/or fantasies can evolve and grow with intensity.

Planning

The potential suspect begins progressing from merely having thoughts toward violence but actually calculating how it might be accomplished and on who or what their targets may be. This could take the form of searching for information locations, targets, and weapons. Leakage can occur here in various ways, including verbal statements, social media postings, and questions to others about the information sought.

Preparation

The potential suspect moves from the more cognitive planning stage to more physical participation. This may include gathering weapons, tools, and modes of transportation. "Dry Runs" can occur at this stage as the person tests the obstacles that may or may not be in the way of their goal. Depending on the outcome of tests, their intended target, location, or method can change or remain the same.

Implementation

The suspect acts on their plan.

It is important to note that sometimes a Grievance may not always be present and the lack of one by itself should not necessarily stop further investigation.

The Mandalay Bay mass shooting incident in Las Vegas is a clear example of this.



The "Typical Suspect"

There is no demographic profile of a targeted violence offender. Any individual, no matter what age, sex, race, religion, education or income level, marital status, or occupation, has the potential to engage in targeted violence. The first step in preventing future violence is identifying and evaluating a person's behaviors. No single behavior is predictive of targeted violence; rather, a "perfect storm" sometimes develops based on a multitude of factors and conditions.

A general stereotype exists that people who have a mental illness may be dangerous. There is a small but significant relationship between serious mental illness, such as psychosis, and the risk of violence toward others. However, misinformation and/or lack of knowledge or exposure to the

Source: Department of Justice/Federal Bureau of Investigation

- Most do not have a diagnosis of mental illness
- Most do not have much, if any, criminal history
- Most (adults) could pass a background check to purchase a firearm, and many legally obtain one.
- The offender is often experiencing multiple stress factors in their life
- Inhibitors (factors that would inhibit the person from committing the attack) may begin to decrease
 - As inhibitors decrease and stressors increase, the “dominoes” begin to line up for an attack.



Risk Factors

Risk factors are existing realities about the person of concern that may increase the risk of violence they pose in a given situation. As opposed to the behaviors a person may demonstrate, risk factors can either be static or dynamic.

- Static risk factors are historical or dispositional, will not change over time or change very slowly, and are not amenable to intervention (e.g., gender, history of prior violent acts).
- Dynamic risk factors are situational or clinical and can often change rapidly (e.g., weapons possession, illegal drug abuse). Some risk factors are highly interrelated with behaviors (e.g., current access to a gun (risk factor) and actively attempting to acquire more guns (behavior)).

The best predictor of future violence in many cases is past violence.

Past violence might not be indicated in a criminal history report, so it is important to cover this in interviews, social media reviews, personnel file reviews, or other available sources.

It is easier and more lethal to engage in targeted violence, particularly toward multiple targets, with a firearm. Possession of, access to, experience or familiarity with weapons are all risk factors because they improve one's ability to carry out the act. Unfortunately, this can be difficult to determine in many cases. Edged weapons and stabbing instruments have been successfully used in attacks as well; they are often more accessible than firearms.

The How and What Does This Mean for You?

Knowing what to observe can help you notice something even if you were not searching for it in the first place. This follows the concept of "if you see something, say something."



Scenarios for In-Class Activity

1- Basic Disturbance Call

Parent reports that their 14-year-old son has been talking about suicide. The parent said that he has been having trouble at school and got kicked off the soccer team about three weeks ago. You are invited into the house by the parent and can see the teenager in their bedroom from where you stand in the hall. He says that you may come in. You see the high school soccer game schedule lying on a table next to his bed with a future date circled. You see the high school website on his computer screen, and you happen to notice a tab behind that page, but the tab is labeled semi-automatic.

What do you do?

2- Parent Custodial Rights Revocation

You are called to a DHS office and are told that they would like a stand-by officer during a custodial rights hearing because the caseworker has received information that the father has made threats to DHS and that he will "make them pay" for what they have done to him. You have identified the father and have also been given a description of his vehicle. While waiting in the main lobby, you see that vehicle drive by. Two minutes later, the vehicle pulls into the parking lot, circles it, and then leaves.

What do you do?

3- Worker Terminated

You respond to a call at a local office building requesting a stand-by officer while an employee is terminated. The office manager tells you that, in a half-hour, they will be terminating an employee that has been on a work program over the last year and has not been successful. The manager further reveals that the worker has been "on a downward spiral" and becoming more and more agitated with co-workers. The employee has made comments to some of the co-workers that the "world would be a better place" if the manager were "wiped off the face of the earth."

What do you do?



4- Stalking Order Call

You respond to a call of a woman reporting that her ex-boyfriend is stalking her. On contact, she tells you that her ex-boyfriend has been posting, on a social media site, statements that she will be "very sorry she left him" and that she will "wish she were dead." She says mutual friends have recently told her that he has suddenly stopped communication with them, and they do not currently know where he is. She also shows you pictures that he has texted her today with a gun in his hand with her car and apartment complex in the background. She says he does have a felony record and a parole officer.

What do you do?

5- Traffic Stop

At 11:12 AM on a Tuesday morning, you stop a vehicle with a brake light out near a large department store. During contact, you notice the driver is looking straight ahead and will not make eye contact with you. The driver appears very nervous, is sweating, and only respond with short answers to your questions about the light while keeping their hands on the steering wheel the entire time. You see a map with a red circle around what appears to be the department store you are near on the front passenger seat. Also written red on the map is the time 11:30. You see a large duffle bag in the back seat with what appears to be something long and rigid pushing the material out at each end.

What do you do?

Resources

- FBI Behavioral Threat Assessment Center- BTAC
- Secret Service: National Threat Assessment Center- NTAC
- Local Threat Assessment/ Threat Advisory Teams
- Association of Threat Assessment Professionals- ATAP



SOURCES and/or RESOURCES

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Use of Force Law for Civilians

BASIC POLICE ACADEMY





Use of Force Law for Civilians

Instructional Goal:

This course is designed to develop a new officer's understanding of the legal authority guiding the use of force decisions of Private Persons and the ability to apply those statutes appropriately.

Learning Outcomes:

Upon completion of instruction, the student will be able to:

1. Articulate the appropriate statute(s) guiding a Private Persons use of force

Content Outline:

Oregon Criminal Code – The Civilian Justification Statutes

- Use of Physical Force in Defense of a Person
- Limitations on Use of Physical Force in Defense of a Person
- Limitations on Use of Deadly Physical Force in Defense of a Person
- Use of Physical Force in Defense of a Premises
- Use of Physical Force in Defense of Property
- Use of Physical Force by Private Person Assisting an Arrest
- Use of Physical Force by Private Person Making Citizen's Arrest



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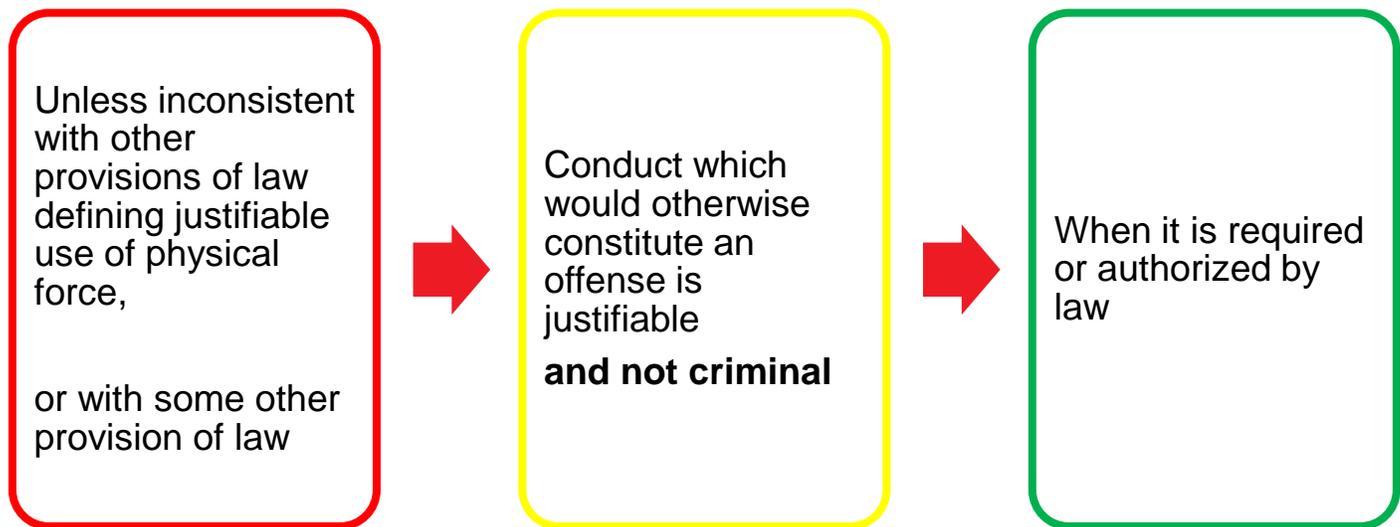
Oregon Criminal Code: The “Justification” Statutes

The Oregon Criminal Code uses the concept of “justification” to explain when a person who uses force that results in injury or death would be “justified” and not criminally responsible for that outcome. “Justification” is a recognized *criminal* defense under Oregon law, and its definition is found in [ORS 161.195](#).

This justification discussion will differ from the considerations that bind peace officers when making use of force decisions. Peace officers are also constrained by:

Constitutional Law – which we will discuss throughout all of your Use of Force classes, and which is relevant to *civil* lawsuits, (and less frequently federal criminal prosecutions), and Policy – which because of its uniqueness to each agency, we will not discuss in detail during the Use of Force classes.

“Justification” described – ORS 161.195



Following this definition of “justification,” there are several statutes that follow. One interesting fact about the civilian use of force statutes is that they all remain virtually unchanged since their enactment in 1971.



The “Civilian” Justification Statutes

Most of these statutes pertain to all potential users of force in the State of Oregon. For convenience, we will focus on the “civilian” justification statutes. We will also be skipping ORS 161.205 (2), which pertains to the use of force by corrections officers

Watch for how each statute we encounter will make apparent which lawful purposes for force give rise to potential justification.

Use of Physical Force Generally – ORS 161.205

https://oregon.public.law/statutes/ors_161.205

The first two subsections pertain to an adult’s ability to “use force” on a child or an incompetent person. In general, this means a parent, a guardian, or a teacher. Let us look at the specific language around a parent or guardian’s “ability” to use force and when it is appropriate.

Use of Physical Force Generally – ORS 161.205 (1)(a)

https://oregon.public.law/statutes/ors_161.205

Take note of the number of times the legislature requires the adult to be reasonable. Also, notice that the reason that force may be used is only to “maintain discipline” or “promote the welfare”.



Subsection (b) is specific to teachers or other “public education” personal.

Use of Physical Force Generally – ORS 161.205 (1)(b)

https://oregon.public.law/statutes/ors_161.205

This subsection has additional links to other statutes such as [ORS 339.285](#), which includes the definitions of who are Public Education Personal and other descriptions of public education use of force reasons.

ORS 161.205 (1)(b) only provides public education possible protection from *criminal prosecution*. Like peace officers, public education personal *can* be authorized to use force under state law, but still be constrained by their own body of civil case law and individual school district policies.

The third subsection is in reference to “common carriers” of passengers. In general, a common carrier is an airplane, bus, train, etc. and a “person responsible” could mean the driver/pilot, or possibly any employee on the “carrier” or of the company.

This is also *the only* section of 161.205 that authorizes the use of **deadly physical force** for a specific group of people besides peace officers.

Use of Physical Force Generally – ORS 161.205 (3)

https://oregon.public.law/statutes/ors_161.205

Notice that the “person responsible...” for the common carrier may empower another to act in their stead. This is similar to a peace officers’ ability to authorize others to take action to assist an officer. This is incredibly rare, and no known cases can be readily found to illustrate further.

The fourth subsection is the statute that allows anyone, including peace officers, to stop someone from harming themselves. Notice that only **physical force** is allowed to stop the attempt, not deadly.



Use of Physical Force Generally – ORS 161.205 (4)

https://oregon.public.law/statutes/ors_161.205

A final note regarding 161.205 (4), there is no separate statute that authorizes peace officer's to use force to stop someone from harming themselves. This statute will be revisited in other classes more specific to an officer's use of force to prevent suicide or self-harm.

The last subsection states that any person may use force to: defend themselves, others, property, to make an arrest, or to prevent escape.

Use of Physical Force Generally – ORS 161.205 (5)

https://oregon.public.law/statutes/ors_161.205

Notice that this subsection is brief, vague, and seems to cover quite a few reasons to use force without much explanation. Additional statutes will further explain the limitations of the use of force in these circumstances.

That brings us to the end of the introductory statute relating to the use of physical force. Next, we will examine the limitations and exceptions to the use of force in specific circumstances.



Limitations: “Civilian” Physical Force Statutes

The first specific statute relating to the use of physical force by a person, begins to define more clearly what was covered by 161.205 (5).

Use of Physical Force in Defense of a Person – ORS 161.209

https://oregon.public.law/statutes/ors_161.209

Note the qualifiers of **reasonable belief**, **unlawful force**, and **degree of force necessary**. These are like the qualifiers that will be present in the peace officer use of force statutes later.

ORS 161.215 establishes the circumstances where it is not allowed to use “self-defense” as a defense to criminal prosecution. This statute has three subsections, and we will look at them individually.

Limitations on Use of Physical Force in Defense of a Person – ORS 161.215 (1)

https://oregon.public.law/statutes/ors_161.215

Notice that the first subsection has two basic components. The first is the intent of the unjustified person. The second is about the behavior of the unjustified person.



The second subsection is the most complicated. This subsection covers what happens if a person “starts” a fight. It also gives that person some protection if they use unlawful force but then tries to retreat or quit.

Limitations on Use of Physical Force in Defense of a Person – ORS 161.215 (2)

https://oregon.public.law/statutes/ors_161.215

This section requires a breakdown of the law as written.

1. A person who starts a fight has no right to self-defense
2. **Unless**, the person:
 - a. Stops “fighting”
 - b. Communicates that they want to stop fighting
 - c. The “other” person will no longer stop
3. In this case the “fight starter” **NOW** has the right to self-defense.

The third subsection covers circumstances where two people “agree” to the fight.

Limitations on Use of Physical Force in Defense of a Person – ORS 161.215 (3)

https://oregon.public.law/statutes/ors_161.215

This is often referred to as “mutual combat” and neither party should be able to claim the right to self-defense in these cases. However, this **may not** be true if, as seen in subsection (2), one person communicates a desire to “withdraw” from the encounter.



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At this point you have probably noticed the legal term Notwithstanding. You will continue to see this throughout this section. It is defined below.

Notwithstanding – despite, nevertheless, however, although

Merriam-Webster Dictionary

Understanding this legal phrase will be important in a case law ruling regarding the deadly physical force statute in the ORS.



Limitations: “Civilian” Deadly Force Statutes

This is the sole statute *specifically* relating to deadly physical force. There are other statutes that also relate to *both* physical and deadly physical force. This statute generally establishes the circumstances when it **is** justifiable to use deadly physical force.

Limitations on Use of Deadly Physical Force in Defense of a Person – ORS 161.219 (1)

https://oregon.public.law/statutes/ors_161.219

Note the two separate elements in this section: a felony and physical force. It should be mentioned again that this statute was created in 1971. There is a significant body of case law about cases like this, and many changes to what is and is not a felony during the last 50 years. This specific subsection, and subsection (2), are both legally complicated.

Subsection (2) specifically deals with burglary in the home.

Limitations on Use of Deadly Physical Force in Defense of a Person – ORS 161.219 (2)

https://oregon.public.law/statutes/ors_161.219

As with subsection (1), this statute is not an absolute right. See **State v. Haro** below for clarification.



Subsection (3) is the most legally sound of the reasons for the use of deadly physical force by a civilian. It still requires the person to have a “reasonable belief” about the actions they are defending against.

Limitations on Use of Deadly Physical Force in Defense of a Person – ORS 161.219 (3)

https://oregon.public.law/statutes/ors_161.219

Below is an excerpt from a case in which a “burglary” occurred, and the resident shot the “intruder”. As you can see the statute 161.219 (2) would seem to allow a resident to do this.

...Nothing in the language of ORS 161.219 eliminates the general “necessity” requirement defined in ORS 161.209. Therefore, even when one or more of the threatening circumstances described in ORS 161.219 is present, the use of deadly force is justified only if it does not exceed the “degree of force which the person reasonably believes to be necessary” in the circumstances.

State v. Haro – Oregon Court of Appeals

<https://cite.case.law/or-app/117/147/>

The legislature has not created an unlimited right for civilians to use deadly force against a burglar. The court properly instructed the jury on self-defense in this case.



Use of Force in Defense of Premises and Property

The next two statutes deal directly with a person's legal authority to use force to protect premises and property. These an individual need not be in danger for the use of physical force to be legal. Several subsections authorize the use of deadly force. Be advised that the same legal issues exist as the previous statutes.

Use of Physical Force in Defense of Premises – ORS 161.225 (1)

https://oregon.public.law/statutes/ors_161.225

Note that in this subsection the person authorized to use force does not need to be the “possessor” of the premises.

In this subsection you are directed back to the previous statute regarding the limitations on deadly physical force.

Use of Physical Force in Defense of Premises – ORS 161.225 (2)(a)

https://oregon.public.law/statutes/ors_161.225

Subsection (2)(b) includes two different circumstances where deadly force could be authorized by law: arson, or a felony *plus* violence. See the previous case law (State v. Haro) regarding the dangers of relying solely on the text of any statute.

Use of Physical Force in Defense of Premises – ORS 161.225 (2)(b)

https://oregon.public.law/statutes/ors_161.225



Note that in this statute relating to property does not allow the use of force to stop theft or criminal mischief under any circumstances.

Use of Physical Force in Defense of Property – ORS 161.229

https://oregon.public.law/statutes/ors_161.229

This ends the more common reasons for civilians to use force. Next we will examine the specific circumstances where civilian use of force interacts with the use of force by peace officers.



Private Person's and Law Enforcement Use of Force

There are several statutes that allow a “private person” (civilian) to use force in a manner similar to a law enforcement officer. The first statute justifies the use of force to assist an officer in several different circumstances.

Use of Physical Force by Private Person Assisting an Arrest – ORS 161.249 (1)

https://oregon.public.law/statutes/ors_161.249

This language is very similar to the peace officer justification statute prior to the rewriting of the statute in 2020. The essential elements of reasonable belief and necessity are nearly identical. Based on this statute the officer must “direct” the private person to assist them.

The next subsection relates to the use of deadly physical force and is nearly identical to the language found in previous statutes.

Use of Physical Force by Private Person Assisting an Arrest – ORS 161.249 (2)(a)

https://oregon.public.law/statutes/ors_161.249

The final subsection of this statute clarifies that if the civilian knows the use of force is not reasonable or necessary, then the civilian would not be justified.

Use of Physical Force by Private Person Assisting an Arrest – ORS 161.249 (2)(b)

https://oregon.public.law/statutes/ors_161.249



The ORS has two statutes that give limited authority to civilians to make “citizens arrest’s”. These are written much like the Law Enforcement statutes with one specifying the ability to use physical force...

Use of Physical Force by Private Person Making Citizen's Arrest – ORS 161.255 (1)

https://oregon.public.law/statutes/ors_161.255

...and the other statute specifying the circumstances for deadly force.

Use of Physical Force by Private Person Making Citizen's Arrest – ORS 161.255 (2)

https://oregon.public.law/statutes/ors_161.255

These both link back to an ORS statute that clarifies the specific conditions in which a civilian may make a “citizen’s arrest”. The two primary conditions of this arrest is that the civilian must have probable cause, and they must not delay bringing the arrested person to a [magistrate](#) or a peace officer.

Arrest by private person – ORS 133.225

https://oregon.public.law/statutes/ors_133.225

As most civilians do not completely understand the concept of probable cause this often creates significant legal issues for the arresting civilian.

Use of Force: Law & Decision Making

BASIC POLICE ACADEMY





Use of Force Law and Application: Law Enforcement

Instructional Goal:

This series is designed to:

1. Develop a new officer's understanding of the legal authority guiding use of force decisions and the ability to apply that authority appropriately.
2. Provide a new officer with opportunities to practice conducting safe and effective encounters involving force or the possibility of force.

Learning Outcomes:

Upon completion of instruction, students will be able to:

1. Articulate authority guiding an officer's use of force
2. Describe subject behaviors that could require officer intervention or response
3. Articulate governmental interest in a given situation
4. Differentiate between "type" of force and the "amount" of force that can be used by officers
5. Demonstrate effective communication to include verbal warnings
6. Analyze a given situation and respond with a reasonable type and amount of force

Content Outline:

- Oregon Use of Force Laws
- The Reasonable Officer Standard
- Evaluating the Severity of a Crime
- Communication: Before and During the Use of Force
- Types and Amounts of Force
- Identifying an Immediate Threat
- Resisting Arrest and/or Evading Arrest by Flight
- Totality of the Circumstances
- Force and Behavioral Health



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Handout Introduction

The material in this handout is meant to be a reference and review guide that can enhance the classroom instruction. It is also intended to introduce terms and phrases that frequently used in Use of Force discussions. This handout is not a replacement for quality classroom and case law discussions or use of force scenario debriefs.

This handout is also not replacement for an agency's policy and procedure manual. Take note, some legal terms and jargon in this guide have been written in plain language whenever possible.

For more information or clarification regarding this subject matter, it is recommended that continue your law enforcement education by seeking out linked source material.

Disclaimer:

*This handout represents only a **partial treatment** of the subject matter presented. Its use without class participation and instruction is discouraged. This may result in the dissemination of misleading or incomplete information.*



Module 1: Use of Force Program Introduction

The DPSST Use of Force Program is informed in three ways: The legal standard found in either the Oregon Revised Statutes and case law rulings; the current scientific research; and pressure testing of the recommended tactics and techniques.

The first question is always “**Was It Legal**”? A perfect takedown is irrelevant if the officer is prosecuted for unlawful force. This is why the Use of Force program will focus on the legal questions *before* a discussion about officer’s skills and tactics.

When it comes to *which* skills and tactics to adopt for instruction, we are looking at the most current science and data to inform us about *what* to teach. For situations that have not been, or cannot be researched, our have trained and worked with some of the best instructors in the field. We have taken those lessons and put what works best into the curriculum. We have observed thousands of students put these techniques to the test. If they do not work for the student’s we do not use them.

The field of survival skills is ever evolving as new laws, research, and training continue to emerge. Our survival skills staff will continue to evolve the program to best serve the needs of new Oregon officers and the citizens they serve.

Police Progress: Moving Beyond Ideas, Intuition, and Theory

Ideally, police reform will involve the careful translation of research into practice. The American Society of Evidence-Based Policing recently made this case in *Process for Translating Research to Practice*, citing the requirement for collaboration between researchers and police practitioners. It’s this process that ensures reform proposals are not the product of untested ideas, intuition, or theories but instead reflect the latest human performance and decision-making research.

Excerpt from the Force Science Institute’s news section



The Federal “Objectively Reasonable Officer” Standard

The DPSST Use of Force program places significant emphasis on the United States Supreme Court’s rulings of the “Objectively Reasonable Officer” standard, placing the Use of Force by law enforcement, under the Fourth Amendment of the United States Constitution. The specifics of this standard, its rules, and court rulings are the foundation of use of force rules and decisions. See below for relevant definitions and uses of objective reasonableness.

The Fourth Amendment "reasonableness" inquiry is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation

Graham v. Connor – Supreme Court of the United States

Let us breakdown the components of the expression “objectively reasonable”.

Objectively – in an objective rather than subjective or biased way: with a basis in observable facts rather than feelings or opinions.

Merriam-Webster Dictionary

Reasonable – being in accordance with reason; not extreme or excessive.

Merriam-Webster Dictionary



Tennessee v. Garner: Introduction

In 1985 the United States Supreme Court noted that an apprehension by use of deadly force is a seizure subject to the Fourth Amendment's reasonableness requirement. To determine the reasonableness of the seizure, the extent of the intrusion on the suspect's rights under that Amendment must be balanced against the governmental interests. As we will see in *Graham* and later cases, this balancing test is used when analyzing all uses of force.

Tennessee v. Garner required the Supreme Court to determine the constitutionality of the use of deadly force to prevent the escape of an apparently unarmed suspected felon. The court concluded a police officer *may* use deadly force only when it is necessary to prevent the escape **and** the officer has probable cause to believe that the suspect poses a threat of serious harm, either to the officers or others.

Graham v. Connor: Introduction

In the United States Supreme Court case *Graham v. Connor*, the courts established specific questions that will be asked during a review of a use of force case at the federal level.

Because the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application, however, its proper application requires careful attention to the facts and circumstances of each particular case, including...

Graham v. Connor – Supreme Court of the United States

These points will be covered individually during class. The objective is for all officers to have a thorough understanding of the questions and how they are relevant both during and after a use of force event.

From this point forward we will use a *Graham* analysis when evaluating videos, scenarios and cases to help us determine the reasonableness of a use of force event.



The “Objectively Reasonable Officer” Standard in Oregon

In 2020 the Oregon Legislature adopted a version of the “objectively reasonable” standard relating to a Peace Officers legal ability to use force while carrying out their duties. As of this writing, there is no current Oregon Case Law that spells out specific rules of exactly *how* this will be interpreted. However, it did seem to be the intent of the Oregon Legislature to bring Oregon’s use of force laws “in line” with the current Federal Case Law. As such, DPSST will continue to teach the United States Supreme Courts objectively reasonable officer standard as the most current and legally defensible standard for the use of force.

A peace officer may use physical force upon another person only when it is objectively reasonable, under the totality of circumstances known to the peace officer, to believe...

House Bill 4301 – Oregon Legislature 2020

Next, we examine the Oregon Revised statute regarding Reasonable Belief.

... a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which, if true, would constitute an offense.

Reasonable Belief Described – ORS 161.205 (1)



A peace officer making an arrest is justified in using physical force...unless the arrest is unlawful, and the peace officer knows it is unlawful.

Reasonable Belief Described – ORS 161.205 (2)

The statute does not so much spell out lawful purposes for force. It does remind us that knowing the law on which we rely is *essential* to use of force decision making. Notice how the Oregon Legislature reminds us that we lose our justification if we knowingly make an unlawful arrest and do so with force.

The Legitimate Use of Force

In addition to the “Objective Reasonableness” standard an officer must also follow their own agencies policies. When an officer uses force their agency will look into whether or not the officer “**acted within policy**”. DPSST does not teach to this standard, even if it is stricter than the federal rules. DPSST simply cannot track the policies of *every* agency in the State of Oregon. Because of this, it is up to you, as the officer who works for that agency, to find out and follow those rules.

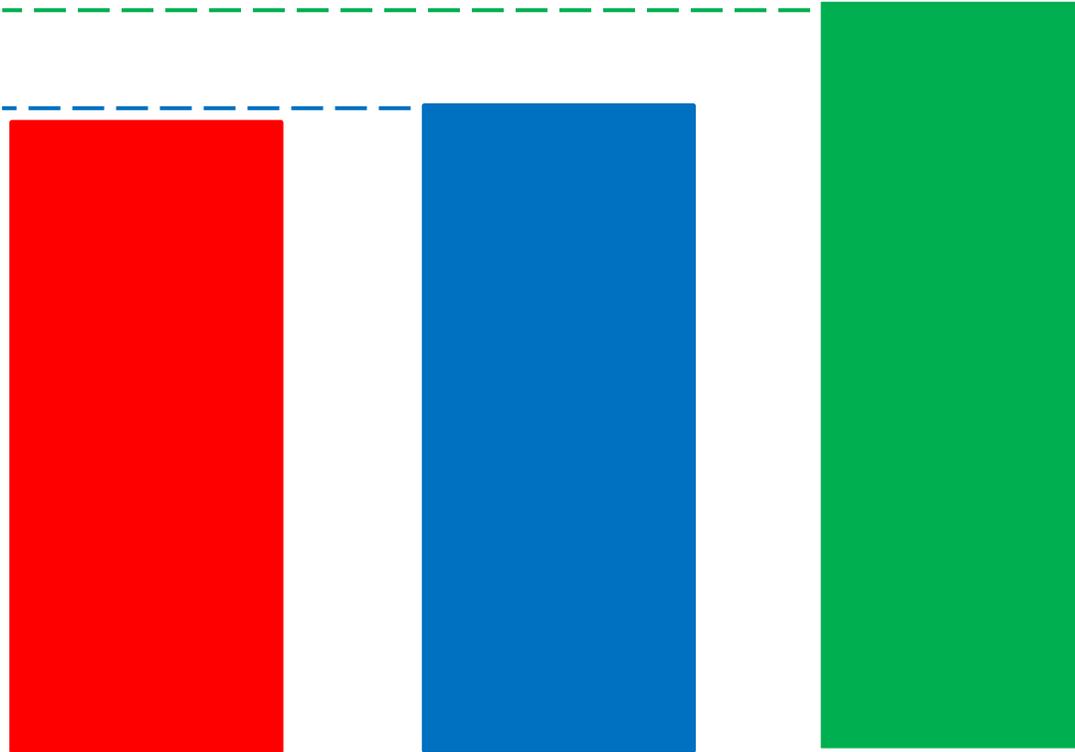
The highest legal use of force standard is the “objectively reasonable” standard. If an officer has been found to have acted within the bounds of this standard (directly linked to the Fourth Amendment of the U.S. Constitution), then it would be ruled that the officers acted “**reasonably**”. If an officer was found to have acted within the bound of Oregon Law it is said that the officer acted “lawfully” or “justifiably”.

Legitimate use of force is not a legal *standard*. It is the *goal* of law enforcement professionals.

When we discuss *standards* versus *goals* remember that a standard is the minimum acceptable outcome. For example, you take a written test, and you need to get above 80% to pass. That is the *standard*. However, when most people take a test, they strive for 100%, the best score possible. This the difference between the *standard* of Objectively Reasonable force and the *goal* of Legitimate force.



See the graphic below



As use of force events are continue to be seen by the public, they will continue to be the most scrutinized situation that an officer can be involved in. In the police legitimacy classes, you have seen that two of the elements of legitimacy are; whether the officer is acting legally, and whether the officer's actions are viewed by the public as legitimate.

During your use of force training, you will have the opportunity to practice and discuss legitimate actions. There are many actions that can and should be taken before and during a use of force encounter that are *more likely* to lead to a legitimate outcome. These processes and tactics will be interwoven into every use of force topic that will be discussed.



Use of Force: Decision Making

Decision making during a use of force event is the subject of many studies, books, and private training programs. In this section we will begin to touch on some of the important elements of Use of Force Decision Making.

Law enforcement officers are trying to make the best decisions they can. However, they must do so with varying amounts of information, with people that have unclear motives, and with varying amounts of time where the officer only has occasionally control.

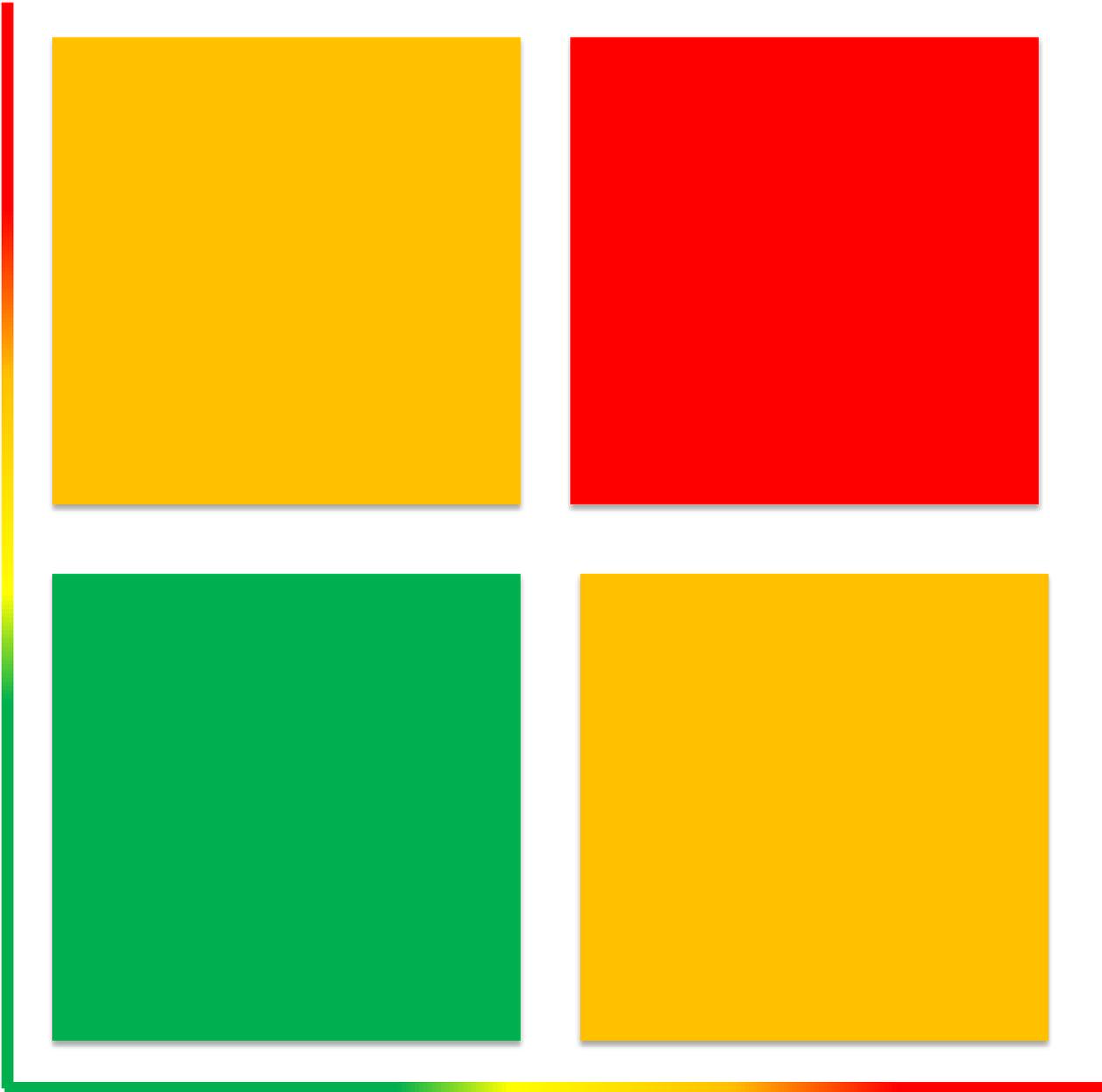
The United States Supreme Court summed up this principal below:

Allowance for the fact that 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 in a particular situation.

Graham v. Connor – Supreme Court of the United States

It must be noted that one of the key words above is “often”, as in, **not always**. This topic will be explored further in a future Use of Force class.

In class the following graphic will be discussed in more detail. If you are using a printed copy of this handout, take notes and fill in the boxes of the graphic. If you are reading this electronically you may need to diagram this out.



These are very broad categories, but they give us a framework for further classroom discussion. Remember, *any* tactic will work if the suspect cooperates. Most of the skills, tactics, and processes you will be taught are to deal with suspects that *oppose* your intentions. This can range anywhere from verbal opposition to being extremely violent.



Processes or Outcomes?

In this next section we will be discuss why we prioritize what we do in the Use of Force program. When we think of sports like football, games like poker, or tasks like flying an airplane, all three relate to the topic of process versus outcomes.

Process – a series of actions or operations conducing to an end.

Merriam-Webster Dictionary

Outcome – something that follows as a result or consequence.

Merriam-Webster Dictionary

New Study: Expert vs. Novice Use-Of-Force Decision-Making

The researchers believe their findings can help trainers shortcut the learning process with “more effective and targeted training.” Typically, Mangels writes, “expert knowledge is gained over thousands of hours of experience.” But with “key components” of expert thinking and decision-making explicitly identified, special emphasis on these critical police skills “can be specifically targeted in training.” This can “accelerate novice learning to bring them more rapidly in line with expert reasoning on use of force.”

Excerpt from the Calibre Report by Calibre Press



Decision-Making Errors

Decision making errors have even crept into the legal realm with the Ninth Circuits inclusion of at least one error into their standard jury instructions.

whether a reasonable officer would have or should have accurately perceived a mistaken fact

Manual of Jury Instructions – Ninth Circuit Court of Appeals
(starting at page 189)

This section is **NOT** an attempt to dismiss an officer's poor decisions or bad outcomes. This section **is** designed to start the conversation around errors so we can learn the processes to make fewer of them. If we do not know *how* they are made we cannot adjust our training to correct common errors.

Error – an act that through ignorance, deficiency, or accident departs from or fails to achieve what should be done.

Merriam-Webster Dictionary

Below is a list of common errors that can be attributed to many police use of force incidents. These will be discussed in more detail during class with follow-ups during classroom and scenario training.

- [The \(Hot-cold\) Empathy gap](#)
- [The Description–Experience gap](#)
- [Mistake of Fact](#)
- [Risk Homeostasis](#)
- [Slip and Capture Errors](#)
- [Cognitive Overload](#)



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It may feel like only perfection will be acceptable during the use of force training program and we do have high expectations in our use of force program. That is because we know you can rise to the challenge. We have received many emails over the years from former students or their supervisors explaining how, what may have seemed like a frivolous element in the training ended up helping them out in a crisis. We strive for excellence with the hope that you will be prepared if the time comes.

Let us close this section with the following case law excerpt:

Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment. In the heat of battle with lives potentially in the balance, an officer would not be able to rely on training and common sense to decide what would best accomplish his mission.

Instead, he would need to ascertain the least intrusive alternative (an inherently subjective determination) and choose that option and that option only.

Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves. It would also entangle the courts in endless second-guessing of police decisions made under stress and subject to the exigencies of the moment.

Officers thus need not avail themselves of the least intrusive means of responding to an exigent situation; they need only act within that range of conduct we identify as reasonable.

Scott v. Henrich – Ninth Circuit Court of Appeals



Module 2: The Severity of the Crime

The United States Supreme Court, the Ninth Circuit Court of Appeals and our own Oregon law all ask a similar question when evaluating a police officer's use of force.

The first (Graham) factor, “the nature of the crime or other circumstances known to the officer at the time force was applied,” should be modified as appropriate when the officers are acting under their community caretaking function rather than to counter crime. In such circumstances, “the better analytical approach” focuses the inquiry on the seriousness of the situation that gives rise to the community-caretaking function

Manual of Jury Instructions – Ninth Circuit Court of Appeals
(starting at page 189)

The Oregon Revised Statutes are more mechanical as there are several statutes that begin with the reason for the contact but also include a generalized “justification” for the officer to use force. For example, see the ORS listed below that outlines an officers authority to use force during a traffic stop or other “violation level” encounter.

...may arrest or issue a citation to a person for a traffic crime at any place within or outside the jurisdictional authority of the governmental unit by which the police officer is authorized to act...

A police officer: May use the degree of force reasonably necessary to make the stop and ensure the safety of the police officer, the person stopped or other persons present.

Arrest and Citation – ORS 810.410 (3)(f)



Recently the Oregon Legislature brought Oregon's laws regarding the use of force in line with well-established federal case law, such as that of *Tennessee v. Garner*. Notice the similarities between the two and the specific Oregon definition of the term "violent felony".

While we agree that burglary is a serious crime, we cannot agree that it is so dangerous as automatically to justify the use of deadly force.

Tennessee v. Garner – Supreme Court of the United States

...deadly physical force (may be used to) prevent the escape from custody of the person when the peace officer has probable cause to believe the person has committed a violent felony.

(4) As used in this section, "violent felony" has the meaning given that term in ORS 419A.004.

House Bill 4301 – Oregon Legislature 2020

The importance of a crime being violent or egregious **does not** mean that a police officer may only use force when trying to arrest a violent felon. It only means that high levels of force, such as deadly force, can only be justified if the crime is a violent felony when **there are no other factors**.

Regardless of the seriousness of the original crime, you are always allowed to use *some* amount of force to place a subject under arrest, as long as it is reasonable force. The suspect's response to your reasonable attempts to arrest and detain them can escalate from what started as a low-level crime into very serious and violent crimes.



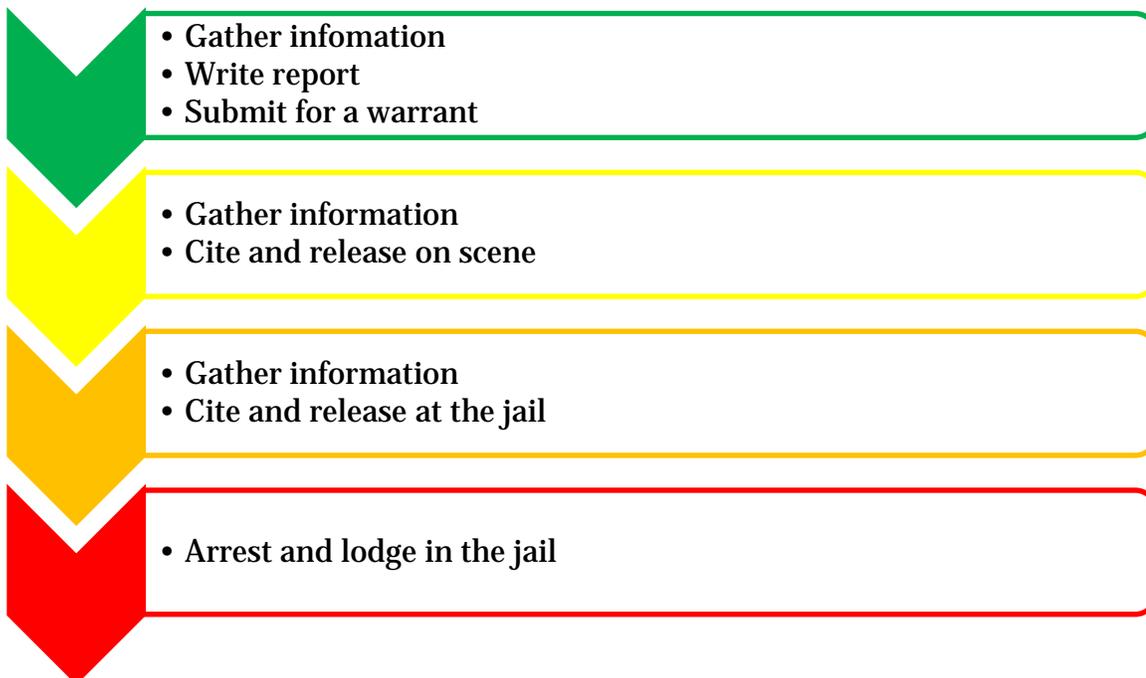
...However, we have no difficulty deciding that failing to sign a traffic citation and driving 32 mph in a 20 mph zone are not serious offenses. Indeed, our case law demonstrates that far more serious offenses than Brooks's do not constitute severe crimes in a Graham analysis.

Brooks v. City of Seattle – Ninth Circuit Court of Appeals

Arrest Options

Now that we have established how the Courts and the Oregon Revised Statutes look at your ability to use force for a variety of lawful reasons, we will combine this information to start making decisions *before* you become engaged in a use of force encounter. With the knowledge of the “level” of criminal conduct; violation, misdemeanors, felonies, an officer must know the *other* circumstances that would cause them to need to use force in a seemingly low-level criminal act.

Before going into the long list of mitigating and exacerbating factors, let us look at the four basic options an officer has available to deal with a suspect of a crime.





Mitigating and Exacerbating Factors

The general goal of most police encounters is to resolve them with the least amount of government intrusion to the civil rights of the citizens (private persons) involved. However, this is often not possible based on the behavior of the suspects involved or other factors. For example, you cannot gather the basic information about the people involved with the goal of merely writing a report, if the suspect will not identify themselves.

The following are some of the factors that mitigate or exacerbate an officer's decision-making options for a resolving a situation.

Lodge in the Jail	Cite at the Jail	Cite on Scene	Report and Warrant
<ul style="list-style-type: none">• measure 11• mandatory arrest• danger to victim• danger to others• continues to commit the crime• etc.	<ul style="list-style-type: none">• separate from other parties• formal release agreement• cannot be identified• continues to commit the crime• etc.	<ul style="list-style-type: none">• suspect is known• non-violent crime• parties are separated• low level warrant• low level crime• etc.	<ul style="list-style-type: none">• suspect is known• non-violent crime• parties are separated• low level crime• investigation needs more time• unknown victim• uncooperative victim

Your knowledge of the laws may be the **most important element** in your decision-making process relating to the use of force. An experienced officer understands when is necessary to attempt to make a physical arrest. Experienced officers seek non-physical resolutions to situations before resorting to force. This does not mean you will never physically arrest someone for a low-level crime. It also does not mean that if you must make that decision, you are not allowed to use force to effect that arrest. It does mean that when you make that decision, and if that situation goes poorly, your reasons for choosing to make the arrest will be scrutinized.

We want to arrest the right people, for the right reasons, at the right time.



Module 3: Communication, Commands, and Warnings

Proper verbal skills can prevent the need for force and help justify the use of force when avoidance is not possible. This is the **second most important topic** for a law enforcement officer to learn. If you understand how to speak to people properly you can avoid causing problems, verbally repair an encounter, and communicate your boundaries to others.

Police Expertise and Use of Force: Expert and Novice Use-of-Force Decision-Making

Relative to novices, expert police officers were more likely to report the importance of force mitigation opportunities to any given scenario in close-ended questions and were more likely to use words associated with verbal de-escalation; novices were more likely to use words associated with physical control.

[Laura Mangels & Joel Suss & Brian Lande](#)

In the Use of Force program, we will look at communication interactions and the use of force in four ways:

- at the initial contact with the suspect/subject(s),
- communication or commands during the situation,
- warnings before and possibly when force is being used, and
- verbal de-escalation tactics during an escalating encounter.

The need for proper communication can be seen in videos of officers using poor verbal skills that then devolve into a use of force incident. This often leads to an illegitimate use of force.



The style of communication is dictated by the **context** of the situation. Your ability to know **when** to use the appropriate style will impact the outcome of the situation legally and tactically. Some verbal warnings, commands and statements **are legally required** by Federal Case Law and the Oregon Revised Statutes.

There is a time and place for verbal de-escalation. However, if you or someone else is in immediate danger, verbal tactics such as negotiation or de-escalation are often inappropriate, confusing, and detrimental to other necessary tactical decisions. Deciding *when* to use verbal tactics is equally as important as *how* to use them.

Anti-Escalation

In addition to your communication classes and scenarios, you should have also had some de-escalation training. This section is about **anti-escalation**. You should strive to use communication at the beginning of the contact in a way that builds rapport and reduces unnecessary force.

Communication – a process by which information is exchanged between individuals through a common system of symbols, signs, or behavior.

Merriam-Webster Dictionary

During the stage of initial contact, your goal is to build enough rapport that you will have the suspects cooperation for the remainder of the contact. This step **is not** meant for emergency situations.

Utilizing the principals of good communication skills sets the tone and pace for the remainder of the contact. By establishing the pace of questions and commands you should be able to avoid causing the suspect to unintentionally act in a manner that may also look like a “pre-assault” or officer safety clue.



Re-thinking “Show me your Hands”

Officers know that “hands kill” and that they should “watch the hands.” These well-founded concerns are what prompt demands for suspects to “show me your hands!”

The irony is that an order to “show me your hands” or “take your hands out of your pockets” may invite the same movement from a compliant suspect as it does from an assaultive one. Meaning, compliance can look like pre-assault behavior—and **pre-assault behavior can look like compliance**. Neither is good.

Excerpt from the Force Science Institute’s news section

The added benefit from good communication is officer safety. If you are being appropriate and calm, and the suspect is acting in a manner that is not calm, that is an officer safety clue. This could indicate many different issues. Regardless of what their intent is, you should act. Call for a cover officer, gain distance, break contact, etc. Whatever you choose, trying to complete the contact normally is no longer safe until you assess the new information.

Proper communication skills will put you in a better position to assess the situation and maybe resolve the encounter without force.



Commands

Regardless of how compliant the subject is you will still have to give commands. These could be as routine as “go ahead and get your driver’s license for me”. Commands can also be used for trying to ensure the safety of the officer such as “I want you to keep your hands on the steering wheel”.

Not all commands are equally legal or effective. First, **your commands must be lawful**. Your position as a law enforcement officer does not make every command or warning you say “lawful”. See this example from case law below.

An order that restrains an individual’s liberty in violation of [Oregon Constitution], is not a “lawful order” for purposes of that statute.

Oregon v. Kreis – Supreme Court of the State of Oregon

Lawful commands should also be effective. You may have covered this in the Communication Series of classes earlier in your academy training. For review see the below examples of Alpha and Beta Commands.

Command Types	Alpha Examples	Beta Examples
Regular	Leave your hands in of your pockets Give me your driver’s license	Keep them there Give it up
Stop	Stop talking Stop fighting	Stop screwing around Stop that
Negative	Quit resisting Quit moving	Knock it off Quit that



Boundary Commands

If you look at the [Command Types research paper](#), you see that the researchers have a list of the different command types. The Use of Force Program has a modified command referred to as Boundary Commands.

Boundary Commands would probably be considered Regular, Don't, or Other commands in the research but for our purposes we will call them Boundary Commands. A proper boundary command explicitly and preemptively establishes conduct that the subject either should, or should not do. See the example below.

Command Types	Alpha Examples	Beta Examples
Boundary	Please stay in the car while I go back to my vehicle I don't want you to reach for anything right now	Just stay where you are Don't reach around

There are two purposes for Boundary Commands. First, the boundary should remind *you*, the officer, of what conduct you find unacceptable. The second is that it removes any legal debate about what you wanted the subject to do, or not do.

Verbal Communication and Commands

No amount of verbal communication skills can convince a person to cooperate if they do not want to. However, verbal skills are still important and often required during encounters with uncooperative People. This communication also demonstrates that **you** are *trying* to resolve the situation without force.

When it is safe to do so, attempt a verbal resolution prior to force. These attempts, *even if you feel they are ineffective*, demonstrate to the public that the reason this situation has resulted in force is due to the actions of the suspect and *not* you as the officer.



Warnings

Oregon's new law and Federal Case Law require you to give a warning before you use force. You must also give the person a reasonable opportunity to comply with your commands and/or warnings before you use force. The following are some of the rules, and the exceptions to the rules, surrounding verbal warnings and commands regarding the use of force.

...if the peace officer has a reasonable opportunity to do so, the peace officer shall...Give a verbal warning to the person that [force] may be used and provide the person with a reasonable opportunity to comply.

House Bill 4301 – Oregon Legislature 2020

whether it was practical for the officer[s] to give warning of the imminent use of force, and whether such warning was given

Manual of Jury Instructions – Ninth Circuit Court of Appeals
(starting at page 189)

Notice that neither of the statements mention commands. There *is* a legal difference between commands and warnings. It is understandable that an officer in a time compressed, and stressful situation might *only* give commands to a suspect. However, as you can see, when time and safety allow it, only warning meets the legal requirements listed above. Failure to do so will leave you open to criminal prosecution or civil lawsuits.



Our conclusion is strongly supported by Rutherford's failure to give Deorle any warning that he would be shot if he approached any closer or any order to drop the can or bottle or stop where he was. Deorle certainly could not have been expected to comply with instructions that were never given to him.

Deorle v. Rutherford – Ninth Circuit Court of Appeals

Before we establish when or how to give proper commands and warnings, we should define what these words mean.

Command – to direct authoritatively: ORDER

Merriam-Webster Dictionary

The purposes of commands and warnings are similar. The difference is not listed in the dictionary definition. A command is telling someone that you want them to do (or not do) something. “Put down the knife!” for example.

Warning – the act of warning: the state of being warned.

Merriam-Webster Dictionary

A warning is a command **plus** the consequences for **NOT** following the command. “Drop the knife or you will be shot with the bean bag gun!” is a warning.



Boundary Warnings

As above with boundary commands, we also can use boundary warnings. These meet all of the legal requirements *plus* they remind the officer of **what behaviors will trigger your need to use force**. The “standard” warnings and commands are almost always a Beta command and too vague to be easily understood. An Alpha “Boundary” Warning is specific, clear, and easily understood.

Warning Types	Alpha Examples	Beta Examples
Boundary	Don't approach me with the knife or you're going to get shot! Keep that gun pointed in a safe direction or I'm going to have to shoot you!	Drop the Knife or I'll shoot! Drop that gun or I'll shoot!

The Alpha warning takes longer to say. This means you should be giving commands *after* you have gained Time, Distance, and Cover. Remember that you are only required to give a warning before force *if* you have a “reasonable opportunity” or if its “practical” to do so. If you are in immediate danger or being attacked **you do not need to give a warning**.

During your Use of Force scenarios, you will have many opportunities to practice giving boundary warnings. We will be evaluating not only **how** you give your warnings, but if you select the **right time** to give a warning.

Keep in mind; this is not the mindless task of throwing out some verbal warning. It is a reasonable attempt to warn the suspect about the force you will use because of their action or inaction and giving reasonable time to comprehend and decide to comply.



Verbal De-Escalation

You have had some de-escalation training during the Behavior Health series. This section is *not* specifically meant to apply to behavioral health scenarios but there will be significant crossover of verbal skills.

Before an officer can work on *how* to verbally de-escalate, we need to establish **when** these skills are appropriate. Not every situation can be de-escalated and *attempting* de-escalation in these situations can lead to serious injuries.

Prior to using [force] upon another person, if the peace officer has a reasonable opportunity to do so, the peace officer shall consider alternatives such as verbal de-escalation...

House Bill 4301 – Oregon Legislature 2020

The Oregon Legislature makes it clear that you **are required** to attempt verbal de-escalation. The Legislature also made it clear that this requirement *is conditional*. The phrase “reasonable opportunity” is the key condition. It does not say “every possible opportunity”, however, that does not mean “whenever you feel like it”.

The standard legal understanding of “reasonable opportunity” is that the situation is safe for the officer or others, and that you have time to carry out the attempted course of action.

To be clear, you **DO NOT** need to attempt to de-escalate *while* a subject is: physically trying to assault you, resist arrest, or flee. You **DO** need to de-escalate if the subject is: sitting still, standing still, and exhibiting no “pre-assault/officer safety” indicators.



Module 4: Type and Amount of Force

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.

Let us look at the different types and amounts of force used by law enforcement and suspect. This topic is part of the Ninth Circuit's instructions to jurors in use of force cases.

Determining whether the force used to effect a particular seizure is "reasonable" under the Fourth Amendment requires a careful balancing of "the nature and quality of the intrusion on the individual's Fourth Amendment interests" against the countervailing governmental interests at stake.

Graham v. Connor – Supreme Court of the United States

Type of Force vs. Amount of Force

These two terms are often thought to be interchangeable, however, they are not. A type of force, or force option, relates to a specific technique or tool, for example, a firearm or a focused blow (physical strike with a body part). The amount of force is harder to define. This is because it encompasses not only how much effort you put into that force, but other factors such as: the response from the target, the area of intended contact and/or the officer's innate physical abilities.



DPSST working definitions of Types of Force

The DPSST working definitions that are used when discussing use of force issues are a combination of the Oregon legal definitions from the Oregon Revised Statutes, definitions taken from the most clarifying federal and Ninth Circuit case law explanations, and from an English language dictionary. In all instances we strive to provide the ORS or case law definitions first and insert common dictionary terminology when no other clear legal definitions exist or if there is a need for common language clarity. As always, feel free to research on your own if you have additional questions.

Administrative Force

Administrative Force – physical force that *does not* cause pain or injury.

DPSST Working Definition

Administrative Force includes many of the same techniques as physical force. It is a way to identify the fact that *some* force was used but did not cause injuries or pain. This acknowledges that these techniques do meet the legal definition of a seizure which could be considered force, but the post use of force procedure will be handled differently.

Administrative force is physical force that is meant to move or control a person. This includes using directional contact or an escort-hold on a person. If done correctly, you should not injure or cause pain to a person when using only *directional contact* techniques.

Even though directional contact, escort holds or handcuffing alone do not usually require a use of force report they are still considered a type of force and still require thorough documentation in your arrest report.



Physical Force

There is a significant body of law that spells out what is considered physical force. The following sections illustrate what is considered physical force.

Force – violence, compulsion, or constraint exerted upon or against a person.

Merriam-Webster Dictionary

Physical – of, or relating to the body.

Merriam-Webster Dictionary

The Oregon Revised Statutes definition is both the least descriptive and least helpful.

Physical force includes, but is not limited to, the use of an electrical stun gun, tear gas or mace.

General Definitions – ORS 161.015 (6)

However, the definition adopted by the Ninth Circuit may be the most helpful.

Physical Force is “force capable of causing physical pain or injury to another person”.

Flores v. Ashcroft – Seventh Circuit Court of Appeals (adopted by the 9th Cir.)



Combining together the Ninth Circuits definition with both the dictionary definition and the ORS definition we considering the following to be legally sound, capturing the necessary elements of physical force.

Physical Force – force that under the circumstances in which it is used, that is readily capable of causing physical pain or injury.

DPSST Working Definition

Some techniques require more force from the officer and will cause more pain than an escort hold or physical contact. Any technique that is used to physically control people is considered physical force. Generally handcuffing alone does not require a use of force report but it is still legally considered a use of force. The use of physical force can result in injuries and must be reasonable under the totality of the circumstances in which it is used.

Physical Force includes using *directional contact* or *escort holds* on a person.

Techniques that are considered physical force are:

- handcuffing
- digital finger control
- pressure points
- wrist locks
- joint locks
- takedowns
- *some* focused blows
- *some* baton strikes, or other baton uses



Intermediate Force

There is a no category of “intermediate force” in Oregon Law. However, the Ninth Circuit made this distinction of force that falls in between physical force and deadly force in 2009. The following sections illustrate what is considered physical force.

Intermediate – being or occurring at the middle place, stage, or degree or between extremes
Merriam-Webster Dictionary

The Ninth Circuit Court of Appeals offered the following description.

Intermediate Force is force that creates “physiological effects, high levels of pain, and foreseeable risk of physical injury”.

We therefore conclude that Tasers like the X26 constitute an “intermediate or medium, though not insignificant, quantum of force,”

Bryan v. MacPherson – Ninth Circuit Court of Appeals

Combining together these elements we will use the following definition.

Intermediate Force – force that under the circumstances in which it is used, that is readily capable of causing high levels of pain and foreseeable risk of physical injury.
DPSST Working Definition



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The use of intermediate force will almost always result in some type of injury to the suspect. This amount of force, as with all force, must be reasonable under the totality of the circumstances and requires post care of the person.

Weapons and techniques that are typically categorized as intermediate force include but are not limited to:

- some focused blows
- some expandable baton strikes
- pepper spray (OC)
- extended range impact weapons (or weapon launched direct impact munitions)
- electronic control devices (Tasers)
- police canines (K-9 bite dogs)



Deadly Physical Force

Much like physical force, there is a significant body of law that spells out what is considered deadly force. The following sections illustrate what is considered deadly physical force.

Deadly – likely to cause or capable of producing death

Merriam-Webster Dictionary

The Oregon Revised Statutes has a clearly defined definition of deadly physical force.

Deadly physical force means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

General Definitions – ORS 161.015 (3)

As does the Ninth Circuit Court of Appeals.

Deadly Physical Force is force that “creates a substantial risk of death or serious bodily injury”.

Smith v. Hemet – Ninth Circuit Court of Appeals



Notice that the available definitions are all nearly identical. Because of this consensus DPSST does not need to also have a working definition. Note that deadly physical force may only be used under a specific set of legal reasons.

Weapons and techniques that are considered deadly physical force are:

- edged weapons
- firearms
- vehicles
- OR, any other force used in a manner readily capable of causing death or serious physical injury

As we review the Garner Case, it is essential to remember that this discussion is unique to public safety officers or “color of law” actors, whose force conduct has a constitutional dimension as well as potentially criminal. Private persons interacting with one another by force may have criminal implications to their force conduct or civil lawsuit remedies. However, they are not bound by these constitutional principles.



Module 5: Immediate Threat

This is the threat not only to you, but also to your fellow officers, or the public. This has been described as the most critical factor in force evaluation. It is important to be as specific as possible about who is being threatened and what the level of threat is. The more severe and more immediate the threat, the higher the level of force that may be reasonable.

Next, it is necessary to apply the Graham criteria, beginning with the “most important single element of the three specified factors: whether the suspect poses an immediate threat to the safety of the officers or others.

Smith v. Hemet – Ninth Circuit Court of Appeals

So, what is an *Immediate Threat*? Simply put, it is someone that appears to want to hurt or kill, you or someone else. A formula DPSST uses as a way of explaining this is to say that *any person demonstrating the Intent, having the Ability (Means) and the Opportunity, to inflict injury, serious physical injury, or death.* For training purposes, we further explain the three elements to help officers better explain what they perceived.



The following are **DPSST's Working Definitions** of these three elements:

Intent – the person must demonstrate their intent to cause physical injury, serious physical injury or death through either; body language, verbalization or both.

Ability (or Means) – The person must have either the physical ability or possess a weapon to carry out the demonstrated intent.

Opportunity – the person must have access to the officer, a weapon or both in order to carry out the perceived attack.

An immediate threat should be dealt with quickly and decisively, but still reasonably. Unreasonable force is often the result of an officer who either misjudges a person to be an immediate threat when they are not or they do not draw the correct distinction between a physical immediate threat and a deadly immediate threat.



The following are the two *basic* types of immediate threats.

Deadly Immediate Threat – A person demonstrating the Intent, having the Ability (Means) and the Opportunity, (*to attack the officer*) and, under the circumstances, is readily capable of causing serious physical injury or death.

DPSST Working Definition

A peace officer may use deadly physical force upon another person only when it is objectively reasonable, under the totality of circumstances known to the peace officer, to believe that the person poses an imminent threat of death or serious physical injury to the peace officer or to a third person and the use of deadly physical force is necessary to:

(b) Defend the peace officer or a third person from the imminent threat of death or serious physical injury

House Bill 4301 – Oregon Legislature 2020



Physical Immediate Threat – A person demonstrating the Intent, having the Ability (Means) and the Opportunity, *(to attack the officer)* and, under the circumstances, is readily capable of inflicting physical injury.

DPSST Working Definition

Trying to decide if someone is an immediate threat can be difficult. However, once you learn the contextual clues to look for through training and experience, you should be able to make this decision intuitively.

A peace officer may use physical force upon another person only when it is objectively reasonable, under the totality of circumstances known to the peace officer, to believe:

(a) That the person poses an imminent threat of physical injury to the peace officer or to a third person

House Bill 4301 – Oregon Legislature 2020



Module 6: Officer Safety Indicators

Officer safety clues, sometimes called *pre-assault clues*, or contextual clues, are the obvious and subtle behaviors demonstrated by a person that indicate their intentions to either attack, resist or flee from an officer. These clues can be either verbal or physical in nature and must be taken in with the totality of the situation. A person putting their hands in their pockets may be indicating that they have a weapon; or, they may just be cold.

We have broken these clues into two categories: verbal clues and physical clues. These clues can be obvious, for example, when a suspect yells, “I’m not going back to jail!” or they can be subtle, “Warrant? What do you mean I have a warrant?”

The following are some of the more common examples of clues you may see:

Verbal Clues: Obvious	Verbal Clues: Subtle
<ul style="list-style-type: none">▪ “I’m not going back to jail!”▪ “No!”▪ Yelling curses.▪ Direct threats.	<ul style="list-style-type: none">▪ Tone of voice.▪ Repeating questions.▪ Not answering questions directly.▪ Words do not match physical actions.▪ Asking specific questions.▪ Attempts to begin distracting conversation.



Physical Clues: Obvious	Physical Clues: Subtle
<ul style="list-style-type: none">▪ Red face.▪ Clenched jaw.▪ Clenched fists.▪ Rolling up sleeves.▪ Removing clothing or jewelry.▪ Putting hands into pockets.▪ Moving towards the officer.	<ul style="list-style-type: none">▪ Widening their stance.▪ Target glancing.▪ Touching the face or nose.▪ Touching the waistband or pockets.▪ Moving to a better position.▪ Assuming a handcuffing position.▪ Practicing assault movements.

Try to consciously look for the presence of officer safety clues during your contacts with unknown people, suspects of crimes, and possibly some witnesses or bystanders. At the beginning of your career, this will need to be done deliberately and should be a priority during unknown contacts.

Finally, all officer safety clues must be taken in context. Who is the suspect? How is the suspect dressed? Where is this situation located? Are there other indicators that, when *combined* with the physical and verbal clues, lead the officer to objectively and reasonably believe that there is a significant officer safety issue that should be controlled?

10 Non-Verbals All Officers Should Be Able to Recognize & Interpret

When it comes to securing and maintaining your tactical advantage, the ability to recognize and interpret non-verbal communication when dealing with potentially troublesome subjects can be one of the most powerful officer safety tools you have.

It's important to remember that these are not necessarily *guarantees* of an attack or singularly cause for immediate, intense defensive actions but in combination or in the context of a risky encounter, they should not be overlooked.

Excerpt from the Calibre Report by Calibre Press



Module 7: Suspect Resistance or Evasion

The following definitions and explanations are meant to help you identify what type of resistance you are dealing with. When you document your use of force you should thoroughly explain what behaviors and actions you perceived.

Resist – to exert oneself so as to counteract or defeat.

Merriam-Webster Dictionary

Below are several ORS statutes that inform an officer's legal authority to use force to overcome a suspect's physical resistance, however this authority is not without limits.

Resists means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person and includes, but is not limited to, behavior clearly intended to prevent being taken into custody by overcoming the actions of the arresting officer.

The behavior does not have to result in actual physical injury to an officer.

Resisting Arrest – ORS 162.315 (2)(c)



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In addition to the crime of resisting arrest, there is a section in the ORS section relating to the use of force of both civilians and law enforcement. This elaborates on the admonishing to private people NOT to resist arrest, regardless of the reason.

A person may not use physical force to resist an arrest by a peace officer who is known or reasonably appears to be a peace officer, whether the arrest is lawful or unlawful.

Use of physical force in resisting arrest prohibited – ORS 161.260

When you are attempting to arrest or detain a person, the mere act of “non-compliance” with your orders for the person to “turn around and put your hands together behind your back” is not the act of **actively** resisting arrest. However, it is a contextual clue that they are not going to physically cooperate. Do not confuse your reasonable belief that they will not cooperate with the, legally defined act of **actively** resisting arrest.

With that being said, the result is the same, you will likely need to use force in order to physically arrest and handcuff this person, regardless of whether they are **actively** resisting or whether you think they are *about to* actively resist you.

A peace officer may use physical force upon another person only when it is objectively reasonable, under the totality of circumstances known to the peace officer, to believe:

(A) Make a lawful arrest when the peace officer has probable cause to believe the person has committed a crime

House Bill 4301 – Oregon Legislature 2020



We now look at a case from the Oregon Supreme Court regarding whether a suspect is “resisting arrest” or they are defending themselves against unlawful and excessive force.

This case, then, presents an apparent conundrum: A person may not use force to resist arrest, even if the arrest is unlawful, but any person is entitled to use such force as is necessary to overcome what the person reasonably believes to be the unlawful use of physical force by anyone, including a police officer. (Citing ORS 161.209). How can a person obey the statutes prohibiting the use of force to resist arrest and still exercise his right under ORS 161.209 to use force in self-defense? To answer that question, as this court stated in Wright,

It is crucial to distinguish between (1) the use of physical force in resisting arrest and (2) the use of physical force in defending oneself, i.e., self-defense, against excessive use of force by the arresting officer. The former is unlawful. Depending on the circumstances, the latter may be justifiable and not criminal.

If (defendant) believed, and a reasonable person in his position would have believed that the use or imminent use of force against him exceeded the force reasonably necessary in effecting the arrest, then he was entitled to defend himself from that use of force.

State v. Oliphant – Oregon Supreme Court



Active Resistance

In order to clearly establish the two basic types of resistance see the following definitions and case law excerpts.

Active – producing or involving action or movement

Merriam-Webster Dictionary

Resistance – an opposing or retarding force

Merriam-Webster Dictionary

Note how the courts instruct the officers that what *they believe* is resistance does not qualify as “active resistance”.

First, defendants maintain that because Mr. Beaver had not complied with Officer Laird's commands, he was actively resisting arrest and further Tasing was warranted. As previously discussed, the defendants confuse involuntary non-compliance with active resistance.

Beaver v. Federal Way – Ninth Circuit Court of Appeals



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Next, note how the courts also reject the claim that “non-compliance” is not enough to rise to the level of “active resistance”.

Even if Bryan failed to comply with the command to remain in his vehicle, such noncompliance does not constitute “active resistance” supporting a substantial use of force. Following the Supreme Court’s instruction in Graham, we have drawn a distinction between passive and active resistance.

Bryan v. MacPherson – Ninth Circuit Court of Appeals

With all of this information in mind we will use the following to clearly define what our working definition of active resistance IS.

Active Resistance – A person resists arrest or detention by engaging in physical action(s) that hinder the officer’s ability to control that person with force.

DPSST Working Definition



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With the previous information in mind note in the following excerpt what the Ninth Circuit DOES consider “active resistance”.

...she grasped the steering wheel and wedged herself between the seat and steering wheel, and she refused to get out of the car when asked. Brooks’s conduct was defined by the SPD Use of Force Training Guideline as “actively resistant” because she employed force to defeat the Officers’ attempts to control her. Our precedent also classifies Brooks’s conduct as active resistance...

While Brooks’s resistance may not have been violent or aggressive, those aspects are more relevant to the second Graham factor, leaving the fact of her resistance here to weigh against finding the force used excessive.

Brooks v. City of Seattle – Ninth Circuit Court of Appeals

Finally, note the subtle distinction the courts make between “violent or aggressive” actions being more in line with the actions of an immediate threat. Even though a suspect trying to prevent an officer from taking them to jail *can* use violence against an officer, the courts are going to view those actions differently than active resistance. This puts the Federal Courts opinions regarding “resistance” somewhat at odds with the Oregon Revised Statutes.



Passive Resistance

Whether it is in the Oregon Revised Statutes or case law, there is a distinction between active resistance and passive. See the following definitions and cases to clarify your understanding.

Passive – lacking in energy or will

Merriam-Webster Dictionary

Next is an excerpt from a case that is from the Oregon Supreme Court so it is one of the best examples of what would be considered passive resistance for an Oregon officer.

Passive Resistance refers to noncooperation with a peace officer's lawful order that does not involve violence or active conduct, whatever the motivation for the noncooperation. Passive Resistance includes being "engaged in inactive, nonviolent noncooperation"

Oregon v. McNally (2017) – Oregon Supreme Court



Take note of the following excerpt from a Ninth Circuit Court of Appeals case. The Ninth Circuit makes clear what actions are NOT “active resistance”.

Defendants asserted at trial that the protestors’ use of black bears constituted “active resistance to arrest” meriting the use of force. Characterizing the protestors’ activities as “active resistance” is contrary to the facts of the case...the protestors were sitting peacefully, were easily moved by the police, and did not threaten or harm the officers.

Headwaters v. Humboldt County – Ninth Circuit Court of Appeals

An officer needs to identify a resistant person based on their words, actions, and other objective factors. When trying to explain your perceptions to others in a report, it can help if we all use the same definitions, but these types of situations will not fall neatly into an individual category. Knowledge of the basic types of resistance can also help you decide what force is reasonable to use in the situation. After the use of force encounter these basic categories should also help you decide if additional crimes need to be charged, for example resisting arrest.

Determining what type of resistance, a person is exhibiting is only a starting point in your use of force decision making process. Other contextual factors will ultimately determine the reasonableness of your use of force decision.

Finally, it should be noted that for a person to be resisting arrest or detention, a few elements must be present. You must identify yourself or it should be readily apparent that you are a law enforcement officer. You should tell the subject that they are under arrest or that they are being detained. Finally, you must be or have just been in physical contact with the subject. It is more important to include the words and behaviors of the suspect, specifically describing their resistant behavior, than it is to categorize the type of resistance.



“Resistance, however, should not be understood as a binary state, with resistance being either completely passive or active. Rather, it runs the gamut from the purely passive protestor who simply refuses to stand, to the individual who is physically assaulting the officer. We must eschew ultimately unhelpful blanket labels and evaluate the nature of any resistance in light of the actual facts of the case.

Bryan v. MacPherson – Ninth Circuit Court of Appeals

As you can see in so many 9th circuit rulings, non-compliance with commands alone, does not equal “active” resistance. The words and actions of the person *can* lead you to believe that they are *going* to resist arrest. That belief can justify an officer to use force, just remember that it is not *technically* resisting arrest without physical contact.

She posed no threat to the officers. She minimally resisted Troy’s arrest while attempting to protect her own body and to comply with Agarano’s request that she speak to him outside, and she begged everyone not to wake her sleeping children. She bears minimal culpability for the escalation of the situation.

Mattos v. Agarano – Ninth Circuit Court of Appeals



Types of Evading Arrest by Flight.

A person can also attempt to avoid arrest by flight. This *can* occur after a person physically resists arrest but, unlike resisting arrest, physical contact with the person is not required. Essentially, a person evades arrest or lawful detention when an officer indicates that the person should stop and the person then tries to get away on foot or in a vehicle.

A peace officer may use physical force upon another person only when it is objectively reasonable, under the totality of circumstances known to the peace officer, to believe:

(B) Prevent the escape from custody of the person when the peace officer has probable cause to believe the person has committed a crime

House Bill 4301 – Oregon Legislature 2020

The officer can indicate their desire for the person to stop explicitly by saying “Stop! You are under arrest”. An officer can also indicate for a person to stop implicitly, for example, turning on the overhead lights on their police vehicle. By law, you are allowed to use force to stop someone from fleeing your lawful detention but, as always, it must be objectively reasonable.

*(4) **Custody** means the imposition of actual or constructive restraint by a peace officer pursuant to an arrest or court order...*

*(5) **Escape** means the unlawful departure of a person from custody or a correctional facility.*

Definitions for 162.135 to 162.205 – ORS 162.135



Evading Arrest – The person attempts to flee on foot or by vehicle, from the custody of a peace officer, in carrying out an arrest or legal detention.

DPSST Working Definition

When using force to stop an escape the courts have drawn a distinction between stopping a fleeing person that is running and stopping a car during a pursuit. A person fleeing on foot, without other factors, is not considered a threat to anyone based solely on their flight. A person fleeing in a car can *also* be considered an immediate threat based on the specific circumstances of how they are operating the vehicle. If they are operating the car in a manner that appears to be an immediate threat to the officers or others, we revert to how the courts define an immediate threat.

The third Graham factor is whether Mr. Beaver was actively resisting arrest or attempting to evade arrest by flight. Initially, Mr. Beaver was attempting to flee and the Court has no trouble concluding that the first tasing was justified to stop him.

Beaver v. Federal Way – Ninth Circuit Court of Appeals

You will likely have a considerable amount of guidance from your agency's policy and procedures about when you can and cannot pursue a vehicle or person. Remember that your agency, to protect its officers and the public, may limit your ability to pursue. The decision to pursue a vehicle at a high rate of speed must be made, like all uses of force, based on a weighing of the governments interest against the risk to all parties involved.



Finally, the use of deadly force to prevent the escape of all felony suspects, whatever the circumstances, is constitutionally unreasonable (see next page). Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so.

A peace officer may use deadly physical force upon another person only when it is objectively reasonable, under the totality of circumstances known to the peace officer, to believe that the person poses an imminent threat of death or serious physical injury to the peace officer or to a third person and the use of deadly physical force is necessary to:

(c) Prevent the escape from custody of the person when the peace officer has probable cause to believe the person has committed a violent felony.

House Bill 4301 – Oregon Legislature 2020



Federal Constitutional Analysis of Police Use of Force

The 1980s were a time of great significance in the United States Supreme Court, concerning public safety use of force. *Tennessee v. Garner* in 1985 was the first of the landmark cases. It is most widely known as the case that abandoned the “fleeing felon rule,” which at the time was still good law in more than 30 states. This rule was found unconstitutional and recently the Oregon Legislature brought Oregon Law in line with this federal standard.

The fact that Garner was a suspected burglar could not, without regard to the other circumstances, automatically justify the use of deadly force. (The officer) did not have probable cause to believe that Garner, whom he correctly believed to be unarmed, posed any physical danger to himself or others...While we agree that burglary is a serious crime, we cannot agree that it is so dangerous as automatically to justify the use of deadly force.”

Tennessee v. Garner – Supreme Court of the United States



Module 8: Time and Circumstances

How much time did the officer have to make a decision, and were there any environmental factors or changing circumstances that impacted the decision to use force?

This often quoted statement also comes from the United States Supreme Court ruling *Graham v. Connor*. For the purposes of discussion and for the duration of your time at DPSST we will consider this the Fifth Graham Factor.

The calculus of reasonableness must embody allowance for the fact that 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 in a particular situation.

Graham v. Connor – Supreme Court of the United States

the Court finds that Officer Laird was faced with unenviable choices and had to make split-second decisions, and this Court will not second-guess his decision to apply the use of the Taser.

The officer was alone with a fleeing felony suspect, who was apparently under the influence of controlled substances, who ignored his commands to stop, and who was attempting to rise and perhaps to flee.

Beaver v. Federal Way – Ninth Circuit Court of Appeals



One of the most important things to understand about this part of the Graham ruling is that it goes both ways. It has been demonstrated consistently that the courts understand that when an officer is faced with a “tense, uncertain, and rapidly evolving” event, the officers are often given some amount of latitude in how they used force for that specific event. But, when the situation *is not* tense, uncertain or rapidly evolving, the courts have made it clear that rash decision making will be looked at much more critically.

In addition, the Ninth Circuit Court of Appeals has a standard jury instruction that further illustrates the courts interest in whether or not an officer had time to make a reasonable decision.

This factor encompasses the universe of things available to you at the time you decided to use force. Although most force events occur when there is little time to think or act, some situations allow for considerable time before the use of force occurs, which in turn allows for significant resources to be brought to bear on the situation. In every situation, using time, tactics, and resources will allow you to work intelligently and purposely towards a positive outcome.

For example, consider an armed, barricaded suspect who retreats into a vacant room and who is not actively engaging, versus a victim on the ground being straddled by a suspect who is repeatedly slamming the victim’s head into a tile floor. Certainly, both of these situations would require your response, but the pace at which you attempt to engage the first suspect would likely be much slower and more resource-intensive than in the second situation.



Officer MacPherson knew additional officers were en route to the scene. He was, or should have been, aware that the arrival of those officers would change the tactical calculus confronting him, likely opening up additional ways to resolve the situation without the need for an intermediate level of force.

Therefore, there was simply “no immediate need to subdue [Bryan]” before Officer MacPherson’s fellow officers arrived or less-invasive means were attempted... Officer MacPherson’s desire to quickly and decisively end an unusual and tense situation is understandable. His chosen method for doing so violated Bryan’s constitutional right to be free from excessive force.

Bryan v. MacPherson – Ninth Circuit Court of Appeals

What was the amount of time and any changing circumstances during which the officers had to determine the type and amount of force that appeared to be necessary?

Manual of Jury Instructions – Ninth Circuit Court of Appeals
(beginning at page 189)



Totality of the Circumstances

Under Graham v. Connor, we evaluate the government's interest in the use of force by examining three core factors, the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. These factors, however, are not exclusive. Rather, we examine the totality of the circumstances and consider whatever specific factors may be appropriate in a particular case, whether or not listed in Graham.

Bryan v. MacPherson – Ninth Circuit Court of Appeals

In plain language this means *context*. The context of the situation, from the words coming out of the person's mouth, to the way the person is standing, or size and layout of the room you are in, are all contextual. The *perceived context* by the officer, when they make a decision to use force, is a large factor the courts will look at when deciding the reasonableness of force.

Your ability to assess the situation will help you make better decisions. If you ignore or miss contextual clues you increase the risk of injury to yourself. You also increase the chance of causing someone else significant injury because you took action without taking into account the relevant information.



The following is a list of factors that could be considered as part of the totality of the circumstances.

This list is not exclusive:

- Availability of Back-Up Officers
- Confinement (small spaces or tight locations)
- Ground Level
- Officer Disability (previously existing conditions)
- Officer Exhaustion (due to length of shift or physical exertion)
- Officer Injury (caused by this or a recent incident)
- Officer Training and Experience (e.g. you are an expert conducting DUII stops)
- Number of Officers
- Number of Persons, Suspects or Threats
- Special Knowledge (background on the person, floor plans, informant tips, etc.)
- Person's Age compared to the Officer's
- Person's Apparent Mental State
- Person's Physical Size compared to the Officer's Size
- Person's Sex compared to the Officer's
- Person's Skill Level compared to the Officer's Skill Level
- Person's Strength and Fitness level compared to the Officer's
- Terrain (wet, dry, sandy, muddy, snow, ice, carpet, concrete, etc.)

The totality of the circumstances is where we adjust our decisions about the use of force for a given situation. It is also difficult is drawing these facts out of our memories in order to put them down in a report. A good assessment and reasonable decisions can become irrelevant if you cannot document the information well enough to explain yourself clearly.

The totality of the circumstances is important during all stages of a use of force encounter. Quick and intuitive recognition of the specific circumstances in the beginning of a contact can be difficult for new officers. It can become a subconscious act as you gain more experience with the different types of circumstances that you encounter most often. Even for a veteran officer, an effective assessment is difficult when faced with circumstances that they have never encountered before.



What is “Governmental Interest”?

The term “governmental interest” is frequently used when evaluating a Fourth Amendment issue like a law enforcement officers use of force. This term is also often misunderstood to mean “what was the severity of the crime?” Even though, as discussed earlier, the severity of the crime is an important question and a Graham Factor, this is not what the courts refer to when they discuss “governmental interest”. Governmental interest is actually *all* the Graham Factors that you have previously learned about. Only by evaluation all the factors does the government evaluate its interest in a specific arrest or circumstance.

*We measure **the governmental interests at stake** by evaluating a range of factors: they include (1) the severity of the crime at issue, (2) whether the suspect posed an immediate threat to the safety of the officers or others. (3) whether he was actively resisting arrest or attempting to evade arrest by flight, and any other exigent circumstances that existed at the time of the arrest.*

Deorle v. Rutherford – Ninth Circuit Court of Appeals

To summarize, Aikala used the intermediate force of a Taser in dart-mode on Jayzel after he and the other officers arrived to ensure her safety. Her offense was minimal at most. She posed no threat to the officers. She minimally resisted Troy's arrest while attempting to protect her own body and to comply with Agarano's request that she speak to him outside, and she begged everyone not to wake her sleeping children. She bears minimal culpability for the escalation of the situation.

Mattos v. Agarano – Ninth Circuit Court of Appeals



Module 9: Use of Force and Behavior Health Issues

The subject's mental state may be a factor in your consideration to use force. Many of the people you will come across in your day-to-day responsibilities are at some level of a behavioral health crisis. The crisis may be due to a chronic mental illness, medical condition, or induced by drugs or alcohol. The fact that a person is in a behavioral health crisis does not mean that they are not a threat to you or others or that a lesser level of force is appropriate. However, if you realize that you are dealing with a person experiencing a behavioral health crisis, you will consider that as you determine what tactics or force may be appropriate and effective.

This concept will be particularly important in the event you encounter such a person who has either committed no crime or very low-level crimes. In other words, you should be extremely judicious in your force applications when the primary interest is in providing care to the person encountered. Mental state as a force consideration will be discussed in more detail in your Mental Health 4 Legal Considerations training.

The problems posed by, and thus the tactics to be employed against, an emotionally distraught individual who is creating a disturbance or resisting arrest are, and must be, differentiated from those involved in efforts to subdue an armed and dangerous criminal who has recently committed a serious offense...

...Even when an emotionally disturbed individual is "acting out" and inviting officers to use deadly force to subdue him, the governmental interest in using such force is diminished by the fact that the officers are confronted, not with a criminal, but with a mentally ill person.

Deorle v. Rutherford – Ninth Circuit Court of Appeals



Risk Assessment

When confronting an individual that you have been told or you suspect is emotionally disturbed or mentally distraught you need to assess who is at risk? If only the subject is at risk of physical harm then we as law enforcement need to slow down and activate our Crisis Intervention Team protocols. If you or others are risk of physical harm then you are legally allowed to use force under the Fourth Amendment of the U.S. Constitution. Once the subject has stopped being a threat to others then you should ensure that they are treated appropriately for their mental or emotional issue.

Given Reynolds's erratic behavior and the fact that he had a weapon, it was reasonable for Jackson to attempt to restrain him...The gas station attendant also perceived Reynolds as a threat-twice calling the Sheriff's Department to report Reynolds's behavior.

It was thus reasonable for Jackson to consider Reynolds a threat to the people in the area...Reynolds was not in a confined area and there were other people in the vicinity.

Reynolds v. County of San Diego – Ninth Circuit Court of Appeals



Agitated Chaotic Events

It should be first noted that an “agitated chaotic event” is not a medical diagnosis but a state or set of behaviors with many underlying diagnoses. Why this person is suffering from what appears to be an “agitated chaotic event” is not relevant to your job as a law enforcement officer. Identifying the issue and taking the correct steps to assist the individual is your objective.

The following sections describe the Fact Patterns that suggest a subject suffering from an agitated chaotic event. Not every call or contact will demonstrate all or even most of the behaviors listed. Take the totality of the situation into account to make your determination if this is an agitated chaotic event case.

Information you may receive from Dispatch:

- The subject is known or is suspected to have a psychiatric illness.
- The subject is known or is suspected of some type of drug intoxication.
- Dispatch has received multiple or previous calls to this location for same individual and/or behavior.
- The callers describe agitated behavior by the suspect.
- The callers describe bizarre behavior by the suspect.
- The callers describe destructive behavior by the suspect.

Behaviors and traits that are visible on arrival:

- The subject appears agitated.
- The subject is exhibiting bizarre behavior.
- The subject is engaged in destructive behavior.
- The subject is constantly yelling or screaming.
- The subject is incoherent when speaking.
- The subject seems aggressive towards inanimate objects.
- The subject is inappropriately dressed – naked, shirtless, etc.



Observations during the contact with subject:

- The subject does not respond “normally” to law enforcements presence.
- The subject has an insensitivity to pain.
- The subject is hot to the touch.
- The subject is sweating profusely.
- The subject is very dry to the touch.
- The subject has seemingly super-human strength.

Response Measures for a subject suffering from Agitated chaotic event:

If this appears to be an Agitated Chaotic Event prior to arrival, if possible, approach the scene without lights and sirens. Notify other officers of this as well. This can help keep the subject from becoming more agitated.

- **Identify:** Observe and note the signs and behaviors related to an agitated chaotic event for early medical intervention. Handle this call as a medical condition and get emergency services to respond as soon as practical.
- **Control:** Control and/or restrain the subject as soon as practical and safe to decrease problems related to a prolonged struggle with law enforcement or with others. This should be done with multiple officers, planning and acting together to contain the subject while being conscious of the amount of force used.
- **Sedate:** Have sedation applied in the field as soon as practical and safe to help stop or reverse the process of the agitated chaotic event.
- **Transport:** Get the subject to the hospital as soon as practical for medical treatment.

Remember, these individuals usually do not need to go to jail, they need to go to the hospital but that does not mean you will not need to use force. There can be no treatment without restraint.



STATE OF OREGON
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
Basic Police

As we observed above in Graham, the federal circuit courts of appeal were free post-Graham to continue to analyze and modify what it means for the force to be “objectively reasonable under the totality of the circumstances.” The Ninth Circuit Court of Appeals, in particular, has delivered a considerable number of rulings post-Graham, the practical effect of which is an “addition” to the “Graham factors.” As an Oregon peace officer, you will be practicing the profession of law enforcement in the Ninth Circuit. You are, therefore, bound by these additional considerations.

The following sections are meant to help new officer identify individuals that may be emotionally disturbed or mentally distraught. Additionally, this information will aid the new officer in making decisions prior to a use of force incident. These are partial treatments meant to supplement the discussions you will be having in the classroom. This material does not replace your mental health training classes or and de-escalation training you have received.

A mentally ill individual is in need of a doctor, not a jail cell, and in the usual case—where such an individual is neither a threat to himself nor to anyone else—the government’s interest in deploying force to detain him is not as substantial as its interest in deploying that force to apprehend a dangerous criminal. Moreover, the purpose of detaining a mentally ill individual is not to punish him, but to help him. The government has an important interest in providing assistance to a person in need of psychiatric care; thus, the use of force that may be justified by that interest necessarily differs both in degree and in kind from the use of force that would be justified against a person who has committed a crime or who poses a threat to the community.

Bryan v. MacPherson – Ninth Circuit Court of Appeals



Module 10: Suicide by Cop

The threat of Self Harm - The Courts have affirmatively granted us the ability to use reasonable force to prevent suicide but have also decided recent cases disapproving of using a significant amount of force that is capable of causing serious physical injury or death to prevent suicide.

Suicide by cop is a situation that is both dangerous and unfortunate for all of the people involved. However, as mentioned in risk assessment above, our first question and our duty is to protect ourselves and innocent people first. If you have the opportunity then this is the time to properly evaluate the situation and look at the totality of the circumstances; is the subject armed and if so, with what? Is the subject confined or are they in the open? Do I have distance and cover? Are less lethal tools available and would they be effective? Etc.

For the purposes of our discussions regarding the use of force on suicidal people it should be reiterated; in Oregon you are only allowed to use physical force to prevent someone from harming or killing themselves. Remember that even if the person is known to be suicidal, if they become a deadly immediate threat to you or others, you are allowed to use deadly force to stop that person from harming people other than themselves.

Additionally, if the subject is trying to force officers to shoot, the type of weapon they are in possession with is very important. Officers must remember that a suicide by cop suspect that is armed with a gun can become a deadly threat to others much faster and from a longer range than a suicidal subject with a knife. However, regardless of what weapon they are armed with, they must still demonstrate an intent to use it on the officer or others. No situation is an “automatic” use of deadly force.



STATE OF OREGON
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING
Basic Police

The circumstances of this case can be viewed in multiple ways: as “suicide by cop,” as officers suddenly threatened with a deadly weapon, or as a depressed man simply holding a knife when confronted by law enforcement. As with most excessive force claims, the correct determination of the circumstances here will require a careful balancing of the evidence and the inferences that can be made therefrom.

Hayes v. County of San Diego – Ninth Circuit Court of Appeals



Oregon Revised Statutes relevant to Use of Force issues.

Chapter 131

- 131.005 (11) - definition of “probable cause”
- 131.605 (6) - definition of “reasonably suspects”
- 131.605 (7) - definition of “stop”
- 131.615 (5) - force used in making a stop (non-traffic)
- 131.625 - frisk of stopped persons

Chapter 133

- 133.005 (1) - definition of “arrest”
- 133.033 - “community caretaking”
- 133.235 (4) - force used in making an arrest
- 133.605 - force used in executing a search warrant

Chapter 161

- 161.015 (3) - definition of “deadly force”
- 161.015 (6) - definition of “physical force”
- 161.015 (7) - definition of “physical injury”
- 161.015 (8) - definition of “serious physical injury”
- 161.190 - defense of justification
- 161.195 - “justification” described
- 161.235 - use of force in making an arrest or preventing an escape
- 161.239 - use of deadly force in making an arrest or preventing an escape
- 161.245 - liability for mistakes of law and knowingly using force for unlawful arrest

Chapter 810

- 810.410 (3)(f)- force used in making a traffic stop



Sources/Resources:

Merriam-Webster – for definitions <https://www.merriam-webster.com/>

Oregon Legislative Counsel Committee. *Criminal Code of Oregon*. Chapter 161, 162
https://www.oregonlaws.org/oregon_revised_statutes

United States Court of Appeals, Ninth Circuit. Selected opinions can be found at
<http://www.ca9.uscourts.gov>

United States Supreme Court. Selected opinions can be found at
<http://www.supremecourt.gov>

Daigle Law Group. Case summaries and legal articles can be found at
<https://daiglelawgroup.com/publications/>

Americans for Effective Law Enforcement (AELE) and the Law Enforcement Legal Center. Case summaries and legal articles can be found at
<http://www.aele.org/law/index.html>

Force Science Institute Ltd. Peer-Reviewed Research publications can be found at
<http://www.forcescience.org/force-science-research.html>



Vehicle Stops

BASIC POLICE ACADEMY





Unknown Risk Vehicle Stop Checklist

Task	
<input type="checkbox"/>	Check out w/dispatch; location, license plate and vehicle description
<input type="checkbox"/>	Position patrol car appropriately
<input type="checkbox"/>	Check for traffic before exiting patrol car
<input type="checkbox"/>	Visually scan vehicle and occupants upon approach
<input type="checkbox"/>	Pick side of approach based on context and circumstance.
<input type="checkbox"/>	Utilize vehicle as barrier/cover.
<input type="checkbox"/>	Introduce yourself and your agency.
<input type="checkbox"/>	Advise driver of the reason for the stop
<input type="checkbox"/>	Ask if there is a reason for the offense
<input type="checkbox"/>	Obtain license, insurance and registration
<input type="checkbox"/>	Observe/control driver while obtaining documents
<input type="checkbox"/>	Confirm current address and info on driver's license
<input type="checkbox"/>	Observe vehicle while returning to patrol car
<input type="checkbox"/>	Choose a safe position for writing citation or waiting for dispatch returns
<input type="checkbox"/>	Observe driver and occupants while writing citation or waiting for dispatch returns
<input type="checkbox"/>	Check with dispatch for driving status/warrants-Uses appropriate radio procedures
<input type="checkbox"/>	Safely re-approach the vehicle
<input type="checkbox"/>	Communicate appropriately while issuing warning or citation
<input type="checkbox"/>	Safely disengage and return to patrol vehicle

Oregon STOP Program

Officer Reference Guide

January 2021



The **Statistical Transparency of Policing (STOP) Program** was created by the Oregon Legislature in 2017 to ensure fair and impartial policing practices statewide. The STOP Program requires every law enforcement agency to annually submit data on officer-initiated traffic and pedestrian stops to the Oregon Criminal Justice Commission (CJC).

This guide is designed to provide police officers with basic information to help ensure compliance with the reporting requirements, as well as answer frequently asked questions about reporting and the STOP program.

For contact information and more, please go to the STOP Program webpage at <https://oregon.gov/cjc/stop>

TYPES OF REPORTABLE STOPS

KEY POINTS

- A "call for service" also includes activity based on a warrant, persons wanted for questioning, or reported suspect or vehicle descriptions.
- Detentions for routine searches performed at the point of entry to or exit from a controlled area are NOT reported.

TYPE #1: You are required to report all officer-initiated traffic stops.

Definition:

The detention of a driver of a motor vehicle, NOT associated with a call for service, for the purpose of investigating a suspected violation of the Oregon Vehicle Code.

Examples:

A self-initiated stop based on an observed violation

I stopped a car for speeding in a school zone.

I stopped a truck for an equipment violation.



Report it;
not a call for service

A self-initiated stop based on reported information

I stopped an SUV matching the description of a vehicle reported stolen.

I stopped a car associated with an Amber Alert.



Do NOT report it;
considered a
call for service

Frequently Asked Questions:

- *Does any information about passengers need to be reported to the STOP Program?*
No; only driver information should be reported on a traffic stop.
- *What if I stop a bicyclist based on an observed violation?*
Report it, because the purpose of the stop is a suspected violation of the Oregon Vehicle Code.



For contact information and more, please go to the STOP Program webpage at <https://oregon.gov/cjc/stop>

TYPE #2: You are required to report all officer-initiated pedestrian stops.

Definition:

The detention of a pedestrian, NOT associated with a call for service.

Examples:

A self-initiated mere conversation or field interview

I conducted a conversational FIR of a woman walking in a high-crime area.

I asked a man for information about a person he had recent contact with.



Do NOT report it;
not detained,
mere conversation

A self-initiated detention due to unlawful activity, or a reasonable suspicion of such

I detained a man I observed damaging public property.

I observed a woman on private property, developed a reasonable suspicion that she may be trespassing, and detained her for further investigation.



Report it;
detained,
no call for service

A self-initiated detention based on reported information

I detained a woman I recognized as having a warrant.

I detained a man matching the reported description of a burglary suspect.



Do NOT report it;
detained, but associated
with a call for service

Frequently Asked Questions:

- *If a group of pedestrians is stopped, how should it be reported?*

Each individual DETAINED based on unlawful activity, or reasonable suspicion of such, should be reported to STOP separately.



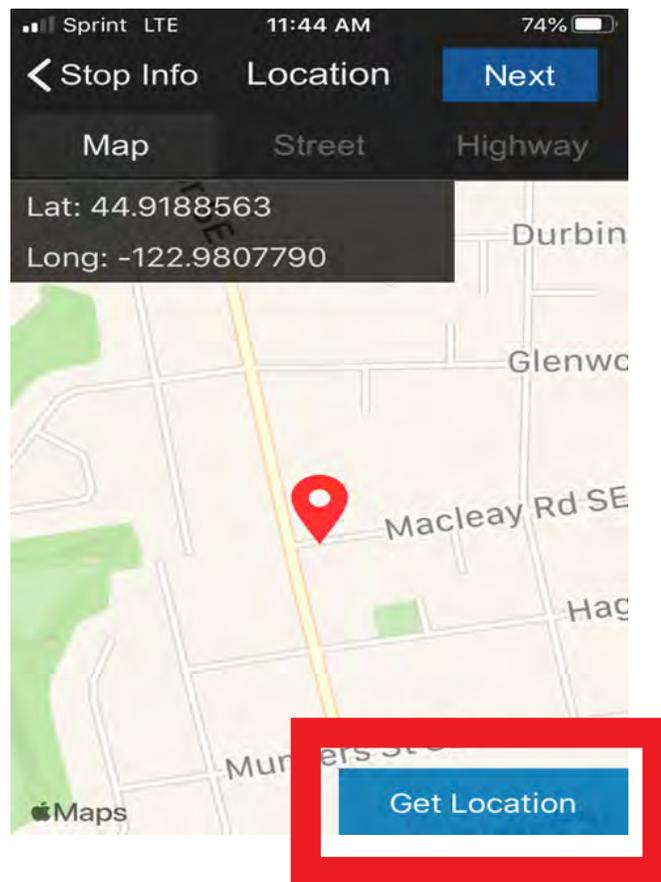
For contact information and more, please go to the STOP Program webpage at <https://oregon.gov/cjc/stop>

TIPS FOR REPORTING REQUIRED STOP INFORMATION

TIP #1: Accurate location data will help your agency understand and address any potential disparities

When analyzing potential disparities, location data can often help evaluate the relationships between stop rates or post-stop outcomes with calls for service, accident rates, crime rates, and/or traffic patterns.

- When possible, X-Y coordinates are the most accurate and preferred method for reporting the location of the stop. If you are using the STOP web form or mobile application this can be accomplished easily by clicking "Get Location" (example below).
- If reporting the location of a stop using a street address, roadway designation, etc. please ensure your entry is accurate and complete.



For contact information and more, please go to the STOP Program webpage at <https://oregon.gov/cjc/stop>

TIP #2: The race, gender, and age of the person stopped should be reported based on your earliest observation of the person.

Frequently Asked Questions:

- *What if I report a person's race, gender, or age inaccurately?*

There are no "wrong" answers in reporting your perception of each characteristic based on your observations and experience.

DO report your own perception of a person's race, gender and age.

DO NOT ask a person to identify their race, gender or age.

- *What if I didn't observe the person's race, gender, or age until after I stopped them?*

In some cases it may not be possible to observe a person's race, gender or age at the time you initiated the stop. In these instances, be sure to report your observations from the earliest moment you were able to perceive these characteristics, such as during your approach or upon initial contact.

If you are using the STOP web form or mobile application there is an option to indicate whether you were able to perceive a person's characteristics before your initial contact with them. This information helps researchers identify stops where bias is not likely a factor.

DO report your perception of a person's characteristics from the earliest moment it was possible to do so.

DO NOT report your perception of a person's characteristics based on your impression after the stop or after additional information is received.

Note:

It is acceptable to report a person's actual gender or age if you are using a reporting system that automatically populates this data based on a driver's license/identification.



For contact information and more, please go to the STOP Program webpage at <https://oregon.gov/cjc/stop>

TIP #3: The reported reason for the stop should be the observed violation or crime that caused you to make the stop.

Regardless of whether you reasonably suspect other unlawful activity, the reported reason for the stop should be the actual violation or crime you initially observed.

Example:

You observe a vehicle swerving in and out of its traffic lane for a number of miles. You suspect the driver may be impaired and initiate a traffic stop.

DO report the failure to drive within a lane as the reason for the stop.

DO NOT report your suspicion of driving under the influence as the reason for the stop.

Note:

If you are using the STOP web form or mobile application and are unable to find a specific statute or category, please choose the closest option.

TIP #4: The reported disposition of a stop should be the most serious outcome at the conclusion of the stop.

There may be multiple violations or crimes, and associated dispositions, identified at the conclusion of a stop. Only report the most serious disposition, regardless if it is associated with the initial reason you made the stop.

Example:

You observe a vehicle speeding and initiate a traffic stop. Upon contact you determine the driver has a warrant. You provide the driver with a warning for the moving violation, but take them into custody for the warrant.

DO report the physical arrest for the warrant as the disposition of the stop.

DO NOT report the warning for speeding as the disposition of the stop.



For contact information and more, please go to the STOP Program webpage at <https://oregon.gov/cjc/stop>

TIP #5: Additional information about the disposition of a stop will help your agency understand and address any potential disparities.

When analyzing potential disparities, the reason for the most serious disposition can often help evaluate factors impacting arrest or citation rates.

- If you are using the STOP web form or mobile application and are unable to find a specific statute or category, please choose the closest option.

Example:

An initial analysis of data from the Oregon State Police in 2019 identified a disparity in citation rates. However, further evaluation of the **reasons** for the citations determined that agency policy accounted for a portion of the disparity.

In this specific case, the additional data demonstrated that disparities cannot and should not always be attributed to bias on the part of officers, as other factors can lead to disparate outcomes.

TIP #6: Reporting whether a search was conducted only applies to stops already determined to be reportable under the STOP Program (i.e. a detention not associated with a call for service).

Frequently Asked Questions:

- *Do I report a search that was conducted incident to arrest?*
No; only discretionary searches conducted based on reasonable suspicion or probable cause should be reported.
- *Do I report an inventory search of a vehicle prior to towing?*
No; only discretionary searches conducted based on reasonable suspicion or probable cause should be reported.



For contact information and more, please go to the STOP Program webpage at <https://oregon.gov/cjc/stop>

FACTS ABOUT DATA ANALYSIS

At the direction of the legislature, researchers at CJC use multiple, evidence-based methods of analysis to identify if any agencies have statistically significant indications of racial disparities in their stop rates and/or post-stop outcomes. A brief summary of the types of analyses conducted can be found on the Oregon Knowledge Bank at <https://okb.oregon.gov/stops-data>.

Agencies found to have a statistically significant disparity in two of the three analytical tests conducted by CJC will be referred to DPSST's Center for Policing Excellence (CPE) for technical assistance.

An annual report on the results of CJC's analyses will be published every December.

Frequently Asked Question:

- *Can I be singled out by the State as a result of reporting stop data?*

No; by law the data submitted to CJC does NOT contain information that reveals the identity of any officer, or any stopped individual.

The STOP Program does **NOT** assume that police officers engage in bias-based profiling.

The STOP Program **DOES** examine whether statistically significant disparities exist in an agency's stop rates and/or post-stop outcomes.

Disparities identified by the STOP Program **DO** provide evidence of factors that warrant further analysis and discussion.

Disparities identified by the STOP Program do **NOT** by themselves provide conclusive evidence of bias-based profiling.



For contact information and more, please go to the STOP Program webpage at <https://oregon.gov/cjc/stop>